

RESOLUTION NO. 2024-_____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA SETTING ASIDE RESOLUTION NO. 2021-46, RESOLUTION NO. 2021-47 RELATED TO MOVAL 2040 GENERAL PLAN UPDATE, CLIMATE ACTION PLAN, AND FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT

WHEREAS, on July 11, 2006, the City Council of the City of Moreno Valley (“City”) adopted a General Plan and associated zoning (“2006 General Plan”), and certified the related Final Program Environmental Impact Report (“EIR”); and

WHEREAS, the 2006 General Plan and certified EIR were not subject to any litigation challenge; and

WHEREAS, in 2016, the City Council initiated the process to update the 2006 General Plan; and

WHEREAS, on June 15, 2021, the City Council adopted Resolution No. 2021-46 certifying the Final Program EIR (State Clearinghouse No. 2020039022) for the MoVal 2040 General Plan Update and Climate Action Plan, and adopting Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program pursuant to the California Environmental Quality Act (“CEQA”) and the CEQA Guidelines; and

WHEREAS, on June 15, 2021, the City Council also adopted Resolution No. 2021-47 approving the MoVal 2040 General Plan Update (PEN19-0240), the Climate Action Plan, and the Climate Action Plan Appendices, which Resolution superseded the 2006 General Plan; and

WHEREAS, the City Council introduced on June 15, 2021, and subsequently adopted on August 3, 2021, Ordinance No. 981, approving Municipal Code Zoning Ordinance Amendment PEN21-0030 to establish new zones to implement the newly established MoVal 2040 General Plan designations, Zoning Ordinance, and Official Zoning Atlas amendments to address consistency with the MoVal 2040 General Plan Update and the March Air Reserve Base/Inland Port Airport Land Use Compatibility Plan; and

WHEREAS, on July 15, 2021, the Sierra Club filed a Verified Petition for Writ of Mandate and Complaint for Declaratory Relief in the Riverside County Superior Court (Case No. CVRI2103300) challenging the City’s decision to certify the Final Program EIR and adopt the MoVal 2040 General Plan Update, Climate Action Plan, and Zoning Ordinance Amendment as reflected in Resolution Nos. 2021-46 and 2021-47, and Ordinance No. 981; and

WHEREAS, on June 21, 2022, the California Attorney General intervened in the Sierra Club case, and on July 11, 2022, filed a Petition for Writ of Mandate-in-Intervention; and

WHEREAS, in November 2021, the City submitted its approved Housing Element (6th Cycle spanning the 2021-2029 time period) to the California Department of Housing and Community Development (“HCD”) for review; and

WHEREAS, on February 7, 2022, HCD provided a letter to the City identifying the changes or modifications that were necessary to bring the City’s Housing Element into compliance with state law; and

WHEREAS, the City revised its Housing Element (6th Cycle) in response to HCD’s comments and in compliance with state law; and

WHEREAS, in October 2022, the City adopted Resolution No. 2022-67 to both reaffirm its earlier approval findings related to its Housing Element, and adopt additional determinations related to non-vacant sites and the likelihood of redevelopment within the pertinent 6th Cycle Planning Period; and

WHEREAS, on October 11, 2022, HCD sent a letter to the City stating that: (a) the City’s October 2022, Housing Element, as modified, is in full compliance with State Housing Element Law (Article 10.6 of the Government Code); (b) the adopted Housing Element, as modified, addressed all the statutory requirements described in HCD’s February 7, 2022, letter; and (c) HCD considered the City’s additional findings and determinations made in Resolution No. 2022-67; and

WHEREAS, after the City’s adoption of Resolution No. 2022-67 in October 2022, the City’s Housing Element, as modified, was not subject to any legal challenge, and consequently, is the operable HCD-certified Housing Element for the City; and

WHEREAS, on March 5, 2024, after briefing and hearing, the Riverside County Superior Court (Hon. Chad Firetag) issued its Statement of Decision on the Petitions of the Sierra Club and Attorney General, granting in part and denying in part the Petitions for the reasons stated in the Ruling; and

WHEREAS, in March 2024, the Court received a proposed Judgment and Writ of Mandate, along with objections and a response thereto; and

WHEREAS, the “Joint Response” to the City’s objections filed by the Sierra Club and Attorney General on March 29, 2024 clarified that Sierra Club and Attorney General’s requested relief (setting aside City Resolution Nos. 2021-46 and 2021-47 and Ordinance No. 981) did not and would not, affect the City’s October 2022, adopted Housing Element, as modified, because the City modified its Housing Element, and the City’s October 2022 Resolution No. 2022-67 both reaffirmed its earlier approval findings and adopted additional determinations related to the revised Housing Element; and HCD certified the

revised Housing Element (October 2022), and not the July 2021 version of the City's Housing Element; and

WHEREAS, on May 6, 2024, the Court entered directed that a Peremptory Writ of Mandate ("Writ") issue ordering the City to set aside all Project approvals, including Resolution No. 2021-46 (certifying the EIR and adopting the findings, a Statement of Overriding Considerations, and a Mitigation, Monitoring and Reporting Program), Resolution No. 2021-47 (approving the General Plan Update and CAP, and adopting related findings), and Ordinance No. 981 (approving Zoning Ordinance Amendment PEN2021-0030 and adopting related findings), and set aside certification of the Final Program EIR for the General Plan Update, CAP, Zoning Ordinance Amendment, and related findings); and

WHEREAS, on May 6, 2024, the Court Clerk issued the Writ (Exhibit "A") commanding, upon receipt, that the City set aside all Project approvals (including Resolution No. 2021-46, Resolution No. 2021-47, Ordinance No. 981, and related findings; and set aside certification of the Final Program EIR within forty-five (45) days of service of the Writ; and

WHEREAS, on May 20, 2024, the City was served with the Writ.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Recitals and Exhibits

That the City finds and determines that the foregoing recitals and exhibits are true and correct and are hereby incorporated by this reference.

SECTION 2. Set Aside

That pursuant to the Court's Judgment and Writ in Case No. CVRI2103300, as directed, the City Council hereby sets aside (repeals) Resolution No. 2021-46 and Resolution No. 2021-47 for the purpose of addressing the deficiencies identified in the Judgment and the Court's Ruling.

SECTION 3. Effect of Set Aside

That based on setting aside (repeal of) Resolution No. 2021-46 and Resolution No. 2021-47, and Ordinance 981, the City Council notes that the 2006 General Plan, associated zoning, and associated EIR are no longer superseded and that the 2006 General Plan, Zoning, and associated EIR remain in place pending reconsideration and re-approval of the MoVal 2040 General Plan and associated zoning, and that the HCD-certified Housing Element (October 2022) remains in effect.

SECTION 4. CEQA

That approval of this Resolution No. 2024-XX does not constitute a “project” under the California Environmental Quality Act (“CEQA”) pursuant to Public Resources Code section 21080(a) and State CEQA Guidelines section 15378 as the City has a mandatory duty to comply with the Writ and state law, and since approval of this Resolution does not have the potential to result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Moreover, pursuant to State CEQA Guidelines section 15061(b)(3), the approval of this Resolution No. 2024-XX is exempt from CEQA because there is no possibility that it may have a significant effect on the environment.

SECTION 5. Severability

That the City Council declares that, should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

SECTION 6. Effective Date

That this Resolution shall take effect immediately upon the date of adoption.

SECTION 7. Certification

That the City Clerk for the City Council shall certify the passage of this Resolution.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2024.

CITY OF MORENO VALLEY
CITY COUNCIL

Ulises Cabrera
Mayor of the City of Moreno Valley

ATTEST:

Jane Halstead, City Clerk

APPROVED AS TO FORM:

Steven Quintanilla, City Attorney

EXHIBIT “A”

(Writ)

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MORENO VALLEY CLERK
'24 MAY 20 AM 9:55

8 Attorneys for Petitioner and Plaintiff- Intervenor
THE PEOPLE OF THE STATE OF CALIFORNIA
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF RIVERSIDE**
12 **RIVERSIDE HISTORIC COURTHOUSE**
13

14 SIERRA CLUB,
15 Petitioner and Plaintiff,
16 v.
17 THE CITY OF MORENO VALLEY; the
CITY COUNCIL OF THE CITY OF
18 MORENO VALLEY; and DOES 1
through 10,
19 Respondents and Defendants,
20 THE PEOPLE OF THE STATE OF
21 CALIFORNIA,
22 Petitioner and Plaintiff-
Intervenor.
23

Case No. CVRI2103300
~~PROPOSED~~ PEREMPTORY WRIT OF
MANDATE
ASSIGNED FOR ALL PURPOSES TO:
HON. CHAD FIRETAG, DEPT. 3
Action Filed: July 15, 2021

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1 TO RESPONDENTS CITY OF MORENO VALLEY AND CITY COUNCIL OF THE
2 CITY OF MORENO VALLEY:

3 The Court having entered Judgment ordering that a peremptory writ of mandate (“Writ”)
4 issue under seal of this Court in this action challenging Respondents’ decision to approve and
5 adopt the MoVal 2040 Comprehensive General Plan Update (“GPU”), the City of Moreno
6 Valley Climate Action Plan (“CAP”), and associated zoning amendment (collectively,
7 “Project”), and to certify the associated Environmental Impact Report (“EIR”),

8 YOU ARE HEREBY COMMANDED, on receipt of this Writ, to:

- 9 1. Within forty-five (45) days of service of this Writ,
10 a. set aside all Project approvals (including Resolution No. 2021-46
11 [certifying the EIR and adopting the findings, a Statement of Overriding Considerations,
12 and a Mitigation, Monitoring and Reporting Program], Resolution No. 2021-47
13 [approving the GPU and CAP, and adopting related findings], and Ordinance No. 981
14 [approving zoning ordinance amendment PEN21-0030 and adopting related findings]);
15 and
16 b. set aside the certification of the EIR for the Project.
17 2. File and serve a return to the Writ no later than ninety (90) days after service of
18 this Writ. The return shall specify the actions taken to comply with the terms of Writ.
19 3. In accordance with Public Resources Code section 21168.9(c), this Court does not
20 direct Respondents to exercise their lawful discretion in any particular way.
21 4. Pursuant to Public Resources Code section 21168.9(b), this Court retains
22 jurisdiction until the Court determines that Respondent has adequately complied with CEQA.

23 **THE FOREGOING WRIT OF MANDATE IS IMMEDIATELY ISSUED.**

24
25 DATED: MAY -6 2024



26 *K. Rahlwes*
27 Clerk of the Superior Court **K. Rahlwes**
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