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10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF SAN BERNARDINO

12 PEOPLE’S COLLECTIVE FOR)
ENVIRONMENTAL JUSTICE, CENTER FOR)
13 COMMUNITY ACTION AND)
ENVIRONMENTAL JUSTICE, CENTER FOR)
14 BIOLOGICAL DIVERSITY, AND SIERRA)
CLUB,)

15 Petitioners / Plaintiffs,)

16 v.)

17 COUNTY OF SAN BERNARDINO, and DOES)
18 1-20,)

19 Respondents,)

20 HOWARD INDUSTRIAL PARTNERS, LLC,)
TIM HOWARD, and DOES 21-40,)

21 Real Parties in Interest.)
22)

Case No.

California Environmental Quality Act (CEQA)

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY & INJUNCTIVE RELIEF**

Code Civ. Proc. §§ 1085, 1094.5;

Pub. Resources Code § 21000 *et seq.*;

Gov. Code §§ 65589.5, 8899.50; 12951 *et seq.*

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1 **INTRODUCTION**

2 1. On November 15, 2022, the Board of Supervisors for the County of San Bernardino
3 approved the Bloomington Business Park Specific Plan Project (“Project”). The Project rezones 213
4 acres near three schools and other sensitive sites in low-income communities and communities of
5 color to construct and operate large warehouses and other development the size of roughly 56
6 football fields. The Project also rezones 24 acres to increase their residential development capacity
7 with the goal of offsetting the housing capacity that is lost from constructing the warehouses. On the
8 day of the hearing, the County also certified a final environmental impact report (“Final EIR”) that
9 purports but fails to analyze the widespread impacts of the Project’s construction and operation.

10 2. The Project would be one of many major warehouse and distribution centers in
11 Bloomington, California. If the Project is constructed and operated as planned, residents of
12 Bloomington and its surrounding areas will continue to see a future dominated by large-scale
13 warehouse developments, increased truck shipments and traffic, and even worse air quality than they
14 already experience. Given the scope and significant impacts of the Project, it is critical that the
15 County complies with the requirements of the California Environmental Quality Act (“CEQA”)
16 before moving forward with a project of this scale. To date, the County has failed to do so.

17 3. The County’s CEQA process for the Project consistently prevented many of
18 Bloomington’s residents who are most affected by warehouse development from participating
19 meaningfully. In particular, the County failed to provide Spanish-language versions of the executive
20 summaries of the Draft and Final EIRs and to make certain hearings available in Spanish even
21 though a substantial portion of Bloomington’s residents only speak or primarily speak Spanish.
22 Warehouse development is already overwhelmingly located in proximity to predominantly Hispanic
23 or Latino communities, and the Project will increase the harm to these already overburdened
24 communities.

25 4. Several organizations and individuals expressed deep concerns about the Project and
26 the associated environmental review conducted by the County throughout the County’s decision-
27 making process. As noted in the comments submitted by these individuals and entities, as well as
28 others, there are myriad concerns stemming from the Project’s environmental, displacement, and

1 public health impacts. The Project will substantially add to the existing presence of ozone, ozone
2 precursors, and other contaminants, such as carcinogenic diesel particulate matter (“DPM”), in an air
3 basin that already suffers from some of the worst air quality in the nation. This additional air
4 pollution will only exacerbate the serious direct health impacts already experienced by nearby
5 residents. In addition, the Project will contribute significant levels of greenhouse gas (“GHG”)
6 emissions that will add to, rather than reduce, climate change impacts. As a result, the Project
7 directly conflicts with existing State GHG reduction goals. The Project will also impose severe and
8 detrimental impacts on a variety of imperiled species, habitats, and other biological resources. Yet,
9 the Project’s environmental review document and the County’s environmental review process have
10 failed to adequately address these impacts.

11 5. These concerns were also echoed by the California Air Resources Board (“ARB”),
12 which noted that the Project would expose nearby communities to elevated levels of air pollution
13 beyond the existing baseline emissions at the Project site. ARB emphasized that the Project site is
14 surrounded by residences and schools that are already exposed to toxic DPM emissions generated by
15 existing industrial buildings, vehicle traffic along Interstate 10, and rail traffic along existing Union
16 Pacific rail lines and rail yards.

17 6. The County has failed to require re-circulation of the Final EIR in light of critical
18 information that must be analyzed in the document, and for which the Public must be allowed the
19 opportunity to provide comments. These and many additional fatal flaws in the Final EIR’s analyses
20 have led Bloomington residents and other individuals, community groups, and entities to become
21 deeply concerned by the County’s decision to approve this Project.

22 7. The Project also requires residential displacement from the Project site. The Project
23 does not allow for any residential uses. The Project requires the elimination of housing stock, and the
24 change in allowable use from residential to industrial will impact existing homeowners’ future
25 ability to use, modify, finance, or sell their homes. The Project does not include any plans to replace
26 these homes.

27 8. The County’s approval of the Project violates the County’s duty to affirmatively
28 further fair housing and the Fair Employment and Housing Act by siting the Project in a Hispanic or

1 Latino community and a community already experiencing negative health impacts due to air quality
2 causing displacement of residents and compounding environmental harm to those who remain. The
3 County has also failed to follow Housing Crisis Act requirements to identify and replace protected
4 residential units in the Project footprint.

5 9. For all these reasons, this Court should direct the Board of Supervisors to set aside its
6 approval of the Project, certification of the Final EIR, and adoption of related findings and Statement
7 of Overriding Considerations; direct the County to publish any future notices and the executive
8 summaries of any future EIRs, in Spanish as well as in English; direct the County to evaluate and
9 appropriately mitigate any loss of protected units as defined under the Housing Crisis Act; and grant
10 injunctive and declaratory relief finding that the County’s approval of the Project is materially
11 inconsistent with its obligation to affirmatively further fair housing and is discriminatory on the basis
12 of national origin and other protected characteristics.

13 **PARTIES**

14 10. Petitioner PEOPLE’S COLLECTIVE FOR ENVIRONMENTAL JUSTICE (“PCEJ”)
15 is an unincorporated nonprofit association dedicated to building community power in the Inland
16 Empire to fight against pollution and environmental racism. Founded in 2020, PCEJ represents over
17 1,000 community members in the Inland Empire who are impacted by the freight and logistics
18 industry. PCEJ’s purpose is rooted in historical struggle, to advance collective resistance and power;
19 to support and fight against pollution, exploitation, and existential threats to life—ultimately to build
20 for the health, well-being, and self-reliance of the Inland Empire in a way that uproots white
21 supremacy and the reigning hegemonic extractive systems. PCEJ’s members are concerned that the
22 Project will adversely affect their health and the health of their community, cause displacement, and
23 cause other adverse environmental and housing impacts. PCEJ submitted comments concerning the
24 EIR for the Project, as well overall comments on the Project’s fair housing and residential
25 displacement impacts. PCEJ has diverted its limited resources to address the Project. PCEJ’s mission
26 to fight against pollution and environmental racism and build for the health, well-being, and self-
27 reliance of the Inland Empire is frustrated by the County’s approval of the Project. PCEJ will have to
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1 divert additional resources and experience greater frustration of its mission if the Project proceeds as
2 approved.

3 11. Petitioner CENTER FOR COMMUNITY ACTION AND ENVIRONMENTAL
4 JUSTICE (“CCA EJ”) is a membership-based California nonprofit environmental health and justice
5 organization with its membership in and around San Bernardino County. CCA EJ’s mission is to
6 bring people together to improve their social and natural environment, and to build community
7 power in order to create safer, healthier, toxic-free places to live, work, learn and play in and around
8 the counties of San Bernardino and Riverside. CCA EJ has its physical offices in Jurupa Valley and
9 organizes to build leadership for community action in Jurupa Valley, Mira Loma, Riverside, the
10 unincorporated areas in San Bernardino County, as well as other cities throughout the counties of
11 San Bernardino and Riverside. CCA EJ has identified the unincorporated area of Bloomington in San
12 Bernardino County as a “community at risk” for various environmental injustices, including bearing
13 a disproportionate share of the impacts from high polluting industries, heavy-duty diesel truck, and
14 other mobile source emissions, and suffering other disparities created by zoning and irresponsible
15 land use planning. Accordingly, CCA EJ filed extensive comments that are part of the administrative
16 record for the County’s approval of the Project and Final EIR. CCA EJ’s members are extremely
17 concerned that the Project will detrimentally impact their health and well-being, and the health and
18 well-being of their children, their community, and the environment, and that it will detrimentally
19 impact the area’s surrounding resources. Most of CCA EJ’s members who reside in and around the
20 unincorporated area of Bloomington in San Bernardino County and around the proposed site for the
21 Project already suffer a disproportionate burden from existing stationary and mobile sources of
22 pollution, including significant air pollution from, *inter alia*, the movement of goods throughout the
23 region to existing warehouses and other storage and distribution centers. CCA EJ’s mission to create
24 safer, healthier, toxic-free places to live, work, learn and play in and around the counties of San
25 Bernardino and Riverside is frustrated by the County’s approval of the Project. CCA EJ will have to
26 divert additional resources and experience greater frustration of its mission if the Project proceeds as
27 approved.

1 12. Petitioner CENTER FOR BIOLOGICAL DIVERSITY (the “Center”) is a nonprofit
2 corporation with offices in Oakland and elsewhere throughout the United States. The Center is
3 actively involved in environmental protection issues throughout California and North America and
4 has over 86,000 members, including many throughout California and in San Bernardino County. The
5 Center’s mission includes protecting and restoring habitat and populations of imperiled species,
6 reducing GHG pollution to preserve a safe climate, and protecting air quality, water quality, and
7 public health. The Center’s members and staff include individuals who regularly use and intend to
8 continue to use the areas in San Bernardino County and elsewhere affected by the Project, including
9 numerous members who are particularly interested in protecting the native, endangered, imperiled,
10 and sensitive species and habitats found in the area that will be detrimentally impacted by the
11 construction and operation of the Project. As such, the Center submitted comments to the County,
12 which are now part of the administrative record of the County’s decision to approve the Project and
13 its Final EIR. The Center’s mission to protect and restore habitat and populations of imperiled
14 species, reduce GHG pollution to preserve a safe climate, and protect air quality, water quality, and
15 public health is frustrated by the County’s approval of the Project. The Center will have to divert
16 additional resources and experience greater frustration of its mission if the Project proceeds as
17 approved.

18 13. Petitioner SIERRA CLUB is a national nonprofit organization of approximately one
19 million members. Sierra Club is dedicated to exploring, enjoying, and protecting the wild places of
20 the earth; to practicing and promoting the responsible use of the earth’s ecosystems and resources; to
21 educating and encouraging humanity to protect and restore the quality of the natural and human
22 environment; and to using all lawful means to carry out these objectives. Sierra Club’s particular
23 interest in this case and the issues that this Project approval concerns stem from the Sierra Club’s
24 local San Gorgonio Chapter’s interest in preserving the native, endangered, imperiled, and sensitive
25 species and wildlife habitats in the region; decreasing rather than increasing heavy-duty and
26 medium-duty truck traffic in an already highly overburdened air basin; and ensuring that good,
27 livable and healthy jobs are brought to the area. The members of the San Gorgonio Chapter live,
28 work, and recreate in and around the areas that will be directly affected by the construction and

1 operation of the Project. Sierra Club submitted extensive comments to the County throughout its
2 environmental review process for the Project that are part of the County’s record of its decision to
3 approve the Project and its Final EIR. Sierra Club’s mission to explore, enjoy, and protect the wild
4 places of the earth; to practice and promote the responsible use of the earth’s ecosystems and
5 resources; to educate and encourage humanity to protect and restore the quality of the natural and
6 human environment; and to use all lawful means to carry out these objectives is frustrated by the
7 County’s approval of the Project. Sierra Club will have to divert additional resources and experience
8 greater frustration of its mission if the Project proceeds as approved.

9 14. Petitioners are collectively referred to herein as “Bloomington Petitioners.”

10 15. Respondent COUNTY OF SAN BERNARDINO (the “County”), a political
11 subdivision of the State of California, is responsible for regulating and controlling land use in the
12 unincorporated territory of San Bernardino County, including, but not limited to, implementing and
13 complying with the provisions of CEQA and the CEQA Guidelines. The County is the “lead agency”
14 for purposes of Public Resources Code § 21067, with principal responsibility for conducting
15 environmental review and approving the Project.

16 16. As referred herein, “the County” refers to all boards, departments, and commissions,
17 including the Board of Supervisors, Land Use Services Department, and Planning Commission.

18 17. Bloomington Petitioners do not know the true names and capacities, whether
19 individual, corporate, associate, or otherwise, of Respondents DOE 1 through DOE 20, inclusive,
20 and therefore sue said Respondents under fictitious names. Bloomington Petitioners will amend this
21 Petition to show their true names and capacities when they are known.

22 18. Bloomington Petitioners are further informed and, on that basis, believe that TIM
23 HOWARD is a Real Party in Interest insofar as he is listed as an owner and developer of the
24 property subject to the County’s actions pursuant to its Project approvals and Project related actions.
25 The County’s November 15, 2022 Notice of Determination for the Project lists Tim Howard as the
26 “Project Applicant.”

27 19. Bloomington Petitioners are further informed and, on that basis, believe that
28 HOWARD INDUSTRIAL PARTNERS LLC (“Howard Industrial”), a California limited liability

1 company, is a Real Party in Interest insofar as it is listed as an owner and developer of the property
2 subject to the County’s actions pursuant to its Project approvals and Project related actions. The
3 County’s November 15, 2022 Notice of Determination for the Project lists Howard Industrial as the
4 “Project Applicant.”

5 20. Bloomington Petitioners do not know the true names and capacities, whether
6 individual, corporate, associate or otherwise, of Real Parties in Interest DOE 21 through DOE 40,
7 inclusive, and therefore sue said Real Parties under fictitious names. Bloomington Petitioners will
8 amend this Petition to show their true names and capacities when they are known.

9 **JURISDICTION AND VENUE**

10 21. Venue is proper in the Superior Court of California, County of San Bernardino under
11 Code of Civil Procedure § 395 because the County and the Project are currently located, or will be
12 located, in San Bernardino County.

13 22. Venue is also proper in the Court pursuant to Code of Civil Procedure sections 393,
14 394.

15 23. The action is filed in the Civil Division of the San Bernardino District located in the
16 San Bernardino Justice Center, 247 West 3rd Street, San Bernardino, CA, 92415-0210 in accordance
17 with the General Order - Where Civil Cases are Filed and Heard - dated January 1, 2022, which
18 requires all CEQA Petitions for Writ of Mandate to be filed in this Courthouse.

19 24. The court has jurisdiction over this action pursuant to Article 6, Section 10 of the
20 California Constitution, Public Resources Code § 21168 (or in the alternative, pursuant to Public
21 Resources Code § 21168.5), Code of Civil Procedure § 1094.5, and California Code of Civil
22 Procedure § 1085.

23 25. This petition has been filed within 30 days of the filing and posting of the County’s
24 last Notice of Determination approving the Project and the Final EIR, which was approved on
25 November 15, 2022 and posted by the County of San Bernardino’s Clerk, in accordance with Public
26 Resources Code § 21167(c) and Cal. Code Regs., tit. 14 (“CEQA Guidelines”) § 15112(c)(1), on
27 November 16, 2022.

1 26. Bloomington Petitioners have complied with Public Resources Code § 21167.5 by
2 prior service of a letter upon the County indicating their intent to file this petition. (Exhibit “A”
3 hereto.)

4 27. Bloomington Petitioners have performed any and all conditions precedent to filing
5 this instant action and have exhausted any and all available administrative remedies to the extent
6 required by law.

7 28. Bloomington Petitioners do not have a plain, speedy, or adequate remedy at law
8 because Bloomington Petitioners and their members will be irreparably harmed by the County’s
9 failure to comply with CEQA’s environmental review and mitigation requirements in approving the
10 Final EIR for the Project and by the ensuing environmental and public health consequences that will
11 be caused by the construction and operation of the Project, as approved. Additionally, Bloomington
12 Petitioners and their members will be irreparably harmed by the County’s failure to comply with the
13 Housing Crisis Act’s requirements to identify protected units in the Project site and to ensure no net
14 loss of residential capacity in housing; the County’s siting of the Project in an area that will
15 disparately impact the community on the basis of national origin and other protected characteristics;
16 and the County’s violation of its duty to affirmatively further fair housing.

17 **STATEMENT OF FACTS**

18 **I. Community and Environmental Setting**

19 29. Bloomington is an unincorporated, census-designated place in San Bernardino
20 County, California.

21 30. According to census data from 2020, approximately 24,339 people reside in
22 Bloomington.¹ Bloomington residents are 85.6 percent Hispanic or Latino, and 67.8 percent of
23 residents speak a language other than English at home.² An estimated 14.1 percent of the population
24 earns income below the federal poverty level.³ A summary of community input from Bloomington
25 residents in connection with preparation of the County’s Sixth Cycle Housing Element reveals

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27 ¹ See United States Census Bureau, QuickFacts Bloomington CDP, California (last visited Dec. 16, 2022), available at <https://www.census.gov/quickfacts/fact/table/bloomingtoncdpcalifornia/BPS030221>.

28 ² See United States Census Bureau, QuickFacts Bloomington CDP, California (last visited Dec. 16, 2022), available at <https://www.census.gov/quickfacts/fact/table/bloomingtoncdpcalifornia/PST045221>.

³ See *id.*

1 residents experience housing discrimination based on national origin and immigration status.⁴ The
2 report also notes that linguistic isolation of persons who are limited English proficient contributes to
3 fair housing issues in the region and is a barrier to public participation in proposed development
4 projects and cites data showing the average linguistic isolation percentile of Bloomington is over 50
5 percent.⁵

6 31. There is a shortage of housing affordable to low-income, very low-income, and
7 extremely low-income households in San Bernardino County, particularly in high-opportunity
8 neighborhoods and cities.

9 32. Public input to the County’s Sixth Cycle Housing Element included acknowledgment
10 that the community of Bloomington indicated a desire for amenities and housing opportunities, with
11 housing stock, housing affordability, and air quality being cited as among the areas with the greatest
12 needs.

13 33. Bloomington is surrounded by the City of Fontana to the west and northwest, the City
14 of Rialto to the east and northeast, and the City of Jurupa Valley in Riverside County to the south.
15 Bloomington is located along Interstate 10, a commonly used truck route between Bloomington and
16 the Ports of Los Angeles and Long Beach located about 70 miles away.

17 34. Notably, much of Bloomington’s recent development has been geared towards
18 receiving goods from the Ports of Los Angeles and Long Beach for storage, sale, and distribution.
19 Bloomington has experienced worsening air quality as a result of increased diesel pollution from
20 trucks used to transport goods into the region’s growing warehouse and other storage and
21 distribution facilities. Due to this influx of industrial projects over the past several years,
22 Bloomington has become known as a “diesel death zone.”⁶

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25 ⁴ See County of San Bernardino, San Bernardino Countywide Plan, Housing Element Technical Report, 2–66 (Sept. 27,
2022), available at

26 http://www.sbcounty.gov/uploads/LUS/HousingPlans/HousingElement_CWP_TechReport_Adopted_20220927.pdf.

27 ⁵ See County of San Bernardino, San Bernardino Countywide Plan, Housing Element Technical Report: Appendix B,
County Analysis of Individual and Aggregated Fair Housing Data, B-4 (Sept. 27, 2022).

28 ⁶ Megan Jamerson, *Community Members Distribute Petition to Stop Approval of a New Bloomington Warehouse
District*, KVCR News (Feb. 3, 2021), available at <https://www.kvcrnews.org/local-news/2021-02-03/community-members-distribute-petition-to-stop-approval-of-a-new-bloomington-warehouse-district>; see also Ivette Torres et al.,
Warehouses, Pollution, and Social Disparities (Apr. 2021), available at
https://earthjustice.org/sites/default/files/files/warehouse_research_report_4.15.2021.pdf.

1 35. CalEnviroScreen,⁷ the California Environmental Protection Agency’s health
2 screening tool, identifies the Project area in Bloomington as having an overall pollution burden that
3 is heavier than 94 percent of the state. Indeed, Bloomington has some of the State’s worst
4 concentrations of ozone, particulate matter (“PM”) and DPM, and traffic density. Residents in the
5 Project area are exposed to more particles with a diameter of 2.5 micrometers or smaller (“PM_{2.5}”)
6 than 91 percent of census tracts in California, more DPM than 80 percent of census tracts, and more
7 traffic than 83 percent of census tracts.

8 36. Bloomington is located within the jurisdiction of the South Coast Air Quality
9 Management District (“SCAQMD”)—the regional air pollution control agency with authority to
10 regulate the “critical air pollution problems” throughout the South Coast Air Basin (“South Coast”),
11 which includes all of Orange County and the non-desert portions of Los Angeles, Riverside and San
12 Bernardino counties. (Health & Safety Code § 40402(b).)

13 37. SCAQMD is specifically responsible for clean air planning in and throughout the
14 South Coast, pursuant to the Clean Air Act. The air quality planning SCAQMD conducts is critical
15 to meeting national air pollution control standards set forth under the Clean Air Act, including
16 National Ambient Air Quality Standards aimed at reducing the presence of contaminants of concern
17 that severely impact public health and the environment, and which contribute to climate change.
18 These contaminants include but are not limited to nitrogen oxide (“NO_x”) and PM, which produce
19 soot, ground-level ozone (or “smog”), and ozone precursors that are highly prevalent throughout the
20 South Coast, and specifically in Bloomington.

21 38. The South Coast experiences complex and significant air quality issues caused by an
22 extremely high concentration of various industrial activities and on-road vehicle traffic, including
23 diesel emissions from heavy-duty truck traffic. As a result, the South Coast exceeds federal public
24 health standards for PM and both ozone and ozone precursors, resulting in its residents suffering
25 from some of the worst air pollution in the nation. For example, exposure to PM_{2.5}—which comes
26 primarily from combustion activities (71 Fed. Reg. 61,144, 61,146 (Oct. 17, 2006))—can cause
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28 ⁷ California Environmental Protection Agency, CalEnviroScreen 4.0 (last updated Oct. 20, 2021), *available at*
<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>.

1 aggravation of respiratory and cardiovascular diseases, lung disease, asthma attacks, heart attacks,
2 and premature death. (*See* 70 Fed. Reg. 65,984, 65,988 and 65,991 (Nov. 1, 2005).) Individuals with
3 heart and lung disease, the elderly, and children are most sensitive to PM_{2.5} exposure. (*Id.* at 65988.)

4 39. ARB is the state agency charged with monitoring the regulatory activity of
5 California's 35 local air districts, including SCAQMD. ARB has determined that diesel exhaust is
6 responsible for over 70 percent of the health risks associated with air pollution statewide. SCAQMD
7 has determined that DPM accounts for over 68 percent of the health risks associated with breathing
8 air in and around the South Coast.

9 40. Consistent and continued exposure to DPM is, therefore, a serious concern for South
10 Coast communities, particularly those residing along heavy-duty truck thoroughfares like Interstate
11 10. Residents who live along these and other thoroughfares experience some of the region's most
12 concentrated vehicle traffic and breathe some of its most polluted air. Most of these residents also
13 lack the financial means to address the health problems caused by these exposures. Children, who
14 are among the most vulnerable residents, are not only subject to these avoidable health impacts, but
15 they also experience some of the highest rates of school absences, which means lost workdays for
16 parents and caregivers, all of which only further impacts families and these communities.

17 41. In addition to the region's grave DPM, ozone, and other PM emission concentrations,
18 the South Coast and the western portion of San Bernardino and Riverside counties, like the rest of
19 the state, are experiencing increased impacts from climate change, including decreasing water supply
20 and rainfall as well as increasing temperatures, which often exacerbate air pollution concentrations.

21 42. GHG emissions contribute to local, regional, and global climate change impacts and,
22 as such, they have been the subject of increased statewide regulatory efforts. ARB, SCAQMD, and
23 the Governor's office have all adopted rigorous goals and standards to decrease the state's GHG
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1 emissions and impacts from climate change. Some of these targets have been codified into state law,
2 and others have been declared by executive order or agency action.⁸

3 43. The crux of many of the State’s most recent efforts has been to actively limit GHG
4 emissions as government agencies have recognized that a pure “business as usual” approach will
5 only exacerbate and accelerate the impacts of climate change rather than help to reduce and slow its
6 negative consequences.⁹ In setting forth its GHG reduction efforts, the State has emphasized the
7 importance of local agency involvement and local agency commitments to reducing GHG emissions
8 through their policy and planning processes. Continued coordination between State, regional and
9 local entities is instrumental to ensuring the efficacy of the State’s policies and to enabling the State
10 to reach its reduction targets.

11 **II. The Project and Its Environmental Impacts**

12 44. The Project includes approval of the Bloomington Business Park Specific Plan
13 (“Specific Plan”); a policy plan amendment; zoning amendments; site plan approvals; conditional
14 use permits; vesting tentative parcel maps; and a community facilities district.

15 45. The Specific Plan is a land-use guiding document whose stated goal is to accomplish
16 the orderly development of a 213-acre industrial business park for around 3,235,836 square feet of
17 industrial uses. This entails rezoning the 213 acres from residential to non-residential in order to
18 construct a 383,000-square foot warehouse building, a 1.25 million-square foot warehouse, a
19 479,000-square foot warehouse, and a truck/trailer parking lot.

20 46. The Specific Plan Site is generally bounded by Santa Ana Avenue to the north, Maple
21 Avenue and Linden Avenue to the east, Jurupa Avenue to the south, and Alder Avenue to the west,
22 in the southern area of Bloomington.

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25 ⁸ See e.g., Health and Safety Code § 38500 *et seq.*, the California Global Warming Solutions Act of 2006 (setting forth a
26 statewide requirement to reduce GHG emissions to 1990 levels by 2020 — a reduction of approximately 15 percent below
27 emissions expected under a “business as usual” scenario – and requiring ARB to adopt regulations to achieve the maximum
28 technologically feasible and cost-effective GHG emission reductions; to mitigate risks associated with climate change;
improve energy efficiency; and expand the use of renewable energy resources, cleaner transportation, and waste reduction
practices).

⁹ See *id.*, see also, California State Executive Order B-30-15, April 29, 2015, Governor Edmund G. Brown (increasing the
state’s GHG reduction target to achieve 40% below 1990 level reductions by the year 2030).

1 47. The Specific Plan Site comprises an opening year planning area that includes 141.4
2 acres. It entails construction and operation of the three warehouse structures and truck/trailer parking
3 lot on four developments, as well as a future development planning area that includes 71.6 acres and
4 a proposed buildout year of 2040.

5 48. At least 117 existing residential units will be displaced from the Specific Plan Site as
6 a result of the Project. Other existing residences and agricultural uses in the Specific Plan Site would
7 become legal non-conforming uses.

8 49. The Project will expose sensitive receptors to substantial pollutant concentrations.
9 These sensitive receptors include a church, Bloomington High School, Walter Zimmerman
10 Elementary School, Kessler Park, Ruth Harris Middle School, and single-family residences. The
11 closest residence to the Project is located 11 feet north of the area.

12 50. The Specific Plan Site also contains a host of biological resources, with seventeen
13 special-status species identified as having the potential to occur in the vicinity of the Project site.
14 These include the burrowing owl, a California species of special concern; pocketed free-tailed bat;
15 and western yellow bat. Much of the site also consists of Delhi Fine Sand, a highly unusual habitat
16 found nowhere else on earth. This habitat is home to the federally endangered Delhi Sands flower-
17 loving fly, whose populations have dwindled down into the dozens, primarily due to the loss of
18 suitable habitat. Due to extensive development in San Bernardino County, only a few hundred acres,
19 or approximately 2 percent of the original habitat area, of Delhi Fine Sand remains undeveloped.

20 51. The Project also entails a policy plan amendment that would rezone an “Upzone Site”
21 to allow higher residential density to offset the residential zoning capacity that would be lost from
22 rezoning the 213-acre Specific Plan Site to a non-residential zone.

23 52. The Upzone Site is a 24-acre area in the northern area of Bloomington, specifically
24 east of Locust Avenue, south of Hawthorne Avenue, and north of San Bernardino Avenue. The
25 Upzone is residentially zoned and surrounded by single-family residential uses to the north, Mary
26 Lewis Elementary School northwest of the San Bernardino Avenue/Locust Avenue intersection,
27 single-family residences southwest of Hawthorne Avenue at Locust Avenue, and single-family
28 residences to the south and east.

1 53. No physical development or improvements are proposed at the Upzone Site.

2 54. Because the Project involves the construction and operation of a large warehouse
3 complex, the Project will necessarily attract increased truck and other vehicular traffic.

4 55. Accordingly, the Project will significantly impact the air quality in the immediate
5 vicinity of the Project, as well as throughout Bloomington, San Bernardino County, and the South
6 Coast.

7 56. Moreover, because the Project will be located about 70 miles away from the nearest
8 port, the Project is likely to cause significant impacts along all roadways, thoroughfares, highways,
9 and highway corridors linking the Ports of Los Angeles and Long Beach to Bloomington.

10 57. Finally, the Project will involve disruptive construction and operation as well as high
11 levels of light, noise, and glare, which will also obstruct scenic views.

12 **III. The County's Environmental Review Process and Project Approval**

13 **A. The Draft EIR**

14 58. On or about December 30, 2020, the County issued a Notice of Preparation of a draft
15 environmental impact report ("Draft EIR") and Notice of Public Scoping Meeting for the Project.

16 59. On or about January 8, 2021, the County recirculated a revised Notice of Preparation
17 of the Draft EIR and Notice of Public Scoping Meeting.

18 60. On or about January 14, 2021, the County held a virtual scoping meeting.

19 61. On or about August 5, 2021, the County held a Bloomington Municipal Advisory
20 Council meeting in person and via video conference where the Project was discussed.

21 62. On or about September 23, 2021, the County issued a Notice of Completion and
22 Availability of the Draft EIR for the Project.

23 63. On or about September 29, 2021, the County released the Draft EIR and circulated
24 the document for a 45-day period of public comment.

25 64. Petitioners are informed and believe that the County did not publish any portion of
26 the Draft EIR in Spanish.

27 65. On or about October 6, 2021, the County held a Bloomington Municipal Advisory
28 Council meeting in person and via video conference. Petitioners are informed and believe that Real

1 Party in Interest Tim Howard presented on the Project and informed the public in English that
2 Respondents and/or Real Parties in Interest had provided a Spanish translator. However, neither
3 Respondents nor Real Parties in Interest provided translation. During the meeting, simultaneous
4 English translation was provided via audio equipment, but consecutive English translation for
5 Spanish speakers at the podium was not provided. Anticipating this, Bloomington Petitioners hired
6 their own translator to assist at the meeting.

7 66. On October 13, 2021, Bloomington Petitioners submitted a written request that the
8 County extend the comment period by an additional 30 days to allow for adequate evaluation of the
9 lengthy and highly technical Draft EIR, particularly in light of the previous failures of the County to
10 provide Bloomington’s non-English speaking community members meaningful opportunities to
11 participate in the decision-making process. On October 22, 2021, Senior Planner Aron Liang from
12 the Land Use Services Department informed Bloomington Petitioners that their request for a 30-day
13 extension was granted.

14 67. On or about October 25, 2021, the County issued a Notice of Availability of
15 Extension of the Draft EIR, wherein the County extended the comment period for an additional 30
16 days.

17 68. Numerous organizations, individuals, and agencies like SCAQMD and ARB
18 submitted comments criticizing the Draft EIR.

19 69. Bloomington Petitioners submitted letters to the County regarding the Draft EIR
20 dated December 15, 2021. Incorporated into one of Bloomington Petitioners’ letters was an expert
21 report from Dr. Ranajit Sahu. The letters and report explained that the Draft EIR failed to comply
22 with CEQA in the following respects:

23 **1. Mitigation Measures**

24 70. While the Project purports to include mitigation measures aimed at reducing impacts
25 to air quality, GHGs, noise, energy impacts, and other impact categories, many of these proposed
26 measures were inadequate, unenforceable, and/or improperly deferred for reasons including, but not
27 limited to:

1 71. The mitigation measures for air quality, GHGs, noise, energy impacts, and other
2 impact categories were inadequate and failed to include all feasible mitigation measures as required
3 under CEQA. For example, the Draft EIR failed to require the use of Class 7 and 8 electric trucks
4 even though this is a feasible mitigation measure that would substantially lessen significant
5 environmental effects. Numerous studies show that the current total cost of ownership for a large
6 battery-electric semi-truck is less than a diesel equivalent. As time progresses, this cost will drop
7 even lower, whereas diesel trucks are expected to increase in cost or remain stagnant. There are also
8 numerous Class 7 and 8 battery-electric truck models available for purchase, and many freight
9 facilities have already committed to utilizing these trucks. Requiring the usage of zero-emission
10 Class 7 and 8 semi-trucks in lieu of diesel semi-trucks is an effective, feasible mitigation measure
11 under CEQA because these vehicles have no tailpipe emissions and much lower life cycle GHG
12 emissions.

13 72. The Draft EIR was also inadequate because it failed to include mitigation measures
14 requiring all cranes, forklifts, and other on-site construction and operational equipment to be
15 electrified.

16 73. The Draft EIR also failed to include a mitigation measure requiring trucks that haul
17 dirt or other materials to and from the Project site to be covered during transit, even though this was
18 a feasible mitigation measure.

19 74. Likewise, the Draft EIR failed to include a 30-minute limit on truck turnaround time,
20 even though this is a feasible mitigation measure. The Draft EIR was also deficient because it did not
21 include idling limits for yard tractors, even though this would save fuel costs, cut pollution, and
22 reduce a significant source of worker exposure.

23 75. The Draft EIR also included mitigation measures that were unenforceable.
24 Specifically, measures intended to abate air quality impacts failed to include an authority, permit, or
25 regulatory body that will ensure proper oversight and compliance. For example, Mitigation Measure
26 AQ-1 failed to provide or cite to any oversight body or method that would ensure enforceable
27 mitigation. Similarly, Mitigation Measure AQ-2 did not include any specifications as to when on-site
28 inspections to verify compliance with construction mitigation will occur, how often they would

1 occur, and what consequences would be for non-compliance. Mitigation Measure AQ-3 must include
2 language regarding enforcement of the idling rules.

3 76. The mitigation measures included in the Draft EIR for GHG impacts were similarly
4 unenforceable. For example, Mitigation Measure GHG-1 required projects exceeding a 3,000 million
5 tons CO₂e/year threshold to “achieve a minimum of 100 points.” However, this measure lacked any
6 commitment associated with how this point determination would be carried out or overseen and was
7 therefore unenforceable.

8 2. Air Quality Impacts

9 77. The Project’s air quality analysis severely underestimated emissions from the Project.
10 The Draft EIR noted that “with compliance with existing rules, and implementation of the mitigation
11 measures, emissions would continue to exceed regional thresholds of significance established by the
12 SCAQMD for emissions of VOC and NO_x.”

13 78. The Draft EIR’s air quality analysis was inadequate because it relied on improper,
14 unjustified, and inaccurate assumptions included in the traffic analysis. For example, the Draft EIR
15 improperly assumed, *inter alia*, the underlying activity levels of goods and people movement into
16 and out of the Project; the numbers and types of passenger cars and heavy-duty trucks; miles
17 traveled to and from the Project; the manner in which these trips were distributed in the vicinity of
18 the Project; and truck trips as a share of total trips related to the Project.

19 79. Moreover, the Draft EIR also failed to adequately disclose and analyze the Project’s
20 significant impacts to air quality. For example, the air quality analysis underestimated the air
21 pollution associated with the Project due to undercounting the number of trucks connected to the
22 Project and minimizing truck trip length.

23 80. The Draft EIR also failed to adequately disclose and analyze the air quality impacts
24 associated with the Project under a *Friant Ranch*-type analysis in that it did not study or disclose the
25 impact of the Project’s NO_x emissions on ozone formation in the South Coast air basin, and the
26 resulting cumulative impacts of these air emissions on human health.

27 81. The Draft EIR’s measures for mitigating air quality impacts were vague, ineffective,
28 deferred, unenforceable, unsupported by substantial evidence, and/or otherwise inadequate.

1 82. Finally, the Draft EIR failed to incorporate all feasible mitigation or avoidance
2 measures, as previously noted.

3 **3. Greenhouse Gas Emissions Impacts**

4 83. The Draft EIR failed to adequately disclose, analyze, and/or mitigate the Project’s
5 considerable GHG emissions.

6 84. The Draft EIR’s GHG analysis was inadequate because it relied on improper
7 underlying values and assumptions and/or failed to disclose the values and assumptions it is based
8 upon. For example, the Draft EIR should have relied on the global warming potential (“GWP”)
9 values from the Intergovernmental Panel on Climate Change’s 5th Assessment Report, but it was
10 unclear if the Draft EIR instead improperly used GWP values from the earlier 2nd Assessment
11 Report. Likewise, the Draft EIR did not explain the underlying emission factors used in the
12 calculations to determine emissions of methane and nitrous oxide. The Draft EIR should have
13 provided a more thorough discussion of these emission factors.

14 85. The Draft EIR’s GHG analysis was also inadequate because it relied on improper,
15 unjustified, and inaccurate assumptions included in the traffic analysis. For example, the Draft EIR
16 improperly assumed, *inter alia*, the underlying activity levels of goods and people movement into
17 and out of the Project; the numbers and types of passenger cars and heavy-duty trucks; miles
18 traveled to and from the Project; the manner in which these trips were distributed in the vicinity of
19 the Project; and truck trips as a share of total trips related to the Project.

20 86. Finally, the Draft EIR relied on mitigation measures that are vague, ineffective,
21 deferred, unenforceable, unsupported by substantial evidence, and/or otherwise inadequate. For
22 example, the Draft EIR stated that San Bernardino County includes a GHG Development Review
23 Process that relies on a screening threshold of 3,000 million tons CO₂e/year to determine if
24 additional analysis is required. Projects that exceed the 3,000 MTCO₂e/year, such as certain
25 scenarios in this Project, are then required to “achieve a minimum 100 points” per certain tables in
26 San Bernardino guidelines in order to be determined to have a less than significant impact for GHGs.
27 However, the limited discussion of the 100-point requirement and how any commitments associated
28 with this point determinations were unenforceable in the Draft EIR.

1 **4. Environmental Justice Impacts**

2 87. The Draft EIR failed to analyze and mitigate the environmental justice impacts and
3 address concerns the Project presents for Bloomington residents.

4 88. The Draft EIR failed to analyze any of the environmental justice impacts of the
5 Project, despite the fact that the South Coast is one of the nation’s most polluted regions, and
6 CalEnviroScreen data demonstrating that residents in the Project’s specific census tracts endure a
7 pollution burden heavier than most of the State of California.

8 89. The Draft EIR did not analyze the impacts the Project will expose sensitive receptors
9 to substantial pollutant concentrations, particularly in light of paltry and ineffective mitigation
10 measures. For example, it did not acknowledge the harms the Project will have on numerous schools,
11 parks, and a church in the area, as well as residences as close as 11 feet north of the area.

12 90. The Draft EIR also failed to comply with San Bernardino County General Plan’s
13 Countywide Environmental Justice goals and policies. For example, the Draft EIR stated its
14 compliance with these goals and policies by “construct[ing] frontage improvements, including
15 sidewalks, which would encourage walking in the Project area.” But the Draft EIR did not provide
16 substantial evidence of how installing sidewalks will address the environmental justice concerns of
17 adding more diesel truck traffic, air pollution, noise, and other impacts to a community already
18 overburdened by air pollution.

19 91. Moreover, the County violated CEQA by denying Bloomington residents a
20 meaningful opportunity to participate throughout the Project’s review process on numerous
21 occasions. This included failing to accommodate Spanish speakers in written documents and public
22 hearings and failing to provide timely and accessible notices. According to comments on the Draft
23 EIR that were submitted by individuals, residents did not receive proper notice or enough time to
24 comment during the Scoping Meeting.

25 92. The Project also fails to comply with San Bernardino County General Plan’s
26 Countywide Environmental Justice goals and policies. The County of San Bernardino Countywide
27 Plan (“Countywide Plan”) serves as the County’s general plan, and it contains policies to protect
28 against and minimize the effects of incompatible development. Countywide Plan Policy HZ-3.18

1 states that a planning project application must “indicate whether the project is within, adjacent to, or
2 nearby an unincorporated environmental justice focus area and, if so, to: document to the County’s
3 satisfaction how an applicant will address environmental justice concerns potentially created by the
4 project; and present a plan to conduct at least two public meetings for nearby residents, businesses,
5 and property owners to obtain public input for applications involving a change in zoning.” The Draft
6 EIR is both procedurally and substantively inconsistent with Policy HZ-3.18 because the County did
7 not hold the requisite amount of community meetings. Even when the County held meetings, it
8 denied residents meaningful opportunities to participate in those meetings, as detailed above.

9 **5. Noise Impacts**

10 93. The Project presents significant noise issues for neighboring and surrounding
11 sensitive receptors, including existing residences. The closest residences are a mere 11 feet from the
12 Project site, yet the Draft EIR did not accurately and fully evaluate the Project’s impact on these
13 receptors. There were numerous flaws and omissions with respect to the Draft EIR’s analysis of the
14 Project’s noise impacts. For example, the Draft EIR’s failed to measure the Project’s noise impacts
15 against nighttime noise standards, despite the Project operating on a 24-hour basis.

16 94. The Draft EIR also did not measure noise levels at property lines, as it dubiously
17 assumed that residents will not utilize their backyards.

18 95. Additionally, the Draft EIR relied on an improper threshold of significance to
19 evaluate construction noise impacts that did not account for the Project’s proximity to sensitive noise
20 receptors, as well as uncertain and deferred noise mitigation.

21 **6. Agricultural Resources Impacts**

22 96. The Project site currently contains substantial agricultural resources and open space.
23 According to the Draft EIR, the site contains .04 acres of “prime farmland” and 23.55 acres of
24 “farmland of statewide importance.” Because the Project will permanently remove this designated
25 farmland and not replace it, the Project results in adverse impacts on agricultural resources contrary
26 to the conclusion of the Draft EIR.

27 97. In addition, the Project results in potentially significant cumulative impacts where it
28 will convert a sizeable portion of existing farmland of statewide importance with no corresponding

1 mitigation. Rather than treat these impacts as significant, the Draft EIR assumed that other
2 speculative projects would mitigate this impact. This represented deferred analysis and mitigation
3 pursuant to CEQA.

4 **7. Land Use Impacts**

5 98. The Project results in significant land use impacts because it is not consistent or
6 compatible with surrounding land uses. For example, the Draft EIR failed to adequately evaluate and
7 mitigate the impacts associated with developing the Project at its location and in relation to
8 surrounding sensitive uses. The Project would introduce a massive industrial complex in an area
9 typified by low-density residences, agricultural uses, and community-oriented development. Among
10 other things, three schools are located within 1/4 mile of the Project site, and a park is located at the
11 southwestern boundary of the site. The Project with its intense warehouse operations, including
12 thousands of diesel truck trips and round-the-clock operations, will radically alter the character and
13 nature of this semi-urban environment.

14 99. For example, the Draft EIR's analysis and mitigation of the Project's land use impacts
15 were inadequate because the Project conflicts with Countywide Policy LU-2.1 in that the Project is
16 not "located, scaled, buffered, and designed to minimize negative impacts on existing conforming
17 uses and adjacent neighborhoods." The Project conflicts with Countywide Policy LU-2.3 in that the
18 Project is not "located, scaled, buffered, and designed for compatibility with the surrounding natural
19 environment and biodiversity." The Project conflicts with Countywide Policy LU-4.5 in that the
20 Project has not been designed to "be consistent with and reinforce the physical and historical
21 character and identity of our unincorporated communities." The Project conflicts with Countywide
22 Policy LU-6.4 in that the Project should be prohibited because it is a "new industrial development"
23 located "at least one-half mile from an existing or planned public primary or secondary school or
24 public park." The "Specific Plan" zoning does not eliminate the Project's land use conflicts and the
25 need for mitigation to address the incompatibility between uses, particularly where the "Specific
26 Plan" has no community features or benefits.

1 100. The Project also conflicts with Countywide Policy NR-7.1 in that the Project does not
2 “protect economically viable and productive agricultural lands from the adverse effects of urban
3 encroachment, particularly increased . . . non-agricultural land development.”

4 101. Finally, the Project conflicts with the goals, policies, and “aspirations” of the
5 Community Action Guide for the unincorporated Bloomington community, including the policy that
6 “Bloomington contains great neighborhoods, parks and recreation centers, and local services, while
7 maintaining a safe, small-town feel.”

8 **8. Biological Resources Impacts**

9 102. The Project presents significant biological impacts that the County failed to address.
10 For example, the Draft EIR failed to adequately disclose, analyze, and/or mitigate the Project’s
11 significant direct and cumulative impacts on biological resources, including numerous special status
12 wildlife and plant species affected by the Project and their habitat. Those wildlife species include but
13 are not limited to: Delhi Sands flower-loving fly, which is listed as endangered under the Federal
14 Endangered Species Act, 16 U.S.C. § 1531 *et seq.*; burrowing owl, pocketed free-tailed bat, western
15 yellow bat, and numerous special status native plant species. The Draft EIR failed to adequately
16 disclose, analyze, and/or mitigate the Project’s significant and cumulative impacts on habitats and
17 features. The Draft EIR also failed to disclose, analyze, or mitigate the biological impacts associated
18 with developing the Upzone Site.

19 103. The Draft EIR also relied on mitigation measures that are vague, ineffective, deferred,
20 unenforceable, unsupported by substantial evidence, and/or otherwise inadequate. It failed to
21 incorporate all feasible mitigation or avoidance measures and failed to adequately disclose, analyze,
22 and/or mitigate the direct, indirect, and cumulative impacts of the Project on other biological
23 resources.

24 **9. Housing Impacts**

25 104. The Draft EIR failed to adequately disclose, analyze, or mitigate the displacement
26 impacts of the Project, including information about the number of people residing in the Project’s
27 footprint, the applicant’s acquisition plan for these properties, and the impact of that rezoning to
28 non-residential uses on existing homeowners and tenants. Nor is there any disclosure, analysis, or

1 mitigation plan for residents adjacent to the Project who will be constructively displaced through
2 loss of full use and enjoyment of their properties due to conversion to non-conforming uses.

3 105. The Draft EIR did not include information about whether any of the residential units
4 in the Project footprint are “protected units” as defined by the Housing Crisis Act, triggering
5 replacement housing obligations.

6 **B. The Responses to Comments and Final EIR**

7 106. On or about September 15, 2022, the County issued a notice of hearing regarding the
8 Planning Commission’s consideration of the Project and the Final EIR.

9 107. On or about September 16, 2022, the Land Use Services Department released a staff
10 report for the Planning Commission (“Planning Commission Staff Report”) containing its proposed
11 findings of fact and Statement of Overriding Considerations to be adopted with the approval of the
12 Project.

13 108. On or about September 22, 2022, the Planning Commission held a hearing at which it
14 recommended that the Board of Supervisors certify the Final EIR, adopt the CEQA findings,
15 Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program; adopt
16 findings for and approve the Bloomington Business Park Specific Plan, the policy plan amendment,
17 the zoning amendment, the site plan approvals, the vesting tentative parcel maps, the community
18 benefits agreement/development agreement, the community facilities district, and the conditional use
19 permits to construct the warehouses and truck/trailer parking lot; and direct the Clerk of the Board to
20 file a Notice of Determination.

21 109. On October 29, 2022, the County released the Final EIR, which includes its responses
22 to comments on the Draft EIR as well as the other finalized sections of the EIR.

23 110. The County did not provide the public with a Spanish version of the Final EIR, or any
24 portions thereof.

25 111. The Final EIR indicates that the County made only minimal changes to the Draft EIR,
26 failing to remedy most errors identified by Bloomington Petitioners and other commenters. For
27 example, the Final EIR continues to fail to adequately disclose or analyze the Project’s significant
28 impacts on the environment, including, but not limited to, the Project’s aesthetic, agricultural, air

1 quality, biological, energy, GHG emissions, land use, noise, traffic and transportation, and
2 environmental justice impacts. It also fails to consider cumulative impacts associated with other
3 proposed logistics centers in the area, as well as fails to consider, discuss, or adopt adequate,
4 feasible, and enforceable mitigation measures to minimize the Project’s significant and detrimental
5 impacts, and otherwise improperly deferred mitigation necessary to minimize the Project’s impacts.

6 112. The County did not adequately respond to comments on the Draft EIR, including, but
7 not limited to, dismissing expert comments, requests for additional information, and suggestions of
8 feasible mitigation measures. For example, the Final EIR declines to respond to comments
9 highlighting the Project’s social and economic merits because they “do not pertain to the potential
10 for significant physical impacts.” Despite calls for an environmental justice analysis, the Final EIR
11 omitted any such analysis while also conceding that the Project is cited in an Environmental Justice
12 Focus Area.

13 113. The Final EIR also failed to acknowledge the procedural justice violations alleged in
14 the comments on the Draft EIR. For example, the County responded to requests for translations for
15 Bloomington’s Spanish-speaking residents by arguing that “[t]ranslation of CEQA documents is not
16 part of the County’s standard CEQA procedures and is not consistent with the County’s existing
17 activities or procedures.” But the County has already demonstrated that translations are in fact part
18 of its CEQA procedures. As the Final EIR concedes, the County provided Spanish translations of the
19 Notice of Preparation and Notice of Public Scoping Meeting, the Notice of Availability, and Notice
20 of Availability Extension. Notably, the Final EIR also responded in English to comments that were
21 submitted in Spanish, further denying meaningful opportunities for engagement and public review of
22 the Final EIR.

23 114. Additionally, the Planning Commission Staff Report fails to acknowledge nor
24 sufficiently address the fair housing, displacement, and community development issues that
25 community members and advocacy organizations raise with respect to the Project.

26 115. The Final EIR also included significant new information but was not recirculated for
27 full public review. For example, the Final EIR includes significant new analysis, including a new
28

1 1,300-page Health Risk Assessment and 120-page traffic analysis, and a new analysis on
2 environmental justice impacts, seemingly disclosing significant impacts from the Project.

3 116. As a result of these actions, the County prejudicially abused its discretion by failing
4 to proceed in the manner required by law and by failing to act on the basis of substantial evidence.

5 117. Bloomington Petitioners submitted letters to the County regarding the Final EIR
6 dated September 21, 2022. These letters highlighted the Final EIR's failure to correct the errors
7 identified by comments on the Draft EIR and failure to comply with CEQA. Bloomington
8 Petitioners also requested that the County recirculate the EIR for 60 days for full public review in
9 light of significant new information and the County's failure to translate documents into Spanish.

10 **C. The County's Approval of the Project**

11 118. On or about November 10, 2022, the County issued a notice of hearing regarding the
12 Board of Supervisors' consideration of the Project and the Final EIR.

13 119. Bloomington Petitioners submitted letters to the County regarding the Final EIR
14 dated November 14, 2022. These letters further explained the Final EIR's deficiencies and failures to
15 comply with CEQA.

16 120. On November 15, 2022, the County of San Bernardino Board of Supervisors held a
17 public hearing at which it considered approval of the Project.

18 121. Bloomington Petitioners submitted oral comments at the November 15, 2022 public
19 hearing, reiterating their concerns from their written comments on the Final EIR.

20 122. Despite concerns expressed by Bloomington Petitioners, residents, and others, the
21 Board voted to certify the Final EIR, adopt the CEQA findings, Statement of Overriding
22 Considerations and Mitigation Monitoring and Reporting Program; adopt findings for and approve
23 the Bloomington Business Park Specific Plan, the policy plan amendment, the zoning amendment,
24 the site plan approvals, the vesting tentative parcel maps, the community benefits
25 agreement/development agreement, the community facilities district, and the conditional use permits
26 to construct the warehouses and truck/trailer parking lot; and direct the Clerk of the Board to file a
27 Notice of Determination.

28

1 123. The County’s approval of the Project will cause Bloomington Petitioners irreparable
2 injury for which Bloomington Petitioners have no adequate remedy at law. Bloomington Petitioners
3 and their members will be irreparably harmed by the County’s actions in approving the Project.
4 Bloomington Petitioners were harmed by, among other things, the failure of the County in its
5 certification of the Final EIR to adequately evaluate the potential impacts of the Project and the
6 County’s approval of the Project without providing adequate and effective mitigation measures
7 contrary to the requirements of state law.

8 124. The maintenance of this action is for the purpose of enforcing important public
9 policies of the State of California with respect to the protection of the environment under CEQA and
10 conformance with state law and local law, including mandates to refrain from unlawful
11 discrimination and the duty to affirmatively further fair housing. The maintenance and prosecution
12 of this action will confer a substantial benefit upon the public by protecting the public from
13 environmental, residential displacement, and other harms alleged in this Petition. Bloomington
14 Petitioners are acting as private attorneys general to enforce these public policies and prevent such
15 harm.

16 **FIRST CAUSE OF ACTION**

17 **(Violations of CEQA: Inadequate Final EIR; Failure to Provide Meaningful Opportunity for**
18 **Spanish-Speaking Residents to Participate.)**

19 125. Bloomington Petitioners hereby reallege and incorporate herein by reference the
20 allegations contained in the foregoing paragraphs.

21 **I. Applicable CEQA Requirements**

22 126. CEQA is designed to ensure that the environmental consequences of proposed
23 projects are disclosed, considered, and feasibly avoided at the earliest opportunity. CEQA requires
24 the lead agency for a project with the potential to cause significant environmental impacts to prepare
25 an EIR that complies with the requirements of the statute, including, but not limited to, the
26 requirement to analyze the project’s potentially significant environmental impacts. (Pub. Resources
27 Code § § 21002.1, subd. (a), 21080, subd. (d).) The EIR must provide sufficient environmental
28 analysis to ensure that the decision makers can intelligently consider environmental consequences

1 when acting on the proposed project. (*Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.*
2 (1988) 47 Cal.3d 376, 405.)

3 127. An EIR must “provide the public with an accurate, stable and finite description of the
4 project.” (*Washoe Meadows Community. v. Dept. of Parks & Recreation* (2017) 17 Cal.App.5th 277,
5 285.) “[A] project description that gives conflicting signals to decision makers and the public about
6 the nature and scope of the project is fundamentally inadequate and misleading.” (*Id.* at 287.)

7 128. An EIR “must delineate environmental conditions prevailing absent the project,
8 defining a ‘baseline’ against which predicted effects can be described and quantified.” (*Neighbors*
9 *for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 447.) An
10 EIR’s description of this environmental setting should be sufficiently comprehensive to allow the
11 project’s significant impacts “to be considered in the full environmental context.” (CEQA
12 Guidelines, § 15125, subd. (c).)

13 129. An EIR must disclose and analyze the direct and the reasonably foreseeable indirect
14 environmental impacts of a proposed project if they are significant. (CEQA Guidelines, §§ 15126.2,
15 15064, subd. (d)(3).) “[A] sufficient discussion of significant impacts requires not merely a
16 determination of whether an impact is significant, but some effort to explain the nature and
17 magnitude of the impact.” (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 519 (“*Friant*
18 *Ranch*”).)

19 130. An EIR must discuss a cumulative impact if a project’s incremental effect combined
20 with the effects of other projects is “cumulatively considerable.” (CEQA Guidelines, § 15130, subd.
21 (a).) The discussion of cumulative impacts must be more than “a conclusion utterly devoid of any
22 reasoned analysis.” (*Whitman v. Bd. of Supervisors* (1979) 88 Cal.App.3d 397, 411.)

23 131. CEQA also mandates that the lead agency identify feasible mitigation measures that
24 will reduce or avoid a project’s significant environmental impacts. (Pub. Resources Code, §§ 21002,
25 21002.1, subd. (b).) Even where a public agency cannot completely eliminate a project’s significant
26 impacts, CEQA requires that it nonetheless reduce those impacts to the extent feasible. (*Friant*
27 *Ranch, supra*, 6 Cal.5th 502, 524-25.)

28

1 132. An EIR must respond to comments making specific suggestions for mitigating a
2 significant impact unless the suggested mitigation is “facially infeasible.” (*L.A. Unified School Dist.*
3 *v. City of L.A.* (1997) 58 Cal.App.4th 1019, 1029.) If an agency rejects a suggested measure as
4 infeasible, the rejection must be supported by substantial evidence and free of legal error. (Pub.
5 Resources Code, § 21168.5.)

6 133. CEQA instructs that “[a] public agency shall provide that measures to mitigate or
7 avoid significant effects on the environment are fully enforceable through permit conditions,
8 agreements, or other measures.” (Pub. Resources Code, § 21081.6, subd. (b).) The agency must
9 assure that its mitigation is “effective” and will “present a viable solution” to mitigating the adverse
10 effect. (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116.) The EIR must include facts
11 and analysis to support its conclusions regarding the effect of its mitigation measures. (*Friant Ranch,*
12 *supra*, 6 Cal.5th at 522 (“The EIR must accurately reflect the net health effect of proposed air quality
13 mitigation measures”), citing *Cleveland Nat. Forest Foundation v. San Diego Assn. of Governments*
14 (2017) 3 Cal.5th 497, 514.)

15 134. Requiring a project to implement or fund its fair share of a measure designed to
16 mitigate a cumulative impact is a legally acceptable mechanism for addressing the project’s
17 contribution to the impact. (CEQA Guidelines, § 15130, subd. (a)(3).) Fair-share contributions to a
18 mitigation fund may be adequate mitigation if they are “part of a reasonable, enforceable plan or
19 program that is sufficiently tied to the actual mitigation of the . . . impacts at issue.” (*Anderson First*
20 *Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1189.)

21 135. CEQA requires a lead agency to address new information before certifying an EIR
22 when “[s]ubstantial changes occur with respect to the circumstances under which the project is being
23 undertaken which will require major revisions in the environmental impact report” or “[n]ew
24 information, which was not known and could not have been known at the time the environmental
25 impact report was certified as complete, becomes available.” (Pub. Resources Code, § 21166, subds.
26 (b), (c).) This includes significant effects not discussed in the previous EIR and impacts that are
27 “substantially more severe” than what the previous EIR disclosed. (CEQA Guidelines, § 15162,
28 subd. (a)(3)(B).)

1 136. CEQA prohibits a lead agency from approving a project with significant
2 environmental effects unless it has made written findings for each of those effects, accompanied by
3 an explanation of the rationale for each finding. (Pub. Resources Code, § 21081, subd. (a).) These
4 findings must support the ultimate decision, be based on substantial evidence in the record, and trace
5 the analytical route between the evidence in the record and the agency’s conclusions.

6 137. CEQA provides that where a project’s significant environmental effects cannot
7 feasibly be mitigated, the lead agency may still approve the project if it finds that “specific
8 overriding economic, legal, social, technological or other benefits of the project outweigh the
9 significant effects on the environment.” (Pub. Resources Code, § 21081, subd. (b).) However, an
10 agency’s Statement of Overriding Considerations constitutes an abuse of discretion where it is not
11 supported by substantial evidence. (*Id.* § 21168.5; CEQA Guidelines, § 15093, subd. (b).) The
12 statement’s core “purposes are undermined if its conclusions are based on misrepresentations of the
13 contents of the EIR or it misleads the reader about the relative magnitude of the impacts and benefits
14 the agency has considered.” (*Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150
15 Cal.App.4th 683, 718.)

16 138. An agency’s Statement of Overriding Considerations provides “a proper basis for
17 approving a project despite the existence of unmitigated environmental effects, only when the
18 measures necessary to mitigate or avoid those effects have properly been found to be infeasible.”
19 (*City of Marina v. Bd. of Trustees of Cal. State Univ.* (2006) 39 Cal.4th 341, 368.) Where an agency
20 improperly determines that significant impacts cannot feasibly be mitigated, it “necessarily follows”
21 that the statement of overriding consideration is invalid. (*Ibid.*)

22 139. Among CEQA’s basic purposes are to “[i]nform . . . the public about the potential,
23 significant environmental effects of proposed activities” and to “[d]isclose to the public the reasons
24 why a governmental agency approved the project in the manner the agency chose if significant
25 environmental effects are involved.” (CEQA Guidelines, §§ 15002, subds. (a)(1), (a)(4).) “Public
26 participation is an essential part of the CEQA process,” (*id.*, § 15201), and a CEQA lead agency like
27 San Bernardino County possesses inherent authority and discretion to provide translations of CEQA
28 documents in Spanish.

1 **II. Violations of CEQA**

2 140. Respondents violated CEQA by certifying an inadequate EIR for the project and
3 failing to comply with CEQA.

4 141. Respondents failed to adequately disclose or analyze the Project's significant impacts
5 on the environment, including, but not limited to, the Project's aesthetic, agricultural, air quality,
6 biological, energy, GHG emissions, land use, noise, traffic and transportation, and environmental
7 justice impacts.

8 142. Respondents failed to consider cumulative impacts associated with other proposed
9 logistics centers in the area and failed to revise and recirculate the EIR in response to significant new
10 information that occurred after the release of the Project's Draft EIR regarding the newly proposed
11 Project.

12 143. Respondents failed to consider, discuss, or adopt adequate, feasible, and enforceable
13 mitigation measures to minimize the Project's significant and detrimental impacts, and otherwise
14 improperly deferred mitigation necessary to minimize the Project's impacts.

15 144. Respondents failed to adopt feasible Project alternatives and make adequate findings
16 supported by substantial evidence that Project alternatives are infeasible within the meaning of
17 CEQA.

18 145. Respondents failed to support the adopted Statement of Overriding Considerations
19 with substantial evidence in the record.

20 146. Respondents failed to provide meaningful opportunity for Spanish-speaking county
21 residents to participate in the CEQA Process.

22 147. As a result of the foregoing defects, Respondents prejudicially abused their discretion
23 by certifying a Final EIR that does not comply with CEQA and by approving the Project in reliance
24 thereon. Accordingly, Respondents' certification of the Final EIR and approval of the Project must
25 be set aside.

1 **SECOND CAUSE OF ACTION**

2 **(Ordinary Mandamus: Code of Civ. Proc. § 1085, and Declaratory & Injunctive Relief; Duty**
3 **to Affirmatively Further Fair Housing Government Code § 8889.50.)**

4 148. Bloomington Petitioners hereby reallege and incorporate herein by reference the
5 allegations contained in the foregoing paragraphs.

6 **I. The Duty to Affirmatively Further Fair Housing**

7 149. The County is prohibited from taking actions that are materially inconsistent with its
8 obligation to affirmatively further fair housing. (Gov. Code § 8899.50 (b)(1).)

9 150. “Affirmatively furthering fair housing means taking meaningful actions that, taken
10 together, address significant disparities in housing needs and in access to opportunity, replacing
11 segregated living patterns with truly integrated and balanced living patterns, transforming racially
12 and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining
13 compliance with civil rights and fair housing laws.” (Gov. Code § 8899.50(a)(1).)

14 151. The duty to affirmatively further fair housing applies to the County and extends to all
15 of its activities and programs relating to land use and planning and zoning decisions, including the
16 Project. (Gov. Code § 8899.50(b)(1).)

17 **II. Violations of the Duty to Affirmatively Further Fair Housing**

18 152. The Project will result in significant negative impacts on air quality in Bloomington,
19 as acknowledged in the Planning Commission Staff Report. Bloomington is already environmentally
20 burdened, and the Project will worsen these conditions, making homes and neighborhoods more
21 hazardous and less livable.

22 153. The Project will decrease neighborhood and housing quality in the Bloomington
23 neighborhood, exacerbate environmental hazards, and displace existing residents without adequate
24 mitigation measures. These harms will disproportionately impact Hispanic or Latino residents and
25 lower-income households.

26 154. The County has not engaged in any analysis of the Project’s impact on members of
27 Hispanic or Latino and lower-income households or on any other protected classes under the Fair
28

1 Employment and Housing Act, nor has it taken any action to mitigate residents' direct or indirect
2 displacement or the loss of housing.

3 155. The County's actions violate its duty to affirmatively further fair housing and to
4 foster compliance with civil rights and fair housing laws.

5 156. The County has a clear, present, ministerial duty to comply with its duty to
6 affirmatively further fair housing.

7 157. Bloomington Petitioners have a beneficial interest in the performance of the County's
8 duties.

9 158. Bloomington Petitioners also have an interest as citizens in the performance of the
10 County's public duties.

11 159. Unless compelled by this Court to comply with its legal obligations, the County and
12 Real Parties in Interest will proceed with the Project, destroy existing homes, cause displacement,
13 and harm the predominately Hispanic or Latino community and under-resourced community through
14 environmental degradation, violating the duty to affirmatively further fair housing.

15 160. Petitioner has no plain, speedy and adequate remedy at law other than that sought
16 herein.

17 **THIRD CAUSE OF ACTION**

18 **(Ordinary Mandamus: Code of Civ. Proc. § 1085, and Declaratory & Injunctive Relief; Fair**
19 **Employment and Housing Act: Govt Code § 12951 *et seq.*; 2 Cal. Code Regs., § 12161.)**

20 161. Bloomington Petitioners hereby reallege and incorporate herein by reference the
21 allegations contained in the foregoing paragraphs.

22 **I. Relevant Provisions of the Fair Employment and Housing Act**

23 162. The Fair Employment and Housing Act makes it unlawful to discriminate through
24 public or private land use practices, decisions, and authorizations on the basis of enumerated
25 characteristics: race, color, religion, sex, gender, gender identity, gender expression, sexual
26 orientation, familial status, marital status, disability, genetic information, national origin, source of
27 income, veteran or military status, or ancestry. Discrimination includes, but is not limited to,
28 restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the

1 Planning and Zoning Law (Title 7 (commencing with § 65000)) that make housing opportunities
2 unavailable.

3 163. The California Code of Regulations states that unlawful land use practices include
4 those that intentionally discriminate or have a discriminatory effect, such as those that:

5 a. Deny, restrict, condition, adversely impact, or render infeasible the enjoyment
6 of residence, land ownership, tenancy, or any other land use benefit related to
7 housing opportunities. (2 Cal. Code Regs., § 12161(b)(1).)

8 b. Result in the location of toxic, polluting, and/or hazardous land uses in a
9 manner that denies, restricts, conditions, adversely impacts, or renders
10 infeasible the enjoyment of residence, land ownership, tenancy, or any other
11 land use benefit related to residential use, or in connection with housing
12 opportunities or existing or proposed dwellings. (2 Cal. Code Regs.,
13 § 12161(b)(10).)

14 **II. Violations of the Fair Employment and Housing Act**

15 164. The Project will result in significant negative impacts on air quality in Bloomington,
16 as acknowledged in the Planning Commission Staff Report. Bloomington is already environmentally
17 burdened, and the Project will make these conditions worse, in turn making homes and
18 neighborhoods more hazardous and less livable.

19 165. The County has not engaged in any analysis of the Project's impact on members of
20 Hispanic or Latino and lower-income households, or on any other protected classes under the Fair
21 Employment and Housing Act, or taken any action to mitigate residents' direct or indirect
22 displacement or the loss of housing.

23 166. The Project will decrease neighborhood and housing quality in the Bloomington
24 neighborhood, will exacerbate environmental hazards, and will displace existing residents without
25 adequate mitigation measures. These harms will disproportionately impact Hispanic or Latino
26 residents and lower-income households.

27 167. The Project will result in significant negative impacts on air quality in the
28 surrounding area. Bloomington already has some of the worst environmental conditions in the

1 County, and the Project will make those conditions worse, in turn making homes and neighborhoods
2 more hazardous and less livable.

3 168. The Project will eliminate housing stock and displace residents from their homes and
4 community in a predominately Hispanic or Latino community. The change in allowable use will also
5 impact homeowners' future ability to use, modify, finance, or sell their homes. The Specific Plan
6 does not include any plans to provide replacement housing and does not allow for any residential
7 uses.

8 169. The Project does not propose physical developments or improvements at the Upzone
9 Site. Any development at the Upzone Site also requires the demolition of existing housing and the
10 displacement of current residents. The County has not assessed the tenure or affordability of the
11 homes that will be destroyed by the project, nor whether other housing in San Bernardino County
12 will be affordable to displaced residents.

13 170. The County's failure to provide language access in the public participation process
14 for land use applications has a disparate impact on Bloomington's Hispanic or Latino residents
15 because these residents are more likely than others to have Limited English Proficiency.

16 171. Hispanic or Latino residents of unincorporated Bloomington with limited English
17 proficiency are unfairly denied the opportunity to review documents and participate in the public
18 planning process when they are unable to respond to requests for information sent only in English.

19 172. The County has not sited similar projects in or near racially concentrated areas of
20 affluence.

21 173. County has a clear, present, ministerial duty to comply with the Fair Employment and
22 Housing Act.

23 174. Bloomington Petitioners have a beneficial interest in the performance of the County's
24 duties and an interest as citizens in the performance of the County's public duties.

25 175. Bloomington Petitioners also have an interest as citizens in the performance of the
26 County's public duties.

27 176. Bloomington Petitioners have no plain, speedy and adequate remedy at law other than
28 that sought herein.

1 **FOURTH CAUSE OF ACTION**

2 **(Ordinary Mandamus: Code of Civ. Proc. § 1085; Housing Crisis Act: Govt Code § 65589.5;**
3 **Violations of Housing Crisis Act of 2019: Failure to Prevent Net Loss in Residential Capacity.)**

4 177. Bloomington Petitioners hereby reallege and incorporate herein by reference the
5 allegations contained in the foregoing paragraphs.

6 **I. Applicable Housing Crisis Act of 2019 Requirements**

7 178. Where a jurisdiction adopts a planning and zoning decision that would result in
8 residential capacity, Government Code § 66300 requires that, in such instances, the jurisdiction take
9 concurrent action to change “the development standards, policies, and conditions applicable to other
10 parcels within the jurisdiction to ensure no net loss in residential capacity.” (Gov. Code
11 § 66300(i)(1).)

12 179. The statute also requires replacement of any existing or demolished “protected units,”
13 defined as any of the following: covenanted affordable units; units subject to rent or price control in
14 the last 5 years; and units that are or were rented by lower or very low-income households within the
15 past 5 years. (Gov. Code §§ (d)(2)(A), (d)(2)(F)(iv)(I)-(III).)

16 180. In enacting the Housing Crisis Act, the Legislature declared, “it is the policy of the
17 state that this section be interpreted and implemented in a manner to afford the fullest possible
18 weight to the interest of, and the approval and provision of, housing.” (Gov. Code
19 § 65589.5(a)(2)(L).)

20 **II. Violations of Housing Crisis Act of 2019**

21 181. Beyond rezoning of the Upzone Site to allow for higher residential density, neither
22 the County nor Real Parties in Interest conducted analysis regarding whether any units in the project
23 area that they intend to be demolished to make way for the Project meet the definition of “protected
24 units,” and do not identify any plan for replacement units as required under the Government Code.

25 182. The County’s approval and adoption of an Upzone Site north of the Specific Plan Site
26 changes the zoning in this area; no physical development or improvements are proposed there. The
27 superficial attempt to comply with Government Code § 66300 is a mere paper exercise. Neither the
28 County nor Real Parties in Interest provide meaningful analysis of the development potential at the

1 Upzone Site to accommodate higher density residential uses, including whether the site has realistic
2 capacity to accommodate housing uses; identification of barriers; or necessary changes to
3 development standards, policies, and conditions to reduce or eliminate such barriers.

4 183. The County has a clear, present, ministerial duty to comply with the Housing Crisis
5 Act.

6 184. Bloomington Petitioners have a beneficial interest in the performance of the County's
7 duties and an interest as citizens in the performance of the County's public duties.

8 185. Bloomington Petitioners also have an interest as citizens in the performance of the
9 County's public duties.

10 186. Bloomington Petitioners have no plain, speedy and adequate remedy at law other than
11 that sought herein.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Bloomington Petitioners pray for judgment as follows:

14 187. For alternative and peremptory writs of mandate directing Respondents to vacate and
15 set aside their approval of the Project and certification of the Final EIR, and adoption of findings of
16 fact and a Statement of Overriding Considerations in connection with their approval of the Project;

17 188. For alternative and peremptory writs of mandate directing Respondents to vacate and
18 set aside all permits reliant on the Final EIR for CEQA compliance;

19 189. For alternative and peremptory writs of mandate directing Respondents to comply
20 with CEQA and the CEQA Guidelines, and to take any other action as required by Public Resources
21 Code § 21168.9 or otherwise required by law;

22 190. For a temporary stay, temporary restraining order, and preliminary and permanent
23 injunctions restraining Respondents and Real Parties in Interest and their agents, servants, and
24 employees, and all others acting in concert with them or on their behalf, from taking any action (a) to
25 approve any permits, entitlements, licenses, or authorizations pursuant to the Bloomington Business
26 Park, or (b) to implement any portion or aspect of the Bloomington Business Park Specific Plan,
27 pending Respondents' full compliance with the requirements of CEQA and the CEQA Guidelines;

28

1 191. For alternative and peremptory writs of mandate directing the County to publish any
2 future CEQA notices concerning the Project, as well as the executive summaries of any future EIRs
3 concerning the Project, in Spanish, as well as in English;

4 192. For alternative and peremptory writ of mandate restraining the County from taking
5 actions that site the Project in a manner that denies, restricts, conditions, adversely impacts, or
6 renders infeasible the enjoyment of residence, land ownership, tenancy, or any other land use benefit
7 related to residential use, or in connection with housing opportunities or existing or proposed
8 dwellings, on the basis of national origin or any other protected characteristics.

9 193. For alternative and peremptory writ of mandate directing the County to identify
10 “protected units,” identify occupants of such protected units, and require provision of relocation
11 assistance in the manner required under compliance with Gov. Code § 66300;

12 194. For declaratory relief that the County’s approval of the Project is a violation of its
13 duty to affirmatively further fair housing;

14 195. For declaratory relief that the County’s approval of the Project has unlawful,
15 discriminatory impact based on protected characteristics as defined therein;

16 196. For costs of the suit;

17 197. For attorneys’ fees as authorized by Code of Civil Procedure § 1021.5 and/or other
18 provisions of law; and

19 198. For such other and further relief as the court deems just and proper.

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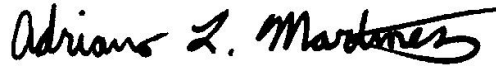
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1 Dated: December 16, 2022



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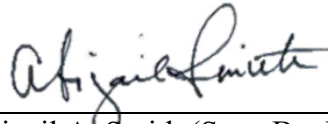
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Attorney for Petitioner Sierra Club

1 **VERIFICATION**

2 I, Andrea Vidaurre, hereby declare:

3 I am the Policy Lead at People’s Collective for Environmental Justice. People’s Collective
4 for Environmental Justice is one of the Petitioners in this action, and I am authorized to execute this
5 verification on Petitioners’ behalf. The facts alleged in the above Petition and Complaint are true to
6 my personal knowledge and belief.

7 I declare under penalty of perjury under the laws of the State of California that the above is
8 true and correct and that this verification is executed on this 16th day of December 2022 in Los
9 Angeles, California.

10 

11 _____
12 Andrea Vidaurre

EXHIBIT A



**VIA: U.S. FIRST-CLASS MAIL
AND ELECTRONIC MAIL**

December 14, 2022

County of San Bernardino
Attn: Chairman Curt Hagman and Board of Supervisors
385 North Arrowhead Avenue, First Floor
San Bernardino, CA 92415
Email: SupervisorHagman@sbcounty.gov & COB@sbcounty.gov

**Re: California Public Resources Code Section 21167.5 Notice of Intent to File CEQA
Petition Challenging the Certification of the Final Environmental Impact Report for
the Bloomington Business Park Specific Plan Project (State Clearinghouse No.
2020120545)**

Dear County Clerk Lynna Monell:

Please be advised that as required under California Public Resources Code section 21167.5, the Center for Community Action and Environmental Justice, People's Collective for Environmental Justice, the Center for Biological Diversity, and the Sierra Club (collectively "Petitioners") through this correspondence hereby provide notice of their intent to file a petition under the California Environmental Quality Act ("CEQA") against the County of San Bernardino ("Respondent"), and Tim Howard and Howard Industrial Partners, LLC ("Real Parties in Interest"). (*See Pub. Res. Code § 21000, et seq.*)

Petitioners seek to challenge the Final Environmental Impact Report ("FEIR") for the Bloomington Business Park Specific Plan project (State Clearinghouse No. 2020120545) that was certified on November 15, 2022, by Respondent. Petitioners will file this CEQA challenge based on the FEIR's failure to comply with CEQA requirements, including but not limited to the failure to adequately analyze environmental impacts, the failure to disclose or accurately evaluate greenhouse gas emissions impacts, and the failure to adequately consider cumulatively considerable impacts. For these and other reasons, the certified FEIR is procedurally and substantively defective.

Additionally, Petitioners intend to include claims against the County alleging that, by approving and adopting the applications associated with the Bloomington Business Park Specific Plan project, the County has violated its duty to affirmatively further fair housing (Gov. Code § 8889.50), the Fair Employment and Housing Act (Gov. Code § 12955 *et seq.*), and the Housing Crisis Act (Gov. Code § 65589.5).

Among other relief, Petitioners will request that the Court issue a writ of mandate to vacate the FEIR certification and to compel the recirculation and preparation of an EIR that conforms to

CEQA requirements. Additionally, Petitioners will seek costs and attorney's fees. (Cal. Civ. Pro. § 1021.5.)

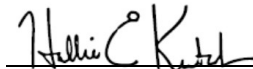
Based on the reasons outlined above, Respondent should immediately vacate the certification of the FEIR and engage in an appropriate CEQA review process that results in an adequate EIR.

Most respectfully,



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Counsel for Petitioner Sierra Club

cc: County of San Bernardino
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PROOF OF SERVICE

I am a citizen of the United States of America and a resident of the City and County of Los Angeles; I am over the age of 18 years and not a party to the within entitled action; my business address is 707 Wilshire Blvd., Suite 4300, Los Angeles, California 90017.

I hereby certify that on December 14, 2022 I served by U.S. first class mail and by electronic mail one true copy of the following document:

California Public Resources Code Section 21167.5 Notice of Intent to File CEQA Petition Challenging the Certification of the Final Environmental Impact Report for the Bloomington Business Park Specific Plan Project (State Clearinghouse No. 2020120545)

on the parties listed below:

County of San Bernardino Attn: Chairman Curt Hagman and Board of Supervisors 385 N. Arrowhead Ave., First Floor San Bernardino, CA 92415 Email: SupervisorHagman@sbcountry.gov and COB@sbcountry.gov	County of San Bernardino Land Use Services Department – Planning Division Attn: Aron Liang 385 North Arrowhead Avenue, First Floor San Bernardino, CA 92415 Email: aron.liang@lus.sbcountry.gov
Tom Bunton, County Counsel 385 North Arrowhead Avenue, 4th Floor San Bernardino, CA 92415-0140 Email: tom.bunton@cc.sbcountry.gov	

I certify under penalty of perjury that the foregoing is true and correct. Executed on December 14, 2022 in Los Angeles, California.



César Nije