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NOTICE OF EXEMPTION

**From: Development Services Department
32400 Paseo Adelanto
San Juan Capistrano, California 92675**

- 1. APPLICANT:** City of San Juan Capistrano
- 2. ADDRESS:** 32400 Paseo Adelanto, San Juan Capistrano, CA 92675
- 3. LEAD AGENCY:** City of San Juan Capistrano, 32400 Paseo Adelanto, SJC, CA, 92675
- 4. PROJECT MANAGER.:** Paul Garcia, AICP, Principal Planner
- 5. PHONE NUMBER:** (949) 443-6327
- 6. PROJECT TITLE:** Urgency Ordinance No. 1119
- 7. PROJECT LOCATION:** City-wide
- 8. DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT:**

The City Council adopted an Interim Ordinance to extend the City's prohibition on new commercial battery energy storage systems within the city for ten months and fifteen days to provide staff with additional time to research, study, and prepare recommendations for the Council's consideration. Additionally, the City Council adopted a 10-day report describing measures to alleviate conditions that led to adoption of Urgency Ordinance No. 1116 (the "Project").

ENVIRONMENTAL DETERMINATION:

In accordance with the California Environmental Quality Act (CEQA), the recommended action is not subject to the CEQA (Public Resources Code Section 21000, et seq.) pursuant to CEQA Guidelines (Cal. Code Regs., tit. 14, Section 15000 et seq) Section 15060(c)(2) [activity will not result in a direct or reasonably foreseeable indirect physical change in the environment]. Here, this Interim Ordinance is merely extending the current prohibition on certain projects from proceeding for a period of time during which the City will study the potential development. As a result, this Interim Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment. Further, the 10-Day Report merely describes actions previously taken to alleviate the conditions which led to the adoption of Urgency Ordinance No. 1116.

Alternatively, this Interim Ordinance is exempt from CEQA under CEQA Guidelines Sections 15061(b)(3) [it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment], and, in the alternative, 15307 [Class 7 categorical exemption for regulatory activity to assure the protection of natural resources], and, in the alternative, 15308 [Class 8 categorical exemption for regulatory activity to assure the protection of the environment]. Here, this Interim Ordinance will extend the current prohibition on certain projects from being able to proceed for a period of time during which the City will study the potential development. This activity is meant to ensure the protection of the environment and natural resources by studying the hazards associated with commercial BESS facilities, such as unique fire and explosion hazards, for potential development of zoning regulations for commercial BESS facilities. Currently, there are no commercial BESS facilities in the city. This Project merely preserves the status quo. Further, the 10-Day Report merely describes actions previously taken to alleviate the conditions which led to the adoption of Urgency Ordinance No. 1116.

Alternatively, this Interim Ordinance is exempt from CEQA pursuant to Public Resources Code Section 21080(b)(4) and CEQA Guidelines Section 15269(c) because it prevents a clear and

imminent danger that requires immediate action to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services. Here, the Interim Ordinance will extend the current prohibition on certain projects from being able to proceed for a period of time during which the City will study the potential development. This activity is meant to prevent or mitigate the loss of, or damage to, life, health, property, and essential public services by studying the hazards associated with commercial BESS facilities, such as unique fire and explosion hazards, for potential development of zoning regulations for commercial BESS facilities. Further, the 10-Day Report merely describes actions previously taken to alleviate the conditions which led to the adoption of Urgency Ordinance No. 1116.

Therefore, the City Council has determined that further environmental evaluation is not required because:

- [X] The project is not subject to CEQA because it *“does not involve the exercise of discretionary power,”* or *“will not result in a direct or reasonably foreseeable indirect physical change in the environment,”* or, *“is not a project as defined in Section 15378 of the CEQA guidelines.”* (Sections 15060(c)(1), (2) & (3)); or,
- [X] In the alternative, *“The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”* (Section 15061(b)(3)); or,
- [X] In the alternative, the project is statutorily exempt, Section 15269, Ministerial Project (Sections 15260-15277); or,
- [X] In the alternative, the project is categorically exempt per State CEQA Guidelines, Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and Section 15308 (Actions by Regulatory Agencies for Protection of the Environment)

9. Was a public hearing held by the Lead Agency to consider the exemption?
Yes No If yes, the date of the public hearing was: May 7, 2024.



Joel Rojas, Environmental Administrator

5-8-24

Date