

FACTS, FINDINGS, AND
STATEMENT OF OVERRIDING CONSIDERATIONS

FOR THE

DESERT GROVE RETAIL PROJECT
(PLAN18-00049)
FINAL ENVIRONMENTAL IMPACT REPORT

STATE CLEARINGHOUSE No. 2018121029

Prepared for:

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TABLE OF CONTENTS

	PAGE
1.0 Introduction	1
2.0 Project Description	1
3.0 CEQA Review and Public Participation.....	3
4.0 Independent Judgment Finding.....	4
5.0 Less-Than-Significant Environmental Impacts With Mitigation Incorporated	6
6.0 Significant and Unavoidable Environmental Impacts	15
7.0 Feasibility of Project Alternatives	22
8.0 Growth-Inducing Impacts	26
9.0 Statement of Overriding Considerations	28
10.0 Adoption of Mitigation Monitoring and Reporting Program.....	30

1.0 INTRODUCTION

The Planning Commission (this “Commission”) of the City of Victorville (the “City”), in certifying the EIR for the Desert Grove Retail Project and makes the Findings described below and adopts the Statement of Overriding Considerations presented at the end of the Findings. Hereafter, unless specifically identified, the Notice of Preparation (“NOP”), Notice of Availability and Notice of Completion (“NOA/NOC”), Draft EIR (“DEIR”), Technical Studies, Final EIR containing Responses to Comments (“FEIR”), and the Mitigation Monitoring Program (“MMP”) will be referred to collectively herein as the “EIR.” The EIR was prepared by the City acting as lead agency pursuant to the California Environmental Quality Act (“CEQA”). These Findings are based on the entire record before this Commission including the EIR. This Commission adopts the facts and analyses in the EIR, which are summarized below for convenience. The omission of some detail or aspect of the EIR does not mean that it has been rejected by this Commission.

2.0 PROJECT DESCRIPTION

2.1 LOCATION

The Project site is located at the southwesterly corner of the US-395/Palmdale Road (SR-18) intersection. US-395 and SR-18 at this location comprise the shared boundary between the City of Victorville and the City of Adelanto. The Project site is currently vacant. An existing fast-food restaurant is located at southwesterly corner of the US-395/SR-18 and abuts the Project site to the northwest. A commercial trailer polishing use with frontage on US-395 is located southerly adjacent to the Project site. Southerly of this trailer polishing use are vacant properties.

2.2 PROJECT OVERVIEW

As presented in the Draft EIR, the Project proposes development of approximately 96,300 square feet of commercial/retail uses on an approximately 14.8-acre site. The current site plan concept configures the Project uses as 10 pads. Table 2-1 provides a breakdown of the proposed uses.

**Table 2-1
Proposed Uses**

Pad	Use	Building Area	
1	Automatic Car Wash (Single-tenant)	2,700 square feet (sf)	
2	Retail/ Fast Food Restaurant (Multi-tenant)	6,000 sf	4,000 sf Retail
			2,000 sf Fast Food
3	Retail/Restaurant (Multi-tenant)	9,700 sf	5,200 sf Retail
			4,500 sf High Turnover Fast Casual Restaurant
4	Retail/Fast Food Restaurant (Multi-tenant)	5,000 sf	3,000 sf Retail
			2,000 sf Fast Food
5	Retail/Fast Food Restaurant (Multi-tenant)	5,000 sf	3,000 sf Retail
			2,000 sf Fast Food
6	Fast Food	2,800 sf	
7	Gas Station w/Convenience Store (Single-tenant)	5,268 sf (16 Vehicle Fueling Points, VFP)	
8	Retail (Multi-tenant)	32,000 sf	16,000 sf Retail Major
			16,000 sf Retail Major
9	Retail Anchor	15,560	
10	Retail Anchor	12,272	
TOTAL		96,300 Square Feet (16 VFP)	

Source: Desert Grove Retail Project Site Plan Concept (Avalon Architectural) April 1, 2019.

Notes: Within the Project site, individual uses and allocation of building pad areas are subject to future modification(s). All modifications would be contingent on approval by the Lead Agency and may require additional environmental analysis.

2.3 ACTIONS COVERED BY THE EIR

The EIR will support the following discretionary approvals (“Approvals”):

- CEQA Compliance/EIR Certification;
- Approval of Tentative Parcel Map(s); Approval(s) of Conditional Use Permits;
- Site Plan Approval(s);
- Approval of Infrastructure Improvement Plans including, but not limited to: roads, sewer, water, and storm water management systems; and
- City of Victorville construction, grading, and encroachment permits.

2.4 PROJECT OBJECTIVES

- Create a new mix of uses that capitalizes on the site's location in proximity to surrounding commercial retail facilities;
- Provide a commercial retail shopping center that serves the local market area and beyond;
- Attract new customers and retailers to the City of Victorville;
- Transition the Project site from its current unimproved state to a commercial development, with resulting new fiscal benefits to the City of Victorville. Benefits will include new sales tax revenues and increased property tax revenues;
- Develop the Project site with uses and at intensities the Lead Agency considers to be the highest and best use of the subject site; and
- Provide a commercial development that creates new jobs for City residents.

3.0 CEQA REVIEW AND PUBLIC PARTICIPATION

The City conducted an extensive review of this Project which included the DEIR and FEIR, along with the supporting technical studies, and a public review and comment period first during the circulation of the NOP/Initial Study and then through the circulation of the DEIR. The following is a summary of the environmental review of this Project:

- On December 13, 2018, the City forwarded a Notice of Preparation ("NOP") and the Initial Study for the Project to the State Clearinghouse, and circulated the same for public review and comment. The comment period for the NOP and Initial Study closed January 11, 2019.
- On May 17, 2019, the NOA was filed with the State Clearinghouse and the DEIR was circulated for a 45-day public review, which ended July 11, 2019.

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- On May 17, 2019, Notice of the Planning Commission hearing to consider the Project was provided in the following newspaper of general or regional circulation: County Legal Reporter.
 - The City received a total of three comment letters from public agencies. The City prepared specific responses to all comments. The responses to comments are in Section 3.0 of the Final EIR.
 - On August 2, 2019, in accordance with *Public Resources Code* Section 21092.5, the City provided written responses to public agencies that commented on the DEIR.
 - On August 14, 2019, the Victorville Planning Commission, after considering written comments and oral testimony on the EIR and the project determined that no new information was presented that would require recirculation of the EIR. Following public testimony, submission of additional written comments, and staff recommendations, the Commission recommended that the Council certify the EIR, adopt Facts, Findings and the Statement of Overriding Considerations, which also adopted the Mitigation Monitoring Program (“MMP”), and the further recommendations in the Staff Report, and approved the Project. (collectively the “Approvals”).

4.0 INDEPENDENT JUDGMENT FINDING

The City retained the independent consulting firm of Applied Planning, Inc. (“Applied Planning”) to prepare the EIR for the Project. Applied Planning has prepared the EIR under the supervision, direction and review of the City. The Commission has received and reviewed the EIR prior to recommending that the Council certify the EIR and prior to making any decision to approve or disapprove the project.

Finding: The EIR for the Project reflects the City’s independent judgment. The City has exercised independent judgment in accordance with *Public Resources Code* Section 21082.1(c)(3) in directing the consultant in the preparation of the EIR, as well as reviewing, analyzing and revising material prepared by the consultant.

4.1 GENERAL FINDING ON MITIGATION MEASURES

In preparing the Approvals for this Project, City staff incorporated the mitigation measures recommended in the EIR as applicable to the Project. In the event that the

Approvals do not use the exact wording of the mitigation measures recommended in the EIR, in each such instance, the adopted Approvals are intended to be identical or substantially similar to the recommended mitigation measure. Any minor revisions were made for the purpose of improving clarity or to better define the intended purpose.

Finding: Unless specifically stated to the contrary in these findings, it is this Commission's intent to adopt all mitigation measures recommended by the EIR which are applicable to the Project. If a measure has, through error, been omitted from the Approvals or from these Findings, and that measure is not specifically reflected in these Findings, that measure shall be deemed to be adopted pursuant to this paragraph. In addition, unless specifically stated to the contrary in these Findings, all Approvals repeating or rewording mitigation measures recommended in the EIR are intended to be substantially similar to the mitigation measures recommended in the EIR and are found to be equally effective in avoiding or lessening the identified environmental impact. In each instance, the Approvals contain the final wording for the mitigation measures.

4.2 ENVIRONMENTAL IMPACTS AND FINDINGS

As discussed in more detail below, these Facts, Findings and Statement of Overriding Considerations are intended to meet the requirements of *CEQA Guidelines* Section 15091 and 15093. City staff reports, the EIR, written and oral testimony at public meetings or hearings, these facts, findings and statement of overriding considerations, and other information in the administrative record, serve as the basis for the City's environmental determination.

Detailed analysis of potentially significant environmental impacts and proposed mitigation measures for the Project is presented in Section 4.0 of the DEIR. Responses to comments on the DEIR, along with copies of the comments, are provided in Section 3.0 of the FEIR.

The EIR evaluated ten major environmental categories for potential impacts including: Land Use and Planning, Transportation/Traffic, Air Quality, Global Climate Change/Greenhouse Gas Emissions, Noise, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Biological Resources, and Cultural/Tribal Cultural Resources. Both Project-specific and cumulative impacts were evaluated. Of these ten major environmental categories, this Commission concurs with the conclusions in the EIR that the issues and sub issues discussed in Section 5.0 can

be mitigated below a level of significance. For the remaining potential environmental impacts that cannot feasibly be mitigated below a level of significance discussed in Section 6.0, overriding considerations exist which make these potential impacts acceptable to this Commission.

5.0 LESS-THAN-SIGNIFICANT ENVIRONMENTAL IMPACTS WITH MITIGATION INCORPORATED

Based on the Draft EIR, the Final EIR, and the record of proceedings, the City of Victorville makes the following findings associated with significant, potentially significant, and cumulatively significant impacts that can be mitigated to a less-than-significant level through implementation of proposed mitigation measures, for all of the specific topic areas identified below. Page numbers in parentheses refer to the Draft EIR unless otherwise noted.

5.1 BIOLOGICAL RESOURCES

Substantially affect, either directly or through habitat modifications, any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Service (USFWS). (pp. 4.9-11 through 4.9-17)

Due to the disturbed nature of the site, the absence of any current or historic site records, the Biological Report determined that special-status plant species have a low potential to occur on-site. Regardless, based on a review of California Natural Diversity Database (CNDDDB), the California Native Plant Society (CNPS) Inventory of Rare and Endangered Vascular Plants of California, and field surveys, a number of special-status species were identified as having potential to occur on-site.

Based on a review of CNDDDB, published literature and field surveys and assessments, a number of special-status wildlife species were identified as potentially occurring on-site. These are species which typically occur in native desert habitats that historically occurred in the Project vicinity.

Mitigation Measures

4.9.1 *In Spring 2019, prior to any site disturbances, a qualified biologist shall conduct protocol surveys for the desert tortoise. If continued absence of this species is confirmed, no additional mitigation will be required. If however, desert tortoise is located on site, the appropriate resource agencies (CDFW and USFWS) shall be contacted. The Project Applicant shall consult with the wildlife agencies regarding the potential Project impacts to desert tortoise and the appropriate mitigation measures. Mitigation measures may include avoidance, in-lieu fees, or habitat preservation/restoration.*

After consultation and agreement with the wildlife agencies, and prior to any site disturbances, the Project Applicant shall construct permanent desert tortoise exclusion fencing around the perimeter of the site using the USFWS's fence specifications to ensure that no desert tortoise moves onto the site. A qualified biologist will be present during the installation of the desert tortoise exclusion fence to ensure that the installation process does not result in take of the desert tortoise. The desert tortoise exclusion fence will be repaired immediately (within 48 hours) if it is not serving its intended purpose.

Immediately after the desert tortoise exclusion fence is constructed around the site, the qualified biologist will conduct a presence-absence survey using belt transects with a maximum width of 30 feet. If the site has vegetation or topography that obscures or reduces the biologist's ability to see a desert tortoise or desert tortoise sign, the width of the transect will be reduced, as appropriate. The qualified biologist will examine every location that the desert tortoise may use as shelter within the site; therefore, a special emphasis will be placed on examining the interior of all burrows that could be used by the desert tortoise as shelter sites. Burrows would not be excavated to determine if desert tortoises are present. Results of fence construction monitoring and the presence-absence surveys will be reported to the USFWS and CDFW. Any tortoises found on-site shall be relocated to other locations as approved by the City, CDFW, and USFWS.

Prior to initiation of any construction-related activities (including equipment or vehicle staging), the limits of disturbance will be clearly marked with temporary construction fencing or lath with flagging tape, and the qualified biologist will survey the entire area within limits of disturbance in the morning prior to the initiation of any such activities. During construction, a biological monitor (may be different than the qualified biologist, as approved by the USFWS and CDFW) will survey ahead of all equipment to ensure that no desert tortoises are present in the anticipated path of the equipment. Results of the daily surveys and construction monitoring will be reported to the USFWS and CDFW following construction documenting compliance with these measures.

4.9.2 In Spring 2019, prior to any site disturbances, focused breeding season surveys for the burrowing owl shall be conducted. If absence of this species is confirmed, no additional mitigation will be required. If however, burrowing owl is located on site, the appropriate resource agencies (CDFW and USFWS) shall be contacted. The Project Applicant shall consult with the wildlife agencies regarding the most appropriate methods and timing for removal of owls.

As necessary, owls will be actively evicted following agency approved protocols (i.e., placing a one-way door at the burrow entrance to ensure that owls cannot access the burrow once they leave). Any such active eviction shall occur outside of the breeding/nesting season. That is, active eviction shall be accomplished between September 1 and February 15.

If more than 30 days has elapsed between owl eviction and completion of clearing and grubbing activities, a subsequent survey for the burrowing owl shall be conducted to ensure that owls have not re-populated the site. Any reoccupation by owls will require subsequent protocol active eviction.

4.9.3 In Spring 2019, prior to any site disturbances, a qualified biologist shall conduct pre-construction surveys for the Mohave ground squirrel (MGS) consistent with the January 1991 Guidelines, as modified in January 2003. Visual surveys to determine activity and habitat quality must be undertaken between March 16 and April 15, during daylight hours. If visual surveys do not reveal the presence of this species, trapping grids shall be established to trap for a minimum of five consecutive days, or until a MGS is captured, between March 21 and April 30. If no MGS is captured during the first five-day period, the grid will be sampled a

second time, at least two weeks after the first period and between May 1 and May 31. If no MGS is captured during the second five-day period, the grid will be sampled a third time, at least two weeks after the end of the second period and between June 15 and July 15. If the continued absence of the MGS is confirmed, no further mitigation shall be required.

Alternatively, the Project Applicant shall pay \$1,000/acre to CDFW as security for the acquisition of suitable replacement habitat, plus \$250/acre to CDFW for any necessary enhancement of the property, plus \$1,300/acre to CDFW as an endowment to protect the property. Within 18 months of such payment, as extended at CDFW discretion, the Project Applicant shall purchase suitable replacement habitat and deed it to CDFW. At that time, CDFW shall return the \$1,000/acre acquisition fee, and any remainder of the \$250/acre enhancement fee not required for the replacement habitat.

4.9.4 In Spring 2019, prior to any site disturbances, focused protocol spring time surveys shall be conducted for special-status plant species. If special-status plant species are encountered on-site, mitigation shall be accomplished as specified in a formal agreement between CDFW, USFWS and the Project Applicant, to include marking plant locations with a pin flag in spring when plants are in bloom, then salvaging soil, seeds and roots in fall after plants have died back for the winter, followed by transplant to the closest adjacent suitable preserved habitat, as specified by CDFW/USFWS.

4.9.5 A biological monitor must be on-site during all ground disturbance activities, and will halt any such activities if, in his or her professional opinion, such activities will result in the take of a protected species.

4.9.6 Limits of the Project site shall be clearly marked by stakes or other means to ensure that off-site areas are not disturbed by Project construction activities.

Substantially affect any riparian habitat or other sensitive natural community identified in local or regional plans, polices, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or substantially and adversely affect federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruptions or other means. (pp. 4.9-17 through 4.9-19)

No wetlands or riparian habitat has been identified within or proximate to the Project site. The on-site plant communities are not considered sensitive natural communities, nor does the Project propose uses or activities that would potentially adversely affect any off-site sensitive natural communities. There is no clear connectivity with downstream navigable waters. Without hydrological connectivity with any downstream navigable waters, and since the drainages were artificially created in an upland they are likely not subject to the Corps 404 program and possibly not to the California Regional Water Quality Control Boards 401 program. However, the California Department of Fish and Wildlife does typically take jurisdiction over these types of drainages. Consultation with these agencies is required to preclude impacts in this regard.

Mitigation Measures

- 4.9.7 *Prior to any site disturbances or any earthmoving activities, the Project Applicant shall consult with the Corps to determine if a Corps 404 permit is required for the Project. If the Corps determine a 404 permit is required, then the Project Applicant shall obtain the 404 permit from the Corps prior to initiating any site disturbances or any earthmoving activities.*
- 4.9.8 *Prior to any site disturbances or any earthmoving activities, the Project Applicant shall consult with the California Regional Water Quality Control Board to determine if a Regional Board 401 certification is required for the Project. If the Regional Board determines that a 401 certification is required, then the Project Applicant shall obtain the 401 certification from the Regional Board prior to initiating any site disturbances or any earthmoving activities.*
- 4.9.9 *Prior to any site disturbances or any earthmoving activities, the Project Applicant shall complete and submit to CDFW a notification package pursuant to Fish and Game Code Section 1602, together with the requisite fee. Based on its review of the notification package, CDFG shall determine applicable provisions of a Project Lake or Streambed Alteration Agreement (LSAA). The Applicant shall obtain the LSAA from CDFW prior to initiating any site disturbances or any earthmoving activities and will comply with all included LSAA measures to protect fish and wildlife resources.*

Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. (p. 4.9-19)

The Biological Report determined that, due to the surrounding roadways and development, it is unlikely the site is used as a wildlife corridor or for significant wildlife movement. However, raptors (birds of prey), migratory birds, and other avian species which may occur on-site are protected by the federal Migratory Bird Treaty Act (MBTA).

Mitigation Measure

4.9.10 In order to avoid impacts to nesting birds within the Project area, vegetation clearing and grading shall be conducted outside the nesting season. The nesting season generally occurs from February 15 through August 31, but can vary slightly from year to year. If clearing of the site will occur during the nesting season, no more than thirty (30) days prior to site clearing/grading, a breeding bird survey shall be conducted by a qualified biologist. This survey shall identify any potential nesting activities within the Project site. If an active nest is observed, a minimum 300-foot radius buffer area shall be established and clearly designated by flags or other suitable means around the occupied nests(s). Until any nestlings have fledged, periodic monitoring by a qualified biologist shall be conducted throughout construction activities to ensure that nesting birds are not disturbed. Such monitoring shall be conducted at least once per week.

Findings: The City finds, based on the Draft EIR, the Final EIR, and the whole of the record, that the proposed Project will result in potentially significant impacts under the biological resources concerns identified above. Mitigation Measures 4.9.1 through 4.9.10 shall be implemented to reduce these impacts to less-than-significant with mitigation incorporated.

5.2 CULTURAL AND TRIBAL RESOURCES

Cause a substantial adverse change in the significance of historic and archaeological resources as defined in §15064.5. (pp. 4.10-10 through 4.10-11)

Although the Cultural Resources Assessment has not indicated sensitivity for cultural resources within the Project site boundaries, ground disturbing activities always have

the potential to reveal buried deposits not observed on the surface during previous surveys.

Mitigation Measures

4.10.1 If previously-unidentified archaeological or historic resources of potential significance are encountered during grading and/or other ground-disturbing activities, work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist (Project archaeologist) meeting Secretary of Interior standards shall be contacted to identify and interpret the encountered resources. The Project archaeologist shall have the authority to stop or divert construction excavation, as necessary. Additionally, the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted regarding the find and be provided information as to the archaeologist's assessment of the find, so as to provide Tribal input with regards to significance and treatment. Monitoring shall be considered complete and may be discontinued at the conclusion of grading/ground-disturbing activities, or at an earlier date should the qualified professional, in cooperation with SMBMI, determine that on-site activities would not disturb cultural resources of potential significance.

4.10.2 If the Project archaeologist finds that any cultural resources present meet eligibility requirements for listing on the California Register or the National Register, plans for the treatment, evaluation, and mitigation of impacts to the find shall be developed. Drafts of these plans shall be provided to SMBMI for review and comment.

Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. (pp. 4.10-12 through 4.10-14)

The results of record searches, literature review, and field reconnaissance conducted during preparation of the General Plan EIR suggest that the likelihood of encountering paleontological resources within the City is location-dependent, is affected by the depth of disturbance and underlying lithologies. The General Plan EIR ranks area lithologies according to their paleontological sensitivity, ranging from "low" to "high." Areas of paleontological sensitivity are mapped at General Plan Figure 5.5-5 *Sensitivity*

Assessment for Paleontological Resources. Per General Plan EIR Figure 5.5-5, the Project site is located in an area considered to be of “low sensitivity” for encountering paleontological resources. The General Plan EIR nonetheless recognizes that most if not all areas of the City may be underlain by geologic formations that may contain significant paleontological resources. Accordingly, the General Plan EIR notes that future development proposals will require monitoring to ensure that potentially important paleontological resources are identified and protected. (General Plan EIR, p. 5.5-30).

Mitigation Measures

4.10.3 At least 30 days prior to application for a grading permit and prior to any Project ground-disturbing activities, the Applicant shall retain a qualified paleontologist, selected in consultation with the City (Project Paleontological Monitor/Consultant). The Project Paleontological Monitor/Consultant shall be on-site and shall conduct on-going monitoring of affected areas for potential discovery of potentially of potentially significant paleontological resources. Alternatively, the Project Paleontological Monitor/Consultant shall prepare and submit to the City, a letter substantiating that monitoring is not necessary.

4.10.4 If monitoring is required, the Project Paleontological Monitor/Consultant shall have the authority to temporarily halt ground-disturbing activities if paleontological resources (finds) of potential significance are encountered. At the direction of the Project Paleontological Monitor/Consultant, ground-disturbing activities in the immediate vicinity of the find shall cease until the potential significance of the encountered find can be assessed. Work may continue in other areas of the Project site and for other Project elements while the encountered find is evaluated.

If potentially significant paleontological resources are encountered, they shall be analyzed in accordance with standard guidelines, recovered, and curated with the appropriate facility. If disturbed resources are required to be collected and preserved, the applicant shall be required to participate financially up to the limits imposed by Public Resources Code Section 21083.2.

At the conclusion of monitoring activities, the Project Paleontological Monitor/Consultant shall document monitoring results together with disposition of any encountered finds in a report to the City.

Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- **Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or**
- **A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.**

(pp. 4.10-14 through 4.10-15)

A sacred lands search request was sent to the Native American Heritage Commission (NAHC). The Sacred Lands File search conducted by the NAHC had negative results, which does not indicate absence of Native American cultural resources in the Project area. The City contacted applicable tribes on its most current AB 52 Consultation list. The San Manuel Band of Mission Indians (SMBMI) stated that while the Tribe does not have any concerns with development of the Project, the site is located in an area that is of interest to the SMBMI. The Tribe provided specific language to be included within the mitigation measures developed for the Project.

Mitigation Measures

4.10.5 The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted if any pre-contact cultural resources are discovered during Project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the Project archaeologist (see MM 4.10.1), in coordination with SMBMI, and all subsequent finds shall be subject to this Plan. This Plan shall

allow for a monitor to be present that represents SMBMI for the remainder of the Project, should SMBMI elect to place a monitor on-site.

4.10.6 Any and all archeological/cultural documents created as a part of the Project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the Applicant and Lead Agency for dissemination to SMBMI. The Lead Agency and/or Applicant shall, in good faith, consult with SMBMI throughout the life of the Project.

Findings: The City finds, based on the Draft EIR, the Final EIR, and the whole of the record, that the proposed Project will result in potentially significant impacts to cultural and tribal resources. Mitigation Measures 4.10.1 through 4.10.6 shall be implemented to reduce these impacts to less-than-significant with mitigation incorporated.

6.0 SIGNIFICANT AND UNAVOIDABLE ENVIRONMENTAL IMPACTS

Based on the criteria set forth in the Draft EIR and the Final EIR, the City finds that the following environmental effects of the Project are significant and unavoidable and cannot be reduced through mitigation measures to a less-than-significant level. Page numbers in parentheses refer to the Draft EIR unless otherwise noted.

6.1 AIR QUALITY

Conflict with or obstruct implementation of the applicable air quality plan. (pp. 4.3-18 through 4.3-19)

Project operational-source NO_x emissions would exceed applicable MDAQMD NO_x emissions regional thresholds and would be a significant and unavoidable Project air quality impact. Project operational-source NO_x emissions exceedances would contribute to existing nonattainment particulate matter and ozone conditions affecting the region, and could increase the frequency or severity of violations of the federal or state ambient air quality standards for PM₁₀/PM_{2.5} and ozone. Project operational-source NO_x emissions exceedances would also potentially delay or otherwise obstruct particulate matter and ozone attainment strategies and goals of the Federal Particulate Matter Attainment Plan and Ozone Attainment Plan for the Mojave Desert.

Mitigation Measures

There is no feasible mitigation. The predominance (more than 99 percent by weight) of Project operational-source NO_x emissions would be generated by vehicles accessing the Project site. Neither the Project Applicant nor the Lead Agency have regulatory authority to control vehicular-source NO_x emissions, and no feasible mitigation measures exist that would otherwise reduce Project operational-source NO_x emissions to levels that are less-than-significant. Project operational-source NO_x emissions exceedances and related impacts concerning consistency with the Federal Particulate Matter Attainment Plan and Ozone Attainment Plan for the Mojave Desert are therefore considered significant and unavoidable.

Violate any air quality standard or contribute substantially to an existing or projected air quality violation. (pp. 4.3-21 through 4.3-24)

Regional Impacts: Operational-Source Air Pollutant Emissions

Project operations would result in emissions of VOC, NO_x, CO, SO_x, PM₁₀, and PM_{2.5}. Operational emissions would be generated by various area sources, building/facility energy consumption, and mobile sources (traffic). Unmitigated Project operational-source emissions would exceed the applicable MDAQMD regional threshold for NO_x.

Mitigation Measures

There is no feasible mitigation. NO_x emissions are byproducts of fuel combustion, and the primary source of these emissions from the Project are tail pipe emissions generated by vehicles accessing the Project site. Neither the Project Applicant nor Lead Agency have any regulatory control over these vehicular-source emissions. Rather, vehicular-source NO_x emissions are regulated by CARB and the US EPA (United States Environmental Protection Agency). CARB and US EPA regulatory actions have effectively reduced NO_x emissions from vehicle sources over the past years. Further reductions in these and other vehicular-source emissions are anticipated as clean vehicle and fuel technologies improve.

Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is nonattainment under an applicable federal or state

ambient air quality standard, including releasing emissions which exceed quantitative thresholds for ozone precursors. (pp. 4.3-24 through 4.3-25)

The Project area is designated as a nonattainment area for ozone, PM₁₀, and PM_{2.5}. Project operational-source NO_x emissions would exceed applicable MDAQMD thresholds. NO_x is an ozone and PM₁₀/PM_{2.5} precursor.

The fact that the Project generates long-term emissions of NO_x exceeding applicable MDAQMD thresholds indicates that the Project impact is significant on an individual basis and would therefore contribute to cumulatively significant ozone and PM₁₀/PM_{2.5} air quality impacts within the affected nonattainment areas. On this basis, Project operational-source emissions of NO_x in exceedance of applicable MDAQMD regional thresholds would result in a cumulatively considerable net increase in criteria pollutants within a nonattainment area.

Mitigation Measures

No feasible mitigation measures exist that would substantively reduce Project operational-source NO_x threshold exceedances.

Findings: The City finds, based on the Draft EIR, the Final EIR, and the whole of the record, that the proposed Project would result in significant and unavoidable impacts to the air quality concerns identified above.

6.2 TRANSPORTATION/TRAFFIC

Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, Streets, highways and freeways, pedestrian and bicycle paths, and mass transit. (pp. 4.2-29 through 4.2-62)

Project-related traffic impacts were assessed for Existing (2017), Opening Year (2019), Interim Year (2029/2030), and General Plan Buildout (2040) Conditions. For each of the considered scenarios, potentially significant traffic impacts (deficient conditions) were identified.

Existing Conditions (2017)

- *Intersection LOS Analysis*

The Applicant would pay all requisite fees, offsetting the Project's proportional contributions to traffic impacts projected to occur under Existing With-Project Conditions, thereby fulfilling the Applicant's mitigation responsibilities. Notwithstanding, fees paid consistent with City DIF mandates, and assignment of eligible Measure I funds would not ensure timely completion of required improvements. Thus, while the physical improvements identified at EIR Table 4.2-10 (p. 4.2-32) would be capable of mitigating potentially significant impacts, these improvements cannot be timely assured, and impacts would remain cumulatively significant until such time as the required improvements are completed.

- *Roadway Segment Analysis*

The Applicant would pay all requisite fees, offsetting the Project's proportional contributions to traffic impacts projected to occur under Existing With-Project Conditions, thereby fulfilling the Applicant's mitigation responsibilities. Notwithstanding, fees paid consistent with City DIF mandates, and assignment of eligible Measure I funds would not ensure timely completion of required improvements. Thus, while the physical improvements identified at EIR Table 4.2-13 (p. 4.2-35) would be capable of mitigating potentially significant impacts, these improvements cannot be timely assured, and impacts would remain cumulatively significant until such time as the required improvements are completed.

Opening Year (2019)

- *Intersection LOS Analysis*

Fees paid consistent with City DIF mandates, Fair Share Fees paid pursuant to Mitigation Measure 4.2.1, and assignment of eligible Measure I funds would not ensure timely completion of required improvements. Thus, while the physical improvements identified at EIR Table 4.2-16 (p. 4.2-39) would be capable of mitigating potentially significant impacts, these improvements cannot be timely assured, and impacts would remain cumulatively significant until such time as the required improvements are completed.

4.2.1 *The Applicant shall pay fair share fees toward those Table 4.2-16 improvements under the jurisdiction of the City not reflected in the City's current CIP. Prior to building permit issuance for each building, fair share fees for that building shall be calculated by the City. Prior to issuance of a Certificate of Occupancy for the considered building, the Project Applicant shall pay that building's required fair share fee amounts. Where intersection improvements require additional through lanes, fair share fees shall also be applied to construction of required through lane/roadway segment improvements.*

- *Roadway Segment Analysis*

Fees paid consistent with City DIF mandates and assignment of eligible Measure I funds would not ensure timely completion of required improvements. Thus, while the physical improvements identified at EIR Table 4.2-19 (p. 4.2-43) would be capable of mitigating potentially significant impacts, these improvements cannot be timely assured.

Interim Year (2029-2030)

- *Intersection LOS Analysis*

Completion of the identified improvements would achieve acceptable intersection LOS conditions under Interim Year With-Project Conditions. To address the identified potentially significant impacts, the Applicant would pay all requisite fees, offsetting the Project's proportional contributions to traffic impacts projected to occur under Interim Year With-Project Conditions, thereby fulfilling the Applicant mitigation responsibilities. Notwithstanding, fees paid consistent with City DIF mandates, Fair Share Fees paid pursuant to Mitigation Measure 4.2.2, and assignment of eligible Measure I funds would not ensure timely completion of required improvements. Thus, while the physical improvements identified at EIR Table 4.2-22 (p. 4.2-47) would be capable of mitigating potentially significant impacts, these improvements cannot be timely assured, and impacts would remain cumulatively significant until such time as the required improvements are completed.

4.2.2 *The Applicant shall pay fair share fees toward those Table 4.2-22 improvements under the jurisdiction of the City not reflected in the City's current CIP. Prior to*

building permit issuance for each building, fair share fees for that building shall be calculated by the City. Prior to issuance of a Certificate of Occupancy for the considered building, the Project Applicant shall pay that building's required fair share fee amounts. Where intersection improvements require additional through lanes, fair share fees shall also be applied to construction of required through lane/roadway segment improvements.

- *Roadway Segment Analysis*

Fees paid consistent with City DIF mandates and assignment of eligible Measure I funds would not ensure timely completion of required improvements. Thus, while the physical improvements identified at Table 4.2-25 (p. 4.2-51) would be capable of mitigating potentially significant impacts, these improvements cannot be timely assured. Pending completion of the required improvements, Project contributions to roadway segment LOS deficiencies under Interim Year With-Project Conditions are recognized as significant and unavoidable at the deficient Study Area intersections listed at EIR Table 4.2-24 (p. 4.2-50).

General Plan Buildout (2040)

- *Intersection LOS Analysis*

Completion of the identified improvements would achieve acceptable intersection LOS conditions under General Plan Buildout With-Project Conditions. To address the identified potentially significant impacts, the Applicant would pay all requisite fees, offsetting the Project's proportional contributions to traffic impacts projected to occur under General Plan Buildout With-Project Conditions, thereby fulfilling the Applicant mitigation responsibilities. Notwithstanding, fees paid consistent with City DIF mandates, Fair Share Fees paid pursuant to Mitigation Measure 4.2.3, and assignment of eligible Measure I funds would not ensure timely completion of required improvements. Thus, while the physical improvements identified at EIR Table 4.2-28 (pp. 4.2-55, 4.2-56) would be capable of mitigating potentially significant impacts, these improvements cannot be timely assured, and impacts would remain cumulatively significant until such time as the required improvements are completed.

4.2.3 *Prior to building permit issuance for each building, the Project Applicant shall pay that building's required fair share fee amounts toward the construction of City of Victorville improvements required under General Plan Buildout With-Project Conditions, listed at EIR Table 4.2-28 and not included in the City's current CIP. Where intersection improvements require additional through lanes, fair share fees shall also be applied to construction of required through lane/roadway segment improvements.*

- *Roadway Segment Analysis*

Completion of the identified improvements would achieve acceptable roadway segment LOS conditions under General Plan Buildout With-Project Conditions. To address the identified potentially significant impacts, the Applicant would pay all requisite fees, offsetting the Project's proportional contributions to traffic impacts projected to occur under General Plan Buildout With-Project Conditions, thereby fulfilling the Applicant mitigation responsibilities. Notwithstanding, fees paid consistent with City DIF mandates and assignment of eligible Measure I funds would not ensure timely completion of required improvements. Thus, while the physical improvements identified at EIR Table 4.2-31 (pp. 4.2-59, 4.2-60) would be capable of mitigating potentially significant impacts, these improvements cannot be timely assured.

Conflict with an applicable congestion management program including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways. (pp. 4.2-62 through 4.2-64)

CMP Intersections

Within the Study Area, the intersection of US-395 and SR-18 is a designated CMP intersection. Within this analysis, LOS D is the minimum required LOS to be maintained at all Study Area intersections, including the Study Area CMP intersections. Study Area intersections determined herein to operate at deficient LOS (LOS E, LOS F) would conflict with the applicable CMP LOS standard.

CMP Roadway Segments

Mitigation of roadway segment impacts (including CMP roadway segment deficiencies) are addressed through city-wide and regional improvements plans and programs. The

Applicant would pay required DIF, a portion of which would be allocated for Study Area CMP roadway segment improvements. Payment of DIF would satisfy the Applicant's mitigation responsibilities for incremental traffic impacts affecting Study Area CMP roadway segments under all TIA scenarios (Existing Conditions, Opening Year Conditions, Interim Year Conditions, and General Plan Buildout Conditions). There are no feasible measures that can be autonomously implemented by the Lead Agency or the Project Applicant that would reduce cumulatively significant impacts to Study Area CMP roadway segments to levels that would be less-than-significant. On this basis, Project impacts to CMP roadway segments identified at Table 6-1 would be significant and unavoidable under one or more of the TIA scenarios.

**Table 6-1
Summary of CMP Roadway Segment Significant and Unavoidable Impacts**

ID #	Rdwy.	Segment Limits
6	US-395	Seneca Rd.to SR-18
7	US-395	SR-18 to Dos Palmas Rd.
8	US-395	Dos Palmas Rd. to Luna Rd.
9	US-395	Luna Rd. to La Mesa Rd.
10	US-395	La Mesa Rd. to Bear Valley Rd.

Source: SWC US-395/Palmdale Road (SR-18) Traffic Impact Analysis (TJW Engineering, Inc.). March 13, 2019.

Mitigation Measures

There are no feasible measures that can be autonomously implemented by the Lead Agency or the Project Applicant that would reduce cumulatively significant impacts. The Project would pay all requisite fees for improvements at Study Area CMP intersections. However, fee payments would not ensure timely completion of improvements required for mitigation of cumulatively significant impacts affecting Study Area CMP intersections. Pending completion of required improvements, Project contributions to impacts would be significant and unavoidable.

Findings: The City finds, based on the Draft EIR, the Final EIR, and the whole of the record, that the proposed Project would result in the significant and unavoidable traffic impacts discussed above.

7.0 FEASIBILITY OF PROJECT ALTERNATIVES

The EIR analyzed two alternatives to the Project as proposed, and evaluated these alternatives for their ability to meet the Project's objectives as described in Section 2 above. CEQA requires the evaluation of a "No Project Alternative" to assess a maximum net change in the environment as a result of implementation of the Project. CEQA also requires evaluation of alternatives that can reduce the significance of identified impacts and "feasibly attain most of the basic objectives of the proposed Project." Thus, in order to develop a range of reasonable alternatives, the Project Objectives must be considered when this Commission is evaluating the alternatives.

7.1 Alternative 1 – No Project Alternative

Description: The No Project Alternative considered here assumes development of the 14.8-acre Project site in total with general retail uses. The No Project Alternative reflects development of the Project site at a mid-range development intensity (30 percent lot coverage) allowed under the Project site's current C-2 *General Commercial* Zoning designation.¹ Translated over the entire 14.8-acre site, the No Project Alternative would yield approximately 193,400 square feet of general retail development. (DEIR, p. 5-41, 5-42)

Impacts: The No Project Alternative would result in generally decreased environmental impacts when compared to the Project. Environmental impacts resulting from development of the subject site under a No Project Alternative would likely therefore be comparable to those occurring under the Project. When compared to the Project, potential impacts in the following areas would remain less than significant but also may be further reduced under the No Project Alternative: Land Use and Planning; Global Climate Change/Greenhouse Gas Emissions; Noise; Geology and Soils; Hazards and Hazardous Materials; Hydrology/Water Quality; Biological Resources; and Cultural/Tribal Cultural Resources.

However, as with the Project, potentially significant transportation/traffic impacts may affect certain Study Area facilities under the No Project Alternative. Pending physical

¹ The C-2 Zone District allows development at up to 60 percent lot coverage (City of Victorville Development Code, Table 10-1: *Commercial Development Standards*).

construction of the necessary improvements, these impacts under the No Project Alternative would be considered cumulatively significant. With regards to Air Quality impacts, operational-source NO_x threshold exceedances and related nonattainment and AQMP inconsistency impacts otherwise occurring under the Project would be avoided. Other operational-source air quality impacts under the No Project Alternative would be generally reduced when compared to the Project and would be less-than-significant. (DEIR, pp. 5-45 through 5-64)

Objectives: Because the No Project Alternative would implement general retail uses similar to those of the Project, the No Project Alternative would likely substantively achieve the Project Objectives.

Finding: Alternative 1, the No Project Alternative considered in the EIR, would result in reduced impacts when compared to impacts resulting from the Project. The No Project Alternative considered in the EIR would substantively achieve the Project Objectives. It is noted here, that the inclusion of the considered No Project Alternative is not evidence that it is feasible as a matter of law, but rather reflects the judgment of the lead agency staff that the alternative is potentially feasible. The final determination of feasibility is made by the lead agency decision-making body through the adoption of CEQA Findings at the time of action on the Project.

The No Project Alternative considered in the EIR is one potential outcome that could result if the Project is not implemented, and is not a definitive future alternative development scenario. No Project Alternatives other than that considered in the EIR could result in increased impacts and/or diminished attainment of the Project Objectives. Moreover, the uses envisioned under the EIR No Project Alternative (General Retail) differ substantially from the mix of uses proposed by the Applicant (Retail, Fast Food, Gas Station, Car Wash), and would likely not be pursued as a viable development scheme for the Project site. In this sense the No Project Alternative is not feasible. Further, the *CEQA Guidelines* require that the environmentally superior alternative (other than the No Project Alternative) be identified among the Project and other Alternatives. The No Project Alternative is not therefore identified as environmentally superior alternative to the Project.

Because a No Project scenario could increase the Project impacts and/or could diminish attainment of the Project Objectives; would not be pursued by the Applicant as a viable

development scheme and is not feasible; and is not identified as the environmentally superior alternative to the Project under CEQA, it is rejected.

7.2 Alternative 2 – Reduced Intensity Alternative

Description: The Reduced Intensity Alternative evaluated herein considers a development scenario that would reduce vehicular-source NO_x emissions via reduction of Project traffic. For purposes of the EIR Alternatives Analysis, the Reduced Intensity Alternative is based on an overall reduction in Project trip generation of 25 percent. This 25 percent reduction in Project trip generation would reduce vehicular-source NO_x emissions by approximately 25 percent, and would reduce Project operational-source NO_x emissions to levels that would be less-than-significant. To achieve the 25 percent reduction in trip generation, the scope of Project uses could be reduced, and/or the types and variety of occupancies proposed by the Project could be modified. (DEIR, p. 5-42, 5-43)

Impacts: Environmental impacts resulting from development of the subject site under a Reduced Intensity Alternative would likely therefore be comparable to those occurring under the Project. When compared to the Project, potential impacts in the following areas would remain less than significant but also may be further reduced under the Reduced Intensity Alternative: Land Use and Planning; Global Climate Change/Greenhouse Gas Emissions; Noise; Geology and Soils; Hazards and Hazardous Materials; Hydrology/Water Quality; Biological Resources; and Cultural/Tribal Cultural Resources.

However, as with the Project, the Reduced Intensity Alternative would result in potentially significant transportation/traffic impacts at certain Study Area facilities. Pending physical construction of the necessary improvements, these impacts under the Reduced Intensity Alternative would be considered cumulatively significant.

With regards to Air Quality impacts, operational-source air pollutant emissions would be incrementally reduced for all criteria pollutants under the Reduced Intensity Alternative. Operational-source NO_x threshold exceedances and related nonattainment and AQMP inconsistency impacts otherwise occurring Project would be avoided. Other operational-source air quality impacts under the Reduced Intensity Alternative would be generally reduced when compared to the Project and would be less-than-significant. (DEIR, pp. 5-45 through 5-64)

Objectives: The Reduced Intensity Alternative would reduce the scope and/or modify the types of uses otherwise resulting from the Project. Under the Reduced Intensity Alternative, limited attainment of Project Objectives would be achieved.

Finding: Under the Reduced Intensity Alternative, a 25 percent reduction in Project scope would be realized as compared to the Project. The Reduced Intensity Alternative would reduce but would not avoid significant transportation/traffic impacts otherwise occurring under the Project. Under the Reduced Intensity Alternative, significant air quality impacts of the Project would be avoided. Limited attainment of Project Objectives would be achieved. The Commission finds this constitutes a ground for rejecting this alternative that is independently sufficient to support the Commission's rejection of this alternative.

7.3 Environmentally Superior Alternative

CEQA Guidelines Section 15126.6 indicates that if the "No Project" alternative is the environmentally superior alternative then another alternative must also be identified.

The Reduced Intensity Alternative would result in the greatest aggregate reduction in environmental effects when compared to the Project. The Reduced Intensity Alternative would, to a limited degree, realize limited attainment of the basic Project Objectives. On this basis, and for the purposes of CEQA and the EIR Alternative Analysis, the Reduced Intensity Alternative is identified as the environmentally superior alternative. The Reduced Intensity Alternative would reduce but would not avoid significant transportation/traffic impacts otherwise occurring under the Project. Under the Reduced Intensity Alternative, significant air quality impacts of the Project would be avoided. On this basis, and for the purposes of CEQA and the EIR Alternative Analysis, the Reduced Intensity Alternative is identified as the environmentally superior alternative. (DEIR, pp. 5-65, 5-66)

8.0 GROWTH-INDUCING IMPACTS

CEQA requires a discussion of ways in which a proposed project could be growth inducing. Specifically, *CEQA Guidelines* Section 15126.2(d) requires that an EIR

evaluate the growth-inducing impacts of a proposed action. A growth-inducing impact is defined in *CEQA Guidelines* Section 15126.2(d) as follows:

. . . the way in which a proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth...Increases in the population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Also . . . the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. The Draft EIR evaluated whether the proposed Project will induce Project-specific growth.

8.1 GROWTH INDUCEMENT POTENTIAL

Direct Growth-Inducing Effects

The Project does not propose housing or a change in land use that would result in additional residential development and associated direct growth in the City resident population.

The Project would realize new general retail uses and associated employment opportunities. The extent to which new job opportunities are filled by the existing resident population tends to reduce any growth-inducing effect of a project. It is anticipated that employment opportunities arising from the Project would be filled predominantly by local residents and would not induce substantial growth or result in substantial permanent relocation of persons. (DEIR, pp. 5-67, 5-68)

Based on the preceding discussion, the Project would not directly result in unanticipated significant population growth or other unanticipated direct growth-inducing effects.

Indirect Growth-Inducing Effects

Investment in the Project would engender local and regional economic growth which may result in indirect growth-inducing effects. The Project's potential economic benefits could indirectly result in employment growth in the region. This growth, in combination with other anticipated employment growth in the region, could indirectly result in population growth. Such growth has a variety of potential effects on the physical

environment, including but not limited to, effects on air quality, ambient noise levels, transportation/traffic impacts, and water quality.

Development of the Project as envisioned would entail upgrades to infrastructure in the immediate Project vicinity, including abutting roadways. Infrastructure improvements necessitated by the implementation of the Project could serve to facilitate and encourage development of nearby properties. The characteristics and intensities of development that could occur on properties near the Project site are governed by governing General Plan documents. Development of these properties within the context of approved General Plan(s) should not result in unforeseen or unmitigable impacts. (DEIR, p. 5-68)

Findings: The City finds, based on the Draft EIR, the Final EIR, and the whole of the record, that the proposed Project will result in less than cumulatively considerable impacts related to growth inducement.

8.2 SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

CEQA Guidelines Sections 15126 (c), 15126.2 (c) & 15127 require that for certain types or categories of projects, an EIR must address significant irreversible environmental changes that would occur should the project be implemented. As presented at *CEQA Guidelines* Section 15127, the topic of Significant Irreversible Environmental Changes need be addressed in EIRs prepared in connection with any of the following activities:

- (a) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency;
- (b) The adoption by a local agency formation commission of a resolution making determinations; or
- (c) A project which will be subject to the requirements for preparing of an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. Section 4321- 4347.

The Project would not require or result in actions listed at *CEQA Guidelines Section* 15127. Accordingly, this EIR is not required to address potential significant irreversible environmental changes involved in the proposed action should it be implemented.

Findings: The City finds, based on the Draft EIR, the Final EIR, and the whole of the record, that the proposed Project will result in less than cumulatively considerable impacts related to irreversible environmental changes.

9.0 STATEMENT OF OVERRIDING CONSIDERATIONS

The Victorville Planning Commission adopts this Statement of Overriding Considerations with respect to the significant unavoidable impacts associated with adoption of the Project as addressed in the EIR, specifically: Transportation/Traffic and Air Quality.

The Planning Commission hereby declares that, pursuant to *CEQA Guidelines* Section 15093, the Planning Commission has balanced the benefits of the proposed Project against any significant and unavoidable environmental impacts in determining whether to approve the proposed Project. If the benefits of the proposed Project outweigh the unavoidable adverse environmental impacts, those impacts are considered “acceptable.”

The Planning Commission hereby declares that the EIR has identified and discussed significant effects that may occur as a result of the Project. With the implementation of the mitigation measures discussed in the EIR, these impacts can be mitigated to a level of less than significant except for the unavoidable and significant impact discussed in Section 6, herein.

The Planning Commission hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Project.

The Planning Commission hereby declares that to the extent any mitigation measures recommended to the City are not to be incorporated, such mitigation measures are infeasible because they would impose restrictions on the Project that would prohibit the realization of specific economic, social, and other benefits that this Commission finds outweigh the unmitigated impacts.

The Commission further finds that except for the Project, all other alternatives set forth in the EIR are infeasible because they would prohibit or not fully realize the Project

Objectives and/or specific economic, social or other benefits that this Commission finds outweigh any environmental benefits of the alternatives.

The Commission hereby declares that, having reduced the adverse significant environmental effects of the Project, to the extent feasible by adopting the proposed mitigation measures, having considered the entire administrative record on the Project and having weighed the benefits of the Project against its unavoidable significant impact after mitigation, the Commission has determined that the social, economic and environmental benefits of the Project outweigh the potential unavoidable significant impacts and render those potential significant impacts acceptable based on the following considerations:

- The Project will create a new mix of uses that capitalizes on the site's location in proximity to surrounding commercial retail facilities;
- The Project will provide a commercial retail shopping center that serves the local market area and beyond;
- The Project will attract new customers and retailers to the City of Victorville;
- The Project will transition the Project site from its current unimproved state to a commercial development, with resulting new fiscal benefits to the City of Victorville. Benefits will include new sales tax revenues and increased property tax revenues;
- The Project will develop the Project site with uses and at intensities the Lead Agency considers to be the highest and best use of the subject site; and
- The Project will provide a commercial development that creates new jobs for City residents.

As the CEQA Lead Agency for the proposed action, the City has reviewed the Project description and the alternatives presented in the EIR, and fully understands the Project and Project alternatives proposed for development. Further, this Commission finds that all potential adverse environmental impacts and all feasible mitigation measures to reduce the impacts from the project have been identified in the Draft EIR, the Final EIR and public testimony. This Commission also finds that a reasonable range of

alternatives was considered in the EIR and this document, and finds that approval of the Project is appropriate.

This Commission has identified economic and social benefits and important policy objectives above, which result from implementing the Project. The Commission has balanced these substantial social and economic benefits against the unavoidable significant adverse effects of the Project. Given the substantial social and economic benefits that will accrue from the Project, this Commission finds that the benefits identified herein override the unavoidable environmental effects.

California Public Resource Code 21002 provides: “In the event specific economic, social and other conditions make infeasible such Project alternatives or such mitigation measures, individual projects can be approved in spite of one or more significant effects thereof.” Section 21002.1(c) provides: “In the event that economic, social, or other conditions make it infeasible to mitigate one or more significant effects of a project on the environment, the project may nonetheless be approved or carried out at the discretion of a public agency...” Finally, *CEQA Guidelines* Section 15093 (a) states: “If the benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”

The Commission hereby declares that the foregoing benefits provided to the public through approval and implementation of the Project outweighs the identified significant adverse environmental impacts of the Project that cannot be mitigated. The Commission finds that each of the Project benefits outweighs the unavoidable adverse environmental impacts identified in the EIR and, therefore, finds those impacts to be acceptable.

10.0 ADOPTION OF MITIGATION MONITORING PROGRAM

Pursuant to Public Resources Code Section 21081.6, the Victorville Planning Commission hereby adopts, as conditions of approval of the Project, the Mitigation Monitoring Program (MMP) set forth in Section 4.0 of the Final EIR. In the event of any inconsistencies between the mitigation measures as set forth herein and the MMP, the MMP shall control, except to the extent that a mitigation measure contained herein is inadvertently omitted from the MMP, in which case such mitigation measures shall be deemed as if it were included in the MMP.