

# **Amended Agenda**

**HESPERIA CITY COUNCIL  
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
HOUSING AUTHORITY  
COMMUNITY DEVELOPMENT COMMISSION  
WATER DISTRICT**

**Green Sheet Item 10 updated after the posting of the agenda**



## **Meeting Agenda**

**Tuesday, April 16, 2024**

**Closed Session - 5:00 PM**

**City Council Chambers  
9700 Seventh Ave., Hesperia CA, 92345  
City Clerk's Office: (760) 947-1007**

### **City Council Members**

**Larry Bird, Mayor  
Rebekah Swanson, Mayor Pro Tem  
Brigit Bennington, Council Member  
Cameron Gregg, Council Member  
Allison Lee, Council Member**

**Rachel Molina, City Manager  
Pam K. Lee, City Attorney**



**NOTE:** In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (760) 947-1007 or (760) 947-1026. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.

To leave a Public Comment by phone, call and leave a recorded message at (760) 947-1056 up to 5:30 pm on the day of the scheduled meeting. City Council meetings may be viewed live or after the event on the City's website at [www.cityofhesperia.us](http://www.cityofhesperia.us).

**REGULAR MEETING AGENDA  
HESPERIA CITY COUNCIL  
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
HESPERIA HOUSING AUTHORITY  
HESPERIA COMMUNITY DEVELOPMENT COMMISSION  
HESPERIA WATER DISTRICT**

**9700 7th Avenue, Council Chambers, Hesperia, CA 92345**

**As a courtesy, please silence your cell phones and other electronic devices while the meeting is in session. Thank you.**

*Prior to action of the Council, any member of the audience will have the opportunity to address the legislative body on any item listed on the agenda, including those on the Consent Calendar.*

*Individuals wishing to speak during General Public Comments or on a particular numbered item must submit a speaker slip to the City Clerk with the agenda item noted. Speaker slips should be turned in prior to the public comment portion of the agenda or before an agenda item is discussed. Comments will be limited to three minutes for General Public Comments, Consent Calendar items and New Business items. Comments are limited to five minutes for Public Hearing items.*

*In compliance with the Brown Act, the City Council may not discuss or take action on non-agenda items or engage in question and answer sessions with the public. The City Council may ask brief questions for clarification; provide a reference to staff or other resources for factual information and direct staff to add an item to a subsequent meeting.*

**CLOSED SESSION - 5:00 PM**

**Roll Call**

*Mayor Larry Bird  
Mayor Pro Tem Rebekah Swanson  
Council Member Brigit Bennington  
Council Member Cameron Gregg  
Council Member Allison Lee*

Conference with Legal Counsel - Potential Litigation:  
Government Code Section 54956.9(d)2

1. One (1) Case

Conference with Real Property Negotiators – Property Negotiations  
Government Code Section – 54956.8

1. Negotiating Parties: City of Hesperia and Gustavo Valdez and Fernando Valdes  
Location: APN: 3064-461-03  
Under Negotiation: Price and Terms

Conference with Labor Negotiator  
Government Code Section 54957.6

1. Negotiations between the City of Hesperia and the Teamsters Local 1932

with the City's Negotiator. (Staff person: Rachel Molina, City Manager)

**CALL TO ORDER - 6:30 PM**

A. Invocation

B. Pledge of Allegiance to the Flag

C. Roll Call

Mayor Larry Bird  
Mayor Pro Tem Rebekah Swanson  
Council Member Brigit Bennington  
Council Member Cameron Gregg  
Council Member Allison Lee

D. Agenda Revisions and Announcements by City Clerk

E. Closed Session Reports by City Attorney

**ANNOUNCEMENTS/PRESENTATIONS**

1. Presentation of Certificates of Recognition to Hesperia High School and Oak Hills High School for being recognized as California Distinguished Schools.
2. Presentation of Proclamation to The San Bernardino County Children's Network declaring April as Child Abuse Prevention Month.
3. Presentation by Director of Development Services Nathan Freeman with an Economic Development Update.

**GENERAL PUBLIC COMMENTS (For items and matters not listed on the agenda)**

*Individuals wishing to speak during General Public Comments or on a particular numbered item are requested to submit a speaker slip to the City Clerk with the agenda item noted. Speaker slips should be turned in prior to the public comment portion of the joint agenda or before an agenda item is discussed. Comments will be limited to three minutes for General Public Comments, Consent Calendar items and New Business items. Comments are limited to five minutes for Public Hearing items.*

*In compliance with the Brown Act, the City Council may not discuss or take action on non-agenda items or engage in question and answer sessions with the public. The City Council may ask brief questions for clarification; provide a reference to staff or other resources for factual information and direct staff to add an item to a subsequent meeting.*

**JOINT CONSENT CALENDAR**

1. Page 9 Consideration of the Draft Minutes from the Special Meeting held Tuesday, April 2, 2024.

**Recommended Action:**

It is recommended that the City Council approve the Draft Minutes from the

Special Meeting held Tuesday, April 2, 2024.

**Staff Person:** Assistant City Clerk Erin Baum

**Attachments:** [Draft CC Min 2024-4-2](#)

2. Page 13 Warrant Run Report (City - Successor Agency - Housing Authority - Community Development Commission - Water)

**Recommended Action:**

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

**Staff Person:** Assistant City Manager Casey Brooksher

**Attachments:** [SR Warrant Run 4-16-2024](#)

[Attachment 1 - Warrant Run](#)

3. Page 15 Treasurer's Cash Report for the unaudited period ended February 29, 2024.

**Recommended Action:**

It is recommended that the Council/Board accept the Treasurer's Cash Report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

**Staff Person:** Assistant City Manager Casey Brooksher

**Attachments:** [SR Treasurer's Report 4-16-2024](#)

[Attachment 1- Treasurer's Report](#)

4. Page 25 Revised Combined Compensation Schedules

**Recommended Action:**

It is recommended that the City Council and Board of Directors of the Hesperia Housing Authority (HHA) and Hesperia Water District (HWD) adopt Joint Resolution No. 2024-01, HHA 2024-01, HWD 2024-01 approving the City's Fiscal Year (FY) 2023-24 Revised Combined Compensation Schedule.

**Staff Person:** Assistant City Manager Casey Brooksher

**Attachments:** [SR Revised Combined Compensation Schedules 4-16-2024](#)

[Joint Resolution 2024-01, HWD 2024-01, and HHA 2024-01](#)

[Attachment 2 - Combined Compensation Schedule](#)

5. Page 33 TLC Animal Removal Services Contract Amendment

**Recommended Action:**

It is recommended that the City Council approve an amendment to the existing contract with TLC Animal Removal Services in the amount of \$36,000, for a total not-to-exceed revised amount of \$141,000 and to approve a one-year

contract extension for animal disposal services.

**Staff Person:** Acting Code Compliance Manager Caleb Enriquez

**Attachments:** [SR TLC Animal Removal Services Contract Amendment 4-16-2024](#)

**6. Page 35** 2021 Edward Byrne Justice Assistance Grant (JAG)

**Recommended Action:**

It is recommended that the City Council accept the 2021 Edward Byrne Justice Assistance Grant (JAG) award and adopt Resolution No. 2024-13, amending the Fiscal Year 2023-24 Budget by appropriating \$29,697 for grant-related expenditures.

**Staff Person:** Hesperia Police Department Captain Jeremy Dean

**Attachments:** [SR 2021 Edward Byrne Justice Assistance Grant \(JAG\) 4-16-2024](#)  
[Resolution 2024-13](#)

**7. Page 37** Amended Agreement for the Joint Exercise of Powers Relative to the San Bernardino Associated Governments, SANBAG JPA Amendment #4

**Recommended Action:**

It is recommended that the City Council approve Amendment No. 4 to the Joint Exercise of Powers Agreement Relative to the San Bernardino Associated Governments (SANBAG), now referred to as the San Bernardino Council of Governments (SBCOG), to increase membership dues by \$28,847, for a total of \$47,249.

**Staff Person:** Assistant to the City Manager Tammy Pelayes

**Attachments:** [SR SBCOG JPA Amendment No. 4 4-16-2024](#)  
[Attachment 1 - Final FY 2023-24 General Assessment Dues](#)  
[Attachment 2 - Final JPA Amendment No 4 Language](#)  
[Attachment 3 - Printout Minute Action 01/03/24](#)

## **PUBLIC HEARING**

*Individuals wishing to comment on public hearing items must submit a speaker slip to the City Clerk with the numbered agenda item noted. Speaker slips should be turned in prior to an agenda item being taken up. Comments will be limited to five minutes for Public Hearing items.*

### **WAIVE READING OF ORDINANCES**

*Approve the reading by title of all ordinances and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.*

**8. Page 47** CUP22-00017 & SPLA24-00002; Applicant: Kiss Logistics Center; APNs: 3064-401-03, -04 & -05

**Recommended Action:**

The Planning Commission recommends that the City Council adopt Resolution No. 2024-11, recommending that the City Council make the environmental determination pursuant to the California Environmental Quality Act (CEQA) by certifying the Final Environmental Impact Report (FEIR) and adopting a statement of overriding considerations and introduce and place on first reading Ordinance No. 2024-05 approving SPLA24-00002 and adopting Resolution No. 2024-12 approving CUP22-00017.

**Staff Person:** Principal Planner Ryan Leonard

**Attachments:** [SR Kiss Logistics Center 4-16-2024](#)

[Attachment 1 - Overall Site Plan](#)

[Attachment 2 - General Plan and Zoning Map](#)

[Attachment 3 - Aerial](#)

[Attachment 4 - Color Elevation](#)

[Attachment 5 - View Rendering](#)

[Resolution 2024-11](#)

[Ordinance 2024-05](#)

[Resolution 2024-12](#)

**9. Page 195**

**AB1684 Impact on Commercial Cannabis Enforcement**

**Recommended Action:**

It is recommended that the City Council introduce and place on first reading Ordinance No. 2024-04 amending Title 1 - General Enforcement Procedures, Title 8 - Public Nuisances, and Title 16 - Land Uses, of the Hesperia Municipal Code related to illegal commercial cannabis activities.

Adopt Resolution No. 2024-09 amending the City-Wide bail schedule related to administrative enforcement of cannabis activities.

**Staff Person:** Management Analyst Jacquelyn Castillo

**Attachments:** [SR- AB1684 Impact on Commercial Cannabis Enforcement 4-16-2024](#)

[Ordinance 2024-04](#)

[Attachment 2 - Exhibit "A" - Definitions](#)

[Attachment 3 - Exhibit "B" Title 8 - Chapter 8.32 Public Nuisances](#)

[Attachment 4 - Exhibit "C" - Cannabis Related Uses and Activities](#)

[Resolution 2024-09](#)

[Attachment 6 - Bail Schedule w/ Exhibit "A" attached](#)

**10. Page 205**

Amendment to Title 16 [Development Code], Chapter 20 [General Regulations], Article V [General Performance Standards] by adding a new Section 16.20.161 related to completion and maintenance of public improvements prior to issuance of building permits and certificates of occupancy

**Recommended Action:**

It is recommended that the City Council introduce and place on first reading Ordinance No. 2024-06 adding a new Section 16.20.161 to Title 16 [Development Code], Chapter 20 [General Regulations], Article V [General Performance Standards] of the Hesperia Municipal Code regarding the completion and maintenance of public improvements prior to issuance of a building permit and certificate of occupancy.

**Staff Person:** City Attorney Pam K. Lee

**Attachments:** [SR Amendment to Title 16 4-16-2024](#)  
[Ordinance 2024-06](#)

**NEW BUSINESS****11. Page 209**

Approval of a Letter of Intent by and between the City of Hesperia and Fenner Gap Mutual Water Company

**Recommended Action:**

It is recommended that the City Council authorize the City Manager to approve a Letter of Intent (LOI) by and between the City of Hesperia and Fenner Gap Mutual Water Company.

**Staff Person:** Director of Public Works/City Engineer Cassandra Sanchez

**Attachments:** [SR Fenner Gap Mutual Water Company LOI 4-16-2024](#)  
[Attachment 1 - Letter of Intent](#)  
[Attachment 2 - Exhibit A - Term Sheet](#)

**COUNCIL COMMITTEE REPORTS AND COMMENTS**

*The Council may report on their activities as appointed representatives of the City on various Boards and Committees and/or may make comments of general interest or report on their activities as a representative of the City.*

**CITY MANAGER/CITY ATTORNEY/STAFF REPORTS**

*The City Manager, City Attorney or staff may make announcements or reports concerning items of interest to the Council and the public.*

**ADJOURNMENT**

*I, Erin Baum, Assistant City Clerk of the City of Hesperia, California do hereby certify that I caused to be posted the foregoing agenda on Wednesday, April 10, 2024 at 5:30 p.m. pursuant to California Government Code §54954.2.*

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*Erin Baum,  
Assistant City Clerk*

*Documents produced by the City and distributed less than 72 hours prior to the meeting regarding items on the agenda will be made available in the City Clerk's Office during normal business hours.*

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# City of Hesperia Meeting Minutes - Draft City Council

City Council Chambers  
9700 Seventh Ave.  
Hesperia CA, 92345

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Tuesday, April 2, 2024

6:30 PM

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**REGULAR MEETING AGENDA  
HESPERIA CITY COUNCIL  
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
HESPERIA HOUSING AUTHORITY  
HESPERIA COMMUNITY DEVELOPMENT COMMISSION  
HESPERIA WATER DISTRICT  
HESPERIA FIRE PROTECTION DISTRICT – SPECIAL MEETING**

**CLOSED SESSION - 5:00 PM**

**Roll Call**

**Present:** 5 - Mayor Bird, Mayor Pro Tem Swanson, Council Member Gregg,  
Council Member Bennington, and Council Member Lee

Conference with Legal Counsel - Potential Litigation: Government Code Section 54956.9(d)2

1. Two (2) Cases

Conference with Real Property Negotiators – Property Negotiations Government Code Section – 54956.8

1. Negotiating Parties: Hesperia Lake Park and City of Hesperia  
Location: APN: 0398-031-34  
Under Negotiation: Price and terms

**CALL TO ORDER - 6:30 PM**

**A. Invocation**

**B. Pledge of Allegiance to the Flag**

**C. Roll Call**

**Present:** 5 - Mayor Bird, Mayor Pro Tem Swanson, Council Member Gregg,  
Council Member Bennington and Council Member Lee

**D. Agenda Revisions and Announcements by City Clerk**

**E. Closed Session Reports by City Attorney**

**ANNOUNCEMENTS/PRESENTATIONS**

1. Presentation by Darron Poulsen, General Manager of Victor Valley Wastewater Authority (VWRA), with a program update
2. Presentation by Monique Arellano of San Bernardino Council of Governments (SBCOG) with a Joint Powers Authority (JPA) Amendment No. 4 Update

*Council Member Swanson requested that an item be agendaized for the next regular meeting to consider amendment number 4 to the JPA.*

**GENERAL PUBLIC COMMENTS (For items and matters not listed on the agenda)**

*Enrique Flores commented.*

*Mayor Bird requested that an item be agendaized at a future meeting with options for the Council to consider in response to squatting in the City.*

**JOINT CONSENT CALENDAR**

**A motion was made by Swanson, seconded by Lee, that the Joint Consent Calendar be approved.  
The motion carried by the following vote:**

**Aye:** 5 - Mayor Bird, Swanson, Gregg, Bennington, and Lee

**Nay:** 0

1. Consideration of the Draft Minutes from the Regular Meeting held Tuesday, March 19, 2024.

**Recommended Action:**

It is recommended that the City Council approve the Draft Minutes from the Regular Meeting held Tuesday, March 19, 2024.

**Sponsors:** Assistant City Clerk Erin Baum

2. Consideration of the Draft Minutes from the Special Meeting held Wednesday, March 20, 2024

**Recommended Action:**

It is recommended that the City Council approve the Draft Minutes from the Special Meeting held Wednesday, March 20, 2024

**Sponsors:** Assistant City Clerk Erin Baum

3. Warrant Run Report (City - Successor Agency - Housing Authority - Community Development Commission - Water)

**Recommended Action:**

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

**Sponsors:** Assistant City Manager Casey Brooksher

**4. Audited Financial Statements for Fiscal Year Ended June 30, 2023**

**Recommended Action:**

It is recommended that the City Council, Community Development Commission, Hesperia Housing Authority Board, Hesperia Water District Board, and Hesperia Fire Protection District Board receive and file the audited Financial Statements for the Fiscal Year Ended June 30, 2023.

**Sponsors:** Assistant City Manager Casey Brooksher

**PUBLIC HEARING**

**5. Vacate Bishop Avenue**

**Recommended Action:**

It is recommended that the City Council hold a public hearing to receive public comments pursuant to Section 8320, subdivision (a) of the California Streets and Highways Code, and adopt Resolution 2024-02 to vacate Bishop Avenue as described in attachments Exhibit "A" and Exhibit "B."

**Sponsors:** Administrative Analyst Dena Alcaayaga

**A motion was made by Swanson, seconded by Gregg, that this item be approved. The motion carried by the following vote:**

**Aye:** 5 - Mayor Bird, Swanson, Gregg, Bennington, and Lee

**Nay:** 0

**6. Community Development Block Grant (CDBG) 2024-2025 Annual Action Plan**

**Recommended Action:**

It is recommended that the City Council conduct a public hearing and upon accepting public testimony: (1) Adopt Resolution No. 2024-04 approving the 2024-2025 Annual Action Plan (AAP); (2) Authorize staff to modify the AAP based upon the City Council's direction; (3) Provide City staff with a methodology to distribute funds should the City's 2024-2025 annual allocation increase or decrease; and (4) Authorize the City Manager, or designee, to execute and transmit all necessary documents, including the adopted Community Development Block Grant (CDBG) 2024-2025 AAP and any amendments, to the U.S. Department of Housing and Urban Development (HUD) to assure the City's timely receipt of CDBG funding.

**Sponsors:** Economic Development Manager Victor Knight

**A motion was made by Swanson, seconded by Gregg, that this item be approved. The motion carried by the following vote:**

**Aye:** 5 - Mayor Bird, Swanson, Gregg, Bennington, and Lee

**Nay:** 0

### **COUNCIL COMMITTEE REPORTS AND COMMENTS**

*The Mayor, Mayor Pro Tem, and Council Members reported from various events and Committees.*

### **CITY MANAGER/CITY ATTORNEY/STAFF REPORTS**

*None.*

### **ADJOURNMENT**

*The meeting was adjourned in honor of Mayor Bird's wife's and father's birthdays at 7:55 p.m.*

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*Erin Baum,  
Assistant City Clerk*

# City of Hesperia

## STAFF REPORT



**DATE:** April 16, 2024

**TO:** Mayor and Council Members  
City Council, as Successor Agency to the Hesperia Community Redevelopment Agency  
Chair and Commissioners, Hesperia Housing Authority  
Chair and Commissioners, Community Development Commission  
Chair and Board Members, Hesperia Water District

**FROM:** Rachel Molina, City Manager

**BY:** Casey Brooksher, Assistant City Manager  
Anne Duke, Deputy Finance Director  
Shirley Domacio Calderon, Accountant

**SUBJECT:** Warrant Run Report (City – Successor Agency – Housing Authority – Community Development Commission – Water)

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### RECOMMENDED ACTION

It is recommended that the Council/Board ratify the warrant run and payroll report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

### BACKGROUND

The Warrant Run totals represented below are for the period March 02, 2024 through March 15, 2024.

<u>Agency/District</u>	<u>Accounts Payable</u>	<u>Payroll</u>	<u>Wires</u>	<u>Totals</u>
City of Hesperia	\$1,335,382.27	\$341,031.17	\$20,846.00	\$1,697,259.44
Successor Agency	0.00	0.00	0.00	0.00
Housing Authority	13,592.86	188.34	0.00	13,781.20
Community Development Commission	0.00	0.00	0.00	0.00
Water	821,471.19	150,464.47	0.00	971,935.66
<b>Totals</b>	<b>\$2,170,446.32</b>	<b>\$491,683.98</b>	<b>\$20,846.00</b>	<b>\$2,682,976.30</b>

The wire amount total is as follows:

- \$20,846.00 to Commonwealth Land Title Company for purchase of APN 0405-471-24 & 0405-471-25.

### ATTACHMENT(S)

1. Warrant Runs

**City of Hesperia**  
**WARRANT RUNS**  
**03/02/2024-03/15/2024**

**Attachment 1**

FUND #	FUND NAME	W/E 3/8/2024	W/E 3/15/2024	WARRANT TOTALS	Wires	YEAR-TO DATE TOTALS *	PRIOR FY YTD DATE TOTALS
<b>Accounts Payable</b>							
100	GENERAL	\$ 171,444.28	\$ 447,464.76	\$ 618,909.04	\$ -	\$ 24,847,482.73	\$ 20,915,238.89
204	MEASURE I - RENEWAL	\$ -	\$ 7,339.67	\$ 7,339.67	\$ -	\$ 509,371.09	\$ 251,376.72
207	LOCAL TRANSPORT-SB 325	\$ -	\$ -	\$ -	\$ -	\$ 967,882.81	\$ 223,954.38
209	GAS TAX-RMRA	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 805.00
210	HFPD (PERS)	\$ -	\$ -	\$ -	\$ -	\$ 907,316.00	\$ 1,093,204.87
251	CDBG	\$ 5,378.64	\$ 11,316.87	\$ 16,695.51	\$ -	\$ 340,836.91	\$ 763,975.46
254	AB2766 - TRANSIT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
255	AB3229 SUPPLEMENTAL LAW	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
256	ENVIRONMENTAL PROGRAMS GRANT	\$ 485.50	\$ -	\$ 485.50	\$ -	\$ 21,629.75	\$ 22,820.31
262	SB 1383 LOCAL ASSISTANCE GRANT	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 31,598.69
263	STREETS MAINTENANCE	\$ 29,073.59	\$ 50,905.96	\$ 79,979.55	\$ -	\$ 1,558,806.26	\$ 1,401,105.96
300	DEV. IMPACT FEES - STREET	\$ -	\$ -	\$ -	\$ -	\$ 82,056.38	\$ 31,656.18
301	DEV. IMPACT FEES - STORM DRAIN	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 17,460.50
303	DEV. IMPACT FEES - POLICE	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
304	DEV. IMPACT FEES - PUBLIC WKS.	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
306	DEV. IMPACT FEES - 2018-STREETS	\$ 2,179.80	\$ 1,530.00	\$ 3,709.80	\$ 12,278.49	\$ 1,640,006.95	\$ 4,840,360.69
312	DIF 2018-POLICE FACILITIES	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,969.11
313	DIF A-04 DRAINAGE	\$ -	\$ 2,700.00	\$ 2,700.00	\$ -	\$ 320,448.35	\$ 6,270.00
402	WATER RIGHTS ACQUISITION	\$ -	\$ -	\$ -	\$ -	\$ 1,220,101.69	\$ 1,094,323.17
403	2013 REFUNDING LEASE REV BONDS	\$ -	\$ -	\$ -	\$ -	\$ 571,151.39	\$ 872,392.46
504	CITY WIDE STREETS - CIP	\$ -	\$ -	\$ -	\$ 8,567.51	\$ 10,218,149.68	\$ 7,412,845.19
509	CITY FACILITIES CIP	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
800	EMPLOYEE BENEFITS	\$ 404,520.36	\$ 117,046.66	\$ 521,567.02	\$ -	\$ 6,339,895.45	\$ 6,415,864.28
801	TRUST/AGENCY	\$ 2,505.08	\$ 70,999.50	\$ 73,504.58	\$ -	\$ 1,635,577.44	\$ 1,511,344.83
802	AD 91-1 AGENCY	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
804	TRUST-INTEREST BEARING	\$ 3,106.60	\$ 6,635.00	\$ 9,741.60	\$ -	\$ 267,035.60	\$ 152,725.00
807	CFD 2005-1	\$ 750.00	\$ -	\$ 750.00	\$ -	\$ 1,266,529.66	\$ 1,295,901.27
808	HFPD (TRANSITION)	\$ -	\$ -	\$ -	\$ -	\$ 347,796.19	\$ 317,384.59
815	PLAN REVIEW TRUST - FRONTIER	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,584.08
	<b>CITY</b>	\$ 619,443.85	\$ 715,938.42	\$ 1,335,382.27	\$ 20,846.00	\$ 53,062,074.33	\$ 48,687,161.63
163	REDEVELOP OBLIG RETIREMENT-2018	\$ -	\$ -	\$ -	\$ -	\$ 9,949,902.79	\$ 9,708,465.48
	<b>SUCCESSOR AGENCY</b>	\$ -	\$ -	\$ -	\$ -	\$ 9,949,902.79	\$ 9,708,465.48
370	HOUSING AUTHORITY	\$ 1,184.00	\$ 12,408.86	\$ 13,592.86	\$ -	\$ 35,950.25	\$ 36,133.56
	<b>HOUSING AUTHORITY</b>	\$ 1,184.00	\$ 12,408.86	\$ 13,592.86	\$ -	\$ 35,950.25	\$ 36,133.56
170	COMMUNITY DEVELOPMENT COMMISSION	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	<b>COMMUNITY DEVELOPMENT COMMISSION</b>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
700	WATER OPERATING	\$ 240,656.63	\$ 132,615.17	\$ 373,271.80	\$ -	\$ 7,846,948.63	\$ 5,542,150.45
701	WATER CAPITAL	\$ -	\$ -	\$ -	\$ -	\$ 320,389.00	\$ 37,598.00
710	SEWER OPERATING	\$ 412,389.10	\$ 34,884.37	\$ 447,273.47	\$ -	\$ 4,618,113.40	\$ 3,389,883.84
711	SEWER CAPITAL	\$ -	\$ -	\$ -	\$ -	\$ 1,249,376.35	\$ 252,613.76
720	RECLAIMED WATER OPERATIONS	\$ 925.92	\$ -	\$ 925.92	\$ -	\$ 272,371.84	\$ 257,415.25
	<b>WATER</b>	\$ 653,971.65	\$ 167,499.54	\$ 821,471.19	\$ -	\$ 14,307,199.22	\$ 9,479,661.30
	<b>ACCOUNTS PAYABLE TOTAL</b>	\$ 1,274,599.50	\$ 895,846.82	\$ 2,170,446.32	\$ 20,846.00	\$ 77,355,126.59	\$ 67,911,421.97
<b>REG. PAYROLL</b>							
	City	\$ -	\$ 341,031.17	\$ 341,031.17	\$ -	\$ 5,745,354.67	\$ 5,244,651.16
	Housing Authority	\$ -	\$ 188.34	\$ 188.34	\$ -	\$ 3,684.45	\$ 3,447.72
	Water	\$ -	\$ 150,464.47	\$ 150,464.47	\$ -	\$ 2,443,278.73	\$ 2,144,116.96
	<b>PAYROLL TOTAL</b>	\$ -	\$ 491,683.98	\$ 491,683.98	\$ -	\$ 8,192,317.85	\$ 7,392,215.84

# City of Hesperia

## STAFF REPORT



**DATE:** April 16, 2024

**TO:** Mayor and Council Members  
City Council, Serving as Successor Agency to the Hesperia  
Community Redevelopment Agency  
Chair and Commissioners, Hesperia Housing Authority  
Chair and Commissioners, Community Development Commission  
Chair and Board Members, Hesperia Water District

**FROM:** Rachel Molina, City Manager

**BY:** Casey Brooksher, Assistant City Manager  
Anne Duke, Deputy Finance Director  
Cristina Hall, Accountant

**SUBJECT:** Treasurer's Cash Report for the unaudited period ended February 29, 2024.

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### RECOMMENDED ACTION

It is recommended that the Council/Board accept the Treasurer's Cash Report for the City, Successor Agency to the Hesperia Community Redevelopment Agency, Hesperia Housing Authority, Community Development Commission, and Water District.

### BACKGROUND

This report is presented to the City Council pursuant to Government Code Section 53646 (b) setting forth the City's investment portfolio.

### ISSUES/ANALYSIS

The Treasurer's Cash Reports are presented on the following pages for each agency.

### FISCAL IMPACT

These reports reflect unaudited cash balances as of February 29, 2024.

### ALTERNATIVE(S)

Provide alternative direction to staff.

### ATTACHMENT(S)

1. City of Hesperia Investment Report
2. Successor Agency to the Hesperia Community Redevelopment Agency Investment Report
3. Hesperia Housing Authority Investment Report
4. Community Development Commission Investment Report
5. Hesperia Water District Investment Report

## CITY OF HESPERIA

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<u>FUND</u>	<u>VALUE</u>
General Fund (100 & 800)	24,276,892.11
Pension Obligation Trust (105)	78,394.88
OPEB Trust (106)	-
HFPD (PERS) (210)	1,757,073.39
AB27666 - Transit (254)	24,914.82
AB3229 Supplemental Law (255)	317,415.79
AD No. 91-1 (802)	388,110.99
Beverage Recycling Grant (256)	258,396.64
CFD 2005-1 (807)	1,399,107.29
HFPD Transition (808)	-
City Wide-Capital Projects (504)	(10,649,959.88)
Community Dev Block Grant (251, 252, & 253)	3,243,725.15
American Rescue Plan Grant (261)	24,334,095.21
SB 1383 Local Assistance Grant (262)	107,414.59
Development Impact Fund (300-304)	5,175,271.86
Development Impact Fund 2018 (306-312)	21,417,574.20
Development Impact Fund A-04 Drainage (313)	1,379,498.70
Disaster (260)	46,022.88
Gas Tax Fund (205)	1,807,958.30
Gas Tax - RMRA (209)	6,495,825.15
Gas Tax Swap (206)	1,440,432.10
Local Transportation SB325 (207)	1,805,926.59
Measure I - Renewal (204)	11,165,676.25
Public Works Street Maint (263)	779,788.16
Public Art (230)	254,433.66
Trust Fund (801, 803-806, & 815)	1,064,491.08
2012 Water Rights Acquisition (402)	572,710.22
2013 Refunding Lease Rev Bonds (403)	-
2023 Refunding Lease Rev Bonds (404)	1,613,855.35
<b>TOTAL CITY FUNDS</b>	<b><u><u>\$ 100,555,045.48</u></u></b>

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**SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY**

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<u><b>FUND</b></u>	<u><b>VALUE</b></u>
RORF Retention - (163)	\$ <u><u>1,422,964.75</u></u>

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**HESPERIA HOUSING AUTHORITY**

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<u><b>FUND</b></u>	<u><b>VALUE</b></u>
Hesperia Housing Authority Fund (370)	\$ 4,154,552.44
VVEDA Housing Authority (371)	1,903,415.93
<b>TOTAL HOUSING AUTHORITY FUNDS</b>	<b>\$ <u><u>6,057,968.37</u></u></b>

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**COMMUNITY DEVELOPMENT COMMISSION**

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<u><b>FUND</b></u>	<u><b>VALUE</b></u>
Community Development Commission Fund (170)	\$ <u><u>96,981.12</u></u>

## **WATER**

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<b><u>FUND</u></b>	<b><u>VALUE</u></b>
Water Operating (700)	\$ 18,234,210.48
Water Capital (701)	958,657.94
Water Capital Rehab and Replace (703)	2,780,708.28
Water Contamination Mitigation (704)	2,601,999.16
Sewer Operating (710)	13,968,172.30
Sewer Capital (711)	2,378,342.52
Sewer Capital Rehab and Replace (713)	783,034.50
Reclaimed Water Operations (720)	32,105.83
<b>TOTAL WATER FUNDS</b>	<b><u>\$ 41,737,231.01</u></b>

*City of Hesperia*  
**Investment Report**  
**Unaudited**

ATTACHMENT 1

February 29, 2024

Type of Investment	Institution/ Fiscal Agent	Interest Rate	Date of Purchase	Date of Maturity	Par Value at Maturity	Book Value	Market Value	Account Description
<b>Investments under the direction of the City:</b>								
Local Agency Investment Funds	State of Calif.	4.122%	29-Feb-24	Demand	\$ 99,434,334.64	99,434,334.64	99,434,334.64	
Local Bank Checking Accounts	U.S. Bank	n/a	29-Feb-24	Demand	1,120,710.84	1,120,710.84	1,120,710.84	
<b>Total Unaudited Investments under the direction of the City</b>					<b>\$ 100,555,045.48</b>	<b>\$ 100,555,045.48</b>	<b>\$ 100,555,045.48</b>	

**Investments under the direction of fiscal agents:**

2012 Lease Revenue Bonds	US Bank	0.435%	29-Feb-24	Demand	1,262.88	1,262.88	1,262.88	2012 - Water Rights Revenue Fund
2012 Lease Revenue Bonds	US Bank	0.443%	29-Feb-24	Demand	62,060.74	62,060.74	62,060.74	2012 - Water Rights Interest Fund
2012 Lease Revenue Bonds	US Bank	0.443%	29-Feb-24	Demand	1,484,518.32	1,484,518.32	1,484,518.32	2012 - Water Rights Reserve Fund
2012 Lease Revenue Bonds	US Bank	0.443%	29-Feb-24	Demand	990.22	990.22	990.22	2012 - Water Rights Surplus Revenue Fund
2014 CFD 2005-1 Refunding	US Bank	0.443%	29-Feb-24	Demand	31,783.63	31,783.63	31,783.63	2014 CFD 05-1 - Special Tax Fund
2014 CFD 2005-1 Refunding	US Bank	0.752%	29-Feb-24	Demand	310,618.75	310,618.75	310,618.75	2014 CFD 05-1 - Bond Fund
2014 CFD 2005-1 Refunding	US Bank	0.443%	29-Feb-24	Demand	1,434,682.79	1,434,682.79	1,434,682.79	2014 CFD 05-1 - Reserve Fund
2014 CFD 2005-1 Refunding	US Bank	0.443%	29-Feb-24	Demand	25,580.77	25,580.77	25,580.77	2014 CFD 05-1 Administrative Expense Bonds
2023 Refunding Lease Revenue Bonds	US Bank	0.406%	29-Feb-24	Demand	180.53	180.53	180.53	2023 Refunding Lease Revenue Bonds Revenue Fund
2023 Refunding Lease Revenue Bonds	US Bank	0.408%	29-Feb-24	Demand	14,022.16	14,022.16	14,022.16	2023 Refunding Lease Revenue Interest Funds
Deposits - Workers' Comp	PERMA	n/a	29-Feb-24	n/a	706,439.07	706,439.07	706,439.07	GL 1352
Sully Miller Retention - Rancho	US Bank	0.000%	29-Feb-24	n/a	1.08	1.08	1.08	Rancho Road - Escrow Account
City of Hesperia Stabilized Trust	Charles Schwab	n/a	29-Feb-24	n/a	3,704,355.69	3,704,355.69	3,704,355.69	City Pension
City of Hesperia OPEB Trust	Charles Schwab	n/a	29-Feb-24	n/a	653,524.51	653,524.51	653,524.51	City OPEB
Hesperia Fire Protection PST	Charles Schwab	n/a	29-Feb-24	n/a	1,307,006.61	1,307,006.61	1,307,006.61	Fire Pension
City of Hesperia Settlement Escrow Account	US Bank	0.000%	29-Feb-24	n/a	300,015.45	300,015.45	300,015.45	Settlement Escrow Account
<b>Total Unaudited Investments under the direction of fiscal agents</b>					<b>\$ 10,037,043.20</b>	<b>\$ 10,037,043.20</b>	<b>\$ 10,037,043.20</b>	

**Please Note:** All market value data is provided courtesy of the City's fiscal agent, US Bank.

**I certify that this investment portfolio is in compliance with the statement of investment policy of the City of Hesperia and the investment program provides sufficient liquidity to meet expenditure requirements for the next six months, as required by the California Government Code sections 53646(b)(2) and (3), respectively.**

\* Note: 2005 Certificates of Participation began in May 2005 for the financing of the Civic Plaza.

  
Keith Cheong, Senior Accountant

# Investment Report

## Unaudited

February 29, 2024

<u>Type of Investment</u>	<u>Issuer/ Institution</u>	<u>Interest Rate</u>	<u>Date of Purchase</u>	<u>Date of Maturity</u>	<u>Par Value at Maturity</u>	<u>Book Value</u>	<u>Market Value</u>	<u>Account Description</u>
<b>Investments under the direction of the City:</b>								
Local Agency Investment Funds	State of Calif.	4.122%	29-Feb-24	Demand	\$ 1,407,105.46	\$ 1,407,105.46	1,407,105.46	
Local Bank Checking Accounts	U.S. Bank	n/a	29-Feb-24	Demand	15,859.29	15,859.29	15,859.29	
<b>Total Unaudited Investments under the direction of the City</b>					<b>\$ 1,422,964.75</b>	<b>\$ 1,422,964.75</b>	<b>\$ 1,422,964.75</b>	


### Investments under the direction of fiscal agents:

2018 Refunding Bonds	US Bank	0.475%	29-Feb-24	Demand	45.43	45.43	45.43	2018A & 2018B - Debt Service Account
2018 Refunding Bonds	US Bank	0.443%	29-Feb-24	Demand	1,874,721.88	1,874,721.88	1,874,721.88	2018A & 2018B - Interest Account
2018 Refunding Bonds	US Bank	0.000%	29-Feb-24	Demand	1.00	1.00	1.00	2018A & 2018B - Reserve Account
<b>Total Unaudited Investments under the direction of fiscal agents</b>					<b>\$ 1,874,768.31</b>	<b>\$ 1,874,768.31</b>	<b>\$ 1,874,768.31</b>	

**Please Note: All market value data is provided courtesy of the City's fiscal agent US Bank.  
The 2018 Refunding Bonds are supported by a \$9,799,443.76 bond insurance policy.**

**I certify that this investment portfolio is in compliance with the statement of investment policy of the City of Hesperia and the investment program provides sufficient liquidity to meet expenditure requirements for the next six months, as required by the California Government Code sections 53646(b)(2) and (3), respectively.**

\* Note: The 2005 and 2007 Series Bonds were refinanced to 2018 Series Bonds in November 2018.

  
Keith Cheong, Senior Accountant

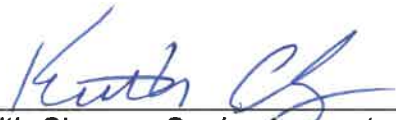
*Hesperia Housing Authority*  
**Investment Report**  
**Unaudited**

ATTACHMENT 3

February 29, 2024

<u>Type of Investment</u>	<u>Issuer/ Institution</u>	<u>Interest Rate</u>	<u>Date of Purchase</u>	<u>Date of Maturity</u>	<u>Par Value at Maturity</u>	<u>Book Value</u>	<u>Market Value</u>
<b>Investments under the direction of the City:</b>							
Local Agency Investment Funds	State of California	4.122%	29-Feb-24	Demand	\$ 5,990,450.82	5,990,450.82	5,990,450.82
Local Bank Checking Accounts	U.S. Bank	n/a	29-Feb-24	Demand	67,517.55	67,517.55	67,517.55
<b>Total Unaudited Investments under the direction of the City</b>					<b>\$ 6,057,968.37</b>	<b>\$ 6,057,968.37</b>	<b>\$ 6,057,968.37</b>

*I certify that this investment portfolio is in compliance with the statement of investment policy of the City of Hesperia and the investment program provides sufficient liquidity to meet expenditure requirements for the next six months, as required by the California Government Code sections 53646(b)(2) and (3), respectively.*

  
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 Keith Cheong, Senior Accountant

**Investment Report****Unaudited**February 29, 2024

<u>Type of Investment</u>	<u>Issuer/ Institution</u>	<u>Interest Rate</u>	<u>Date of Purchase</u>	<u>Date of Maturity</u>	<u>Par Value at Maturity</u>	<u>Book Value</u>	<u>Market Value</u>
<b>Investments under the direction of the City:</b>							
Local Agency Investment Funds	State of California	4.122%	29-Feb-24	Demand	\$ 95,900.24	95,900.24	95,900.24
Local Bank Checking Accounts	U.S. Bank	n/a	29-Feb-24	Demand	1,080.88	1,080.88	1,080.88
<b>Total Unaudited Investments under the direction of the City</b>					<b>\$ 96,981.12</b>	<b>\$ 96,981.12</b>	<b>\$ 96,981.12</b>

*I certify that this investment portfolio is in compliance with the statement of investment policy of the City of Hesperia and the investment program provides sufficient liquidity to meet expenditure requirements for the next six months, as required by the California Government Code sections 53646(b)(2) and (3), respectively.*

  
 Keith Cheong, Senior Accountant

*Hesperia Water District*  
**Investment Report**  
**Unaudited**

ATTACHMENT 5

February 29, 2024


<u>Type of Investment</u>	<u>Issuer/ Institution</u>	<u>Interest Rate</u>	<u>Date of Purchase</u>	<u>Date of Maturity</u>	<u>Par Value at Maturity</u>	<u>Book Value</u>	<u>Market Value</u>	<u>Account Description</u>
<b>Investments under the direction of the City:</b>								
Local Agency Investment Funds	State of California	4.122%	29-Feb-24	Demand	\$ 41,272,059.25	41,272,059.25	41,272,059.25	
Local Bank Checking Accounts	U.S. Bank	n/a	29-Feb-24	Demand	465,171.76	465,171.76	465,171.76	
<b>Total Unaudited Investments under the direction of the City</b>					<b>\$ 41,737,231.01</b>	<b>\$ 41,737,231.01</b>	<b>\$ 41,737,231.01</b>	

**Investments under the direction of fiscal agents:**

Deposits - Workers' Comp	PERMA	n/a	29-Feb-24	n/a	1,222,852.54	1,222,852.54	1,222,852.54	GL 1352
<b>Total Unaudited Investments under the direction of fiscal agents</b>					<b>\$ 1,222,852.54</b>	<b>\$ 1,222,852.54</b>	<b>\$ 1,222,852.54</b>	

**Please Note:** All market value data is provided courtesy of the City's fiscal agent, US Bank.

*I certify that this investment portfolio is in compliance with the statement of investment policy of the City of Hesperia and the investment program provides sufficient liquidity to meet expenditure requirements for the next six months, as required by the California Government Code sections 53646(b)(2) and (3), respectively.*

  
 Keith Cheong, Senior Accountant

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# City of Hesperia

## STAFF REPORT



**DATE:** April 16, 2024

**TO:** Mayor and Council Members  
Chair and Board Members, Hesperia Housing Authority  
Chair and Board Members, Hesperia Water District

**FROM:** Rachel Molina, City Manager

**BY:** Casey Brooksher, Assistant City Manager  
Rita Perez, Deputy Human Resources/Risk Management Director

**SUBJECT:** Revised Combined Compensation Schedules

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### RECOMMENDED ACTION

It is recommended that the City Council and Board of Directors of the Hesperia Housing Authority (HHA) and Hesperia Water District (HWD) adopt Joint Resolution No. 2024-01, HHA 2024-01, HWD 2024-01 approving the City's Fiscal Year (FY) 2023-24 Revised Combined Compensation Schedule.

### BACKGROUND

The California Public Employees' Retirement System (CalPERS) requires that the City Council, Commissions, and Board of Directors (City Council) approve and adopt a Combined Compensation Schedule whenever there are changes to salaries. This requirement is needed in order for an employee to receive service credit for a salary. All recognized salaries must be listed on an approved and adopted Compensation Schedule.

The most recent approved and adopted Combined Compensation Schedule occurred on September 19, 2023 with the adoption of Joint Resolution No. 2023-62, HHA 2023-11 and HWD 2023-20.

### ISSUES/ANALYSIS

On November 21, 2023, the City Council adopted the FY 2023-24 First Quarter Budget Review which included adding and restructuring of classifications for more effective management of City operations, incorporating the September 19, 2023, approved reorganization and adopted Resolution No 2023-61 and HWD 2023-19 and adopting Resolution No 2023-66 and HWD 2023-23.

### FISCAL IMPACT

There is no fiscal impact to adopting the Combined Compensation Schedules as this is an information schedule required by CalPERS. These increases will be included in the revised adopted budget.

### ALTERNATIVE(S)

1. Provide alternative direction to staff.

**ATTACHMENT(S)**

1. Joint Resolution No. 2024-01, HWD 2024-01, and HHA 2024-01
2. Combined Compensation Schedule Revised and Effective January 1, 2024

**JOINT RESOLUTION NO. 2024-01  
RESOLUTION HHA 2024-01  
RESOLUTION HWD 2024-01**

**A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA,  
CALIFORNIA, THE BOARD OF DIRECTORS OF THE HESPERIA WATER  
DISTRICT, AND THE BOARD OF DIRECTORS OF THE HESPERIA HOUSING  
AUTHORITY APPROVING THE CITY'S REVISED COMBINED  
COMPENSATION SCHEDULE**

**WHEREAS**, in compliance with California Public Employees' Retirement System (CalPERS) and Title 2 of California Code of Regulations Section 570.5, the City Council of the City of Hesperia and the Board of Directors of the Hesperia Water District must approve and adopt a Compensation Schedule that lists all employee positions; and

**WHEREAS**, the City Council of the City of Hesperia and the Board of Directors of the Hesperia Water District adopted a Combined Compensation Schedule on July 18, 2023; and

**WHEREAS**, Joint Resolution No. 2023-44, HWD 2023-14, and HHA 2023-07 approves the Combined Compensation Schedule; and

**WHEREAS**, Joint Resolution No. 2022-45, Exhibit A prescribes the salaries, benefits, and other related policies for employees of the City not represented by an employee labor relations organization and commonly called Non-Represented Employees; and

**WHEREAS**, Resolution 2022-35 and HWD 2022-05 Exhibit A prescribes a Memorandum of Understanding and the salaries, benefits, and other terms and conditions for employees of the City of Hesperia represented by the Teamsters Local 1932; and

**WHEREAS**, Joint Resolution No. 2023-27 and HWD 2023-04 approves a side letter of agreement to the Memorandum of Understanding between the City of Hesperia and Teamsters Local 1932; and

**WHEREAS**, on October 4, 2022, the City Council approved an Employment Agreement which prescribes the salaries and benefits of the City Manager; and

**WHEREAS**, Resolution No. 2023-37, Resolution HWD 2023-11, and Resolution HHA 2023-06 approves the annual Fiscal Year 2023-24 Operating Budget; and

**WHEREAS**, Resolution No. 2023-61, and Resolution HWD 2023-19 approves the organizational changes for Fiscal Year 2023-24; and

**WHEREAS**, Resolution No. 2023-66, and Resolution HWD 2023-23 approves additional organizational changes for Fiscal Year 2023-24;

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, THE BOARD OF DIRECTORS OF THE HESPERIA WATER DISTRICT AND THE BOARD OF DIRECTORS OF THE HESPERIA HOUSING AUTHORITY AS FOLLOWS:

Section 1. That the recitals above are true and correct.

Section 2. That the City Council and Board of Directors of the Hesperia Water District and Hesperia Housing Authority approves the attached revised Combined Compensation Schedules effective January 1, 2024. The schedules list all employee positions, clearly indicates the time base for salaries, base pay rates only and includes the effective and revised dates of the schedule. The schedules will be posted on the City's internet page once approved.

Section 3. That the City Clerk/Board Secretary shall certify to the passage and adoption of this Joint Resolution and enter it into the book of original resolutions.

**ADOPTED AND APPROVED** this 16<sup>th</sup> day of April 2024.

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Larry Bird, Mayor/Chair

ATTEST:

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Erin Baum, Assistant City Clerk/Board Secretary

**CITY OF HESPERIA**  
**HESPERIA WATER DISTRICT**  
**COMBINED COMPENSATION SCHEDULE**  
**INCLUDES CITY OF HESPERIA, HESPERIA WATER DISTRICT AND HESPERIA HOUSING AUTHORITY**  
**APPROVED AND ADOPTED: July 18, 2023, September 19, 2023, April 16, 2023**  
**REVISED: April 16, 2024 Effective: January 1, 2024**

<b>Non-Represented Full-Time Monthly Rates</b>	<b>Benefit Group</b>	<b>Range #</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>
Accountant	GEN	33	5,670	5,783	5,899	6,017	6,137	6,260	6,385	6,513	6,643	6,776	6,912
Accounting Technician	GEN	31	5,143	5,246	5,351	5,458	5,567	5,678	5,792	5,908	6,026	6,147	6,270
Administrative Aide	GEN	27	4,231	4,316	4,402	4,490	4,580	4,672	4,765	4,860	4,957	5,056	5,157
Administrative Analyst	PRO/SUP	34	5,954	6,073	6,195	6,319	6,445	6,574	6,706	6,840	6,977	7,117	7,259
Administrative Secretary	GEN	30	4,898	4,996	5,096	5,198	5,302	5,408	5,516	5,626	5,739	5,854	5,971
Animal Services Specialist	PRO/SUP	34	5,954	6,073	6,195	6,319	6,445	6,574	6,706	6,840	6,977	7,117	7,259
Animal Services Supervisor	PRO/SUP	37	6,893	7,031	7,172	7,315	7,461	7,610	7,762	7,917	8,075	8,237	8,402
Assistant City Clerk	PRO/SUP	37	6,893	7,031	7,172	7,315	7,461	7,610	7,762	7,917	8,075	8,237	8,402
Assistant City Manager	AW SR. MGT	53	15,050	15,351	15,658	15,971	16,290	16,616	16,948	17,287	17,633	17,986	18,346
Assistant Engineer	PRO/SUP	38	7,238	7,383	7,531	7,682	7,836	7,993	8,153	8,316	8,482	8,652	8,825
Assistant Planner	PRO/SUP	35	6,252	6,377	6,505	6,635	6,768	6,903	7,041	7,182	7,326	7,473	7,623
Assistant Project Manager	PRO/SUP	38	7,238	7,383	7,531	7,682	7,836	7,993	8,153	8,316	8,482	8,652	8,825
Assistant to the City Manager	MGT	43	9,238	9,423	9,612	9,804	10,000	10,200	10,404	10,612	10,824	11,041	11,262
Associate Engineer	PRO/SUP	40	7,980	8,140	8,303	8,469	8,638	8,811	8,987	9,167	9,350	9,537	9,728
Associate Planner	PRO/SUP	38	7,238	7,383	7,531	7,682	7,836	7,993	8,153	8,316	8,482	8,652	8,825
Budget/Finance Specialist	GEN	33	5,670	5,783	5,899	6,017	6,137	6,260	6,385	6,513	6,643	6,776	6,912
Building Official	MGT	43	9,238	9,423	9,612	9,804	10,000	10,200	10,404	10,612	10,824	11,041	11,262
Building Official Y-Rate	Y-Rate												12,417
Code Compliance Manager	MGT	44	9,700	9,894	10,092	10,294	10,500	10,710	10,924	11,143	11,366	11,593	11,825
Code Enforcement Supervisor	PRO/SUP	39	7,600	7,752	7,907	8,065	8,226	8,391	8,559	8,730	8,905	9,083	9,265
Community Development Supervisor	PRO/SUP	37	6,893	7,031	7,172	7,315	7,461	7,610	7,762	7,917	8,075	8,237	8,402
Customer Service Supervisor	PRO/SUP	37	6,893	7,031	7,172	7,315	7,461	7,610	7,762	7,917	8,075	8,237	8,402
Deputy City Clerk	GEN	28	4,443	4,532	4,623	4,716	4,810	4,906	5,004	5,104	5,206	5,310	5,416
Deputy City Engineer	AW SR. MGT	48	11,791	12,027	12,268	12,513	12,763	13,018	13,278	13,544	13,815	14,091	14,373
Deputy City Manager/ City Clerk	AW SR. MGT	52	14,333	14,620	14,912	15,210	15,514	15,824	16,141	16,464	16,793	17,129	17,472
Deputy Community Development Director	SR. MGT	45	10,185	10,389	10,597	10,809	11,025	11,246	11,471	11,700	11,934	12,173	12,417
Deputy Development Services Director	SR. MGT	45	10,185	10,389	10,597	10,809	11,025	11,246	11,471	11,700	11,934	12,173	12,417
Deputy Finance Director	SR. MGT	46	10,694	10,908	11,126	11,349	11,576	11,808	12,044	12,285	12,531	12,782	13,038
Deputy Human Resources/Risk Management Director	SR. MGT	45	10,185	10,389	10,597	10,809	11,025	11,246	11,471	11,700	11,934	12,173	12,417
Director of Development Services	AW SR. MGT	52	14,333	14,620	14,912	15,210	15,514	15,824	16,141	16,464	16,793	17,129	17,472
Director of Public Works	AW SR. MGT	52	14,333	14,620	14,912	15,210	15,514	15,824	16,141	16,464	16,793	17,129	17,472
Economic Development Manager	MGT	44	9,700	9,894	10,092	10,294	10,500	10,710	10,924	11,143	11,366	11,593	11,825
Engineering Specialist	GEN	32	5,400	5,508	5,618	5,730	5,845	5,962	6,081	6,203	6,327	6,454	6,583
Facilities Supervisor	PRO/SUP	38	7,238	7,383	7,531	7,682	7,836	7,993	8,153	8,316	8,482	8,652	8,825
Field Services Supervisor	GEN	36	6,565	6,696	6,830	6,967	7,106	7,248	7,393	7,541	7,692	7,846	8,003
Finance Manager	MGT	40	7,980	8,140	8,303	8,469	8,638	8,811	8,987	9,167	9,350	9,537	9,728
Financial Analyst	PRO/SUP	35	6,252	6,377	6,505	6,635	6,768	6,903	7,041	7,182	7,326	7,473	7,623
Fleet/Warehouse Supervisor	PRO/SUP	37	6,893	7,031	7,172	7,315	7,461	7,610	7,762	7,917	8,075	8,237	8,402
Geographical Information Systems Manager	MGT	41	8,379	8,547	8,718	8,892	9,070	9,251	9,436	9,625	9,818	10,014	10,214
Geographical Information Systems Technician	GEN	32	5,400	5,508	5,618	5,730	5,845	5,962	6,081	6,203	6,327	6,454	6,583
Human Resources Analyst	PRO/SUP	37	6,893	7,031	7,172	7,315	7,461	7,610	7,762	7,917	8,075	8,237	8,402
Human Resources Specialist	PRO/SUP	35	6,252	6,377	6,505	6,635	6,768	6,903	7,041	7,182	7,326	7,473	7,623
Information Systems Manager	MGT	44	9,700	9,894	10,092	10,294	10,500	10,710	10,924	11,143	11,366	11,593	11,825
Information Systems Specialist	MGT	37	6,893	7,031	7,172	7,315	7,461	7,610	7,762	7,917	8,075	8,237	8,402
Information Systems Technician	GEN	32	5,400	5,508	5,618	5,730	5,845	5,962	6,081	6,203	6,327	6,454	6,583
Maintenance Crew Supervisor	PRO/SUP	38	7,238	7,383	7,531	7,682	7,836	7,993	8,153	8,316	8,482	8,652	8,825
Management Analyst	PRO/SUP	37	6,893	7,031	7,172	7,315	7,461	7,610	7,762	7,917	8,075	8,237	8,402
Office Assistant	GEN	26	4,029	4,110	4,192	4,276	4,362	4,449	4,538	4,629	4,722	4,816	4,912
Personnel Technician	GEN	32	5,400	5,508	5,618	5,730	5,845	5,962	6,081	6,203	6,327	6,454	6,583
Planning Specialist	GEN	32	5,400	5,508	5,618	5,730	5,845	5,962	6,081	6,203	6,327	6,454	6,583
Plans Examiner	PRO/SUP	37	6,893	7,031	7,172	7,315	7,461	7,610	7,762	7,917	8,075	8,237	8,402
Principal Planner	MGT	44	9,700	9,894	10,092	10,294	10,500	10,710	10,924	11,143	11,366	11,593	11,825
Project Manager	MGT	40	7,980	8,140	8,303	8,469	8,638	8,811	8,987	9,167	9,350	9,537	9,728
Public Relations Analyst	PRO/SUP	39	7,600	7,752	7,907	8,065	8,226	8,391	8,559	8,730	8,905	9,083	9,265
Public Works Inspection Supervisor	PRO/SUP	39	7,600	7,752	7,907	8,065	8,226	8,391	8,559	8,730	8,905	9,083	9,265
Public Works Inspector	GEN	35	6,252	6,377	6,505	6,635	6,768	6,903	7,041	7,182	7,326	7,473	7,623
Public Works Supervisor	MGT	40	7,980	8,140	8,303	8,469	8,638	8,811	8,987	9,167	9,350	9,537	9,728
Risk Manager	MGT	40	7,980	8,140	8,303	8,469	8,638	8,811	8,987	9,167	9,350	9,537	9,728

**CITY OF HESPERIA**  
**HESPERIA WATER DISTRICT**  
**COMBINED COMPENSATION SCHEDULE**  
**INCLUDES CITY OF HESPERIA, HESPERIA WATER DISTRICT AND HESPERIA HOUSING AUTHORITY**  
**APPROVED AND ADOPTED: July 18, 2023, September 19, 2023, April 16, 2023**  
**REVISED: April 16, 2024 Effective: January 1, 2024**

<b>Non-Represented Full-Time Monthly Rates</b>	<b>Benefit Group</b>	<b>Range #</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>
Secretary to the City Manager and City Council	PRO/SUP	35	6,252	6,377	6,505	6,635	6,768	6,903	7,041	7,182	7,326	7,473	7,623
Senior Accountant	MGT	38	7,238	7,383	7,531	7,682	7,836	7,993	8,153	8,316	8,482	8,652	8,825
Senior Code Enforcement Officer	GEN	35	6,252	6,377	6,505	6,635	6,768	6,903	7,041	7,182	7,326	7,473	7,623
Senior Community Development Technician	GEN	32	5,400	5,508	5,618	5,730	5,845	5,962	6,081	6,203	6,327	6,454	6,583
Senior Office Assistant	GEN	28	4,443	4,532	4,623	4,716	4,810	4,906	5,004	5,104	5,206	5,310	5,416
Senior Office Specialist	GEN	28	4,443	4,532	4,623	4,716	4,810	4,906	5,004	5,104	5,206	5,310	5,416
Senior Planner	MGT	41	8,379	8,547	8,718	8,892	9,070	9,251	9,436	9,625	9,818	10,014	10,214
Senior Project Manager	MGT	43	9,238	9,423	9,612	9,804	10,000	10,200	10,404	10,612	10,824	11,041	11,262
Streets Operations Manager	MGT	44	9,700	9,894	10,092	10,294	10,500	10,710	10,924	11,143	11,366	11,593	11,825
Water Operations Manager	MGT	44	9,700	9,894	10,092	10,294	10,500	10,710	10,924	11,143	11,366	11,593	11,825

City Manager Contract\* Annually: \$254,000; Monthly: \$21,200

\*Employment Agreement approved by City Council October 4, 2022 to be effective June 18, 2023

<b>Teamsters, Local 1932, Full-Time Monthly Rates</b>	<b>Benefit Group</b>	<b>Range #</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
Animal Care Technician	TEAMSTERS	10	4,296	4,511	4,737	4,974	5,223
Animal Control Officer	TEAMSTERS	13	4,974	5,223	5,484	5,758	6,046
Animal Services Assistant	TEAMSTERS	8	3,896	4,091	4,296	4,511	4,737
Animal Services Representative	TEAMSTERS	10	4,296	4,511	4,737	4,974	5,223
Building Inspector	TEAMSTERS	18	6,348	6,665	6,998	7,348	7,715
Code Enforcement Officer	TEAMSTERS	17	6,046	6,348	6,665	6,998	7,348
Community Development Technician	TEAMSTERS	12	4,737	4,974	5,223	5,484	5,758
Custodian	TEAMSTERS	8	3,896	4,091	4,296	4,511	4,737
Customer Service Assistant	TEAMSTERS	8	3,896	4,091	4,296	4,511	4,737
Customer Service Representative	TEAMSTERS	10	4,296	4,511	4,737	4,974	5,223
Equipment Operator	TEAMSTERS	12.5	4,854	5,097	5,352	5,620	5,901
Equipment Operator/Water	TEAMSTERS	13	4,974	5,223	5,484	5,758	6,046
Facilities Maintenance Technician	TEAMSTERS	12	4,737	4,974	5,223	5,484	5,758
Maintenance Worker	TEAMSTERS	10	4,296	4,511	4,737	4,974	5,223
Maintenance Worker/Water	TEAMSTERS	10.5	4,403	4,623	4,854	5,097	5,352
Meter Reader	TEAMSTERS	10	4,296	4,511	4,737	4,974	5,223
Pump Operator	TEAMSTERS	12.5	4,854	5,097	5,352	5,620	5,901
Registered Veterinary Technician	TEAMSTERS	14	5,223	5,484	5,758	6,046	6,348
Senior Account Clerk	TEAMSTERS	12	4,737	4,974	5,223	5,484	5,758
Senior Animal Care Technician	TEAMSTERS	12	4,737	4,974	5,223	5,484	5,758
Senior Animal Control Officer	TEAMSTERS	14	5,223	5,484	5,758	6,046	6,348
Senior Animal Services Representative	TEAMSTERS	12	4,974	5,223	5,484	5,758	6,046
Senior Custodian	TEAMSTERS	10	4,296	4,511	4,737	4,974	5,223
Senior Customer Service Representative	TEAMSTERS	12	4,737	4,974	5,223	5,484	5,758
Senior Maintenance Worker	TEAMSTERS	13	4,974	5,223	5,484	5,758	6,046
Senior Maintenance Worker/Water	TEAMSTERS	13.5	5,097	5,352	5,620	5,901	6,196
Senior Pump Maintenance Worker	TEAMSTERS	14.5	5,352	5,620	5,901	6,196	6,506
Senior Pump Operator	TEAMSTERS	14.5	5,352	5,620	5,901	6,196	6,506
Senior Warehouse Technician	TEAMSTERS	12	4,737	4,974	5,223	5,484	5,758
Traffic Signal Technician	TEAMSTERS	14	5,223	5,484	5,758	6,046	6,348
Utility Line Locator	TEAMSTERS	10	4,296	4,511	4,737	4,974	5,223
Volunteer/Outreach Coordinator	TEAMSTERS	12	4,737	4,974	5,223	5,484	5,758
Water Quality Specialist	TEAMSTERS	14.5	5,352	5,620	5,901	6,196	6,506
Water Quality Technician	TEAMSTERS	12.5	4,854	5,097	5,352	5,620	5,901

**CITY OF HESPERIA**  
**HESPERIA WATER DISTRICT**  
**COMBINED COMPENSATION SCHEDULE**  
**INCLUDES CITY OF HESPERIA, HESPERIA WATER DISTRICT AND HESPERIA HOUSING AUTHORITY**  
**APPROVED AND ADOPTED: July 18, 2023, September 19, 2023, April 16, 2023**  
**REVISED: April 16, 2024 Effective: January 1, 2024**

<b>Non-Represented Part-Time Hourly Rates</b>	<b>Benefit Group</b>	<b>Range #</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>
Administrative Intern - Part-Time	PART-TIME		16.00										
Animal Care Technician - Part-Time	PART-TIME	10	24.06	25.26	26.53	27.85	29.24						
Animal Services Representative - Part-Time	PART-TIME	10	24.06	25.26	26.53	27.85	29.24						
Custodian- Part-Time	PART-TIME	8	21.82	22.91	24.06	25.26	26.53						
Customer Service Assistant - Part-Time	PART-TIME	8	21.82	22.91	24.06	25.26	26.53						
Customer Service Representative - Part-Time	PART-TIME	10	24.06	25.26	26.53	27.85	29.24						
Information Systems Technician - Part-Time	PART-TIME	32	31.15	31.78	32.41	33.06	33.72	34.40	35.08	35.79	36.50	37.24	37.98
Maintenance Worker - Part-Time	PART-TIME	10	24.06	25.26	26.53	27.85	29.24						
Office Assistant - Part-Time	PART-TIME	26	23.24	23.71	24.19	24.67	25.17	25.67	26.18	26.71	27.24	27.79	28.34
Receptionist - Part-Time	PART-TIME	6	19.79	20.78	21.82	22.91	24.06						
Senior Warehouse Technician - Part-Time	PART-TIME	12	26.53	27.85	29.24	30.71	32.24						
Director of Public Works - Part-Time Retired Annuitant	RETIRED	52	82.69	84.35	86.03	87.75	89.50	91.29	93.12	94.99	96.88	98.82	100.80
Principal Planner - Part-Time Retired Annuitant	RETIRED	44	55.96	57.08	58.22	59.39	60.58	61.79	63.02	64.29	65.57	66.88	68.22

GEN = General  
PRO/SUP = Professional/Supervisory  
MGT = Management  
TEAMSTERS = Teamsters Local 1932  
RETIRED = Retired Annuitant  
SR. MGT = Senior Management  
AW SR. MGT = At-Will Senior Management

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# City of Hesperia STAFF REPORT



**DATE:** April 16, 2024  
**TO:** Mayor and Council Members  
**FROM:** Rachel Molina, City Manager  
**BY:** Melinda Sayre, Deputy City Manager/City Clerk  
Caleb Enriquez, Acting Code Compliance Manager  
**SUBJECT:** TLC Animal Removal Services Contract Amendment

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## RECOMMENDED ACTION

It is recommended that the City Council approve an amendment to the existing contract with TLC Animal Removal Services in the amount of \$36,000, for a total not-to-exceed revised amount of \$141,000 and to approve a one-year contract extension for animal disposal services.

## BACKGROUND

In June 2021, the City conducted a formal bid for Animal Removal Services. On June 16, 2021, the bid was awarded to TLC Animal Removal Services, deemed as the lowest responsible/responsive bidder. On August 1, 2021 a contract was established with TLC Animal Removal Services to supply fifty-five-gallon barrels for deceased animal storage in addition to leaving fifty-gallon barrels for storage, as well as the weekly pick up with a truck with a hydraulic lift gate.

## ISSUES/ANALYSIS

The current contract with TLC Animal Removal Services expires June 30, 2024. TLC has continuously provided a dependable source for animal disposal with the City for a reasonable cost. Additionally, TLC has agreed to hold the current contract pricing for one more year.

## FISCAL IMPACT

Sufficient funds will be included in the FY 2024-25 Proposed Operating Budget.

## ALTERNATIVE(S)

1. Provide alternative direction to staff.

## ATTACHMENT(S)

None

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# City of Hesperia

## STAFF REPORT



**DATE:** April 16, 2024

**TO:** Mayor and City Council Members

**FROM:** Rachel Molina, City Manager

**BY:** Jeremy Dean, Police Captain  
Jon Rizzardi, Sergeant

**SUBJECT:** 2021 Edward Byrne Justice Assistance Grant (JAG)

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### RECOMMENDED ACTION

It is recommended that the City Council accept the 2021 Edward Byrne Justice Assistance Grant (JAG) award and adopt Resolution No. 2024-13, amending the Fiscal Year 2023-24 Budget by appropriating \$29,697 for grant-related expenditures.

### BACKGROUND

The JAG Program is administered by the federal Bureau of Justice Assistance and is the leading source of federal justice funding to state and local jurisdictions. The City receives JAG funding as a sub-recipient through the San Bernardino County Law and Justice Group.

### ISSUES/ANALYSIS

The JAG 2021 allocation will fund specialized operational overtime for the City's Gang Enforcement Team and Traffic Division deputies. The JAG grant is advance-funded, and the notice of \$29,697 grant award was timed with the allocation, which was received in December 2023. As such, notice of the funding of the JAG 2021 grant was not released until after the FY 2023-24 Budget was approved.

In order to provide for grant close-out by September 2024, the Hesperia Police Department has been informed that grant expenditures must be completed by June 30, 2024 in order to avoid having to return unspent grant funds. Approval of the requested budget amendment will provide Hesperia Police Department with the needed budget authority for special operational overtime needed to combat gang crime and narcotics sales/trafficking, which is consistent with the grant guidelines.

### FISCAL IMPACT

Because the JAG 2021 grant notice of award was received after the completion of the FY 2023-24 Budget, in order to expend the JAG grant funds of \$29,697 by June 30, 2024, a budget amendment is requested via Resolution No. 2024-13.

### ALTERNATIVE(S)

1. Provide alternative direction to staff.

### ATTACHMENT(S)

1. Resolution No. 2024-13

**RESOLUTION NO. 2024-13**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, AMENDING THE FISCAL YEAR 2023-24 CITY OF HESPERIA BUDGET BY APPROPRIATING FUNDS FOR THE HESPERIA POLICE DEPARTMENT 2021 JUSTICE ASSISTANCE GRANT**

**WHEREAS**, the City Council of the City of Hesperia adopted the Fiscal Year (FY) 2023-24 Budget on June 20, 2023; and

**WHEREAS**, the City received Justice Assistance Grant (JAG) 2021 funding in the amount of \$29,697 on December 21, 2023 as a sub-recipient from the San Bernardino County Law and Justice Group; and

**WHEREAS**, the JAG 2021 allocation will fund Hesperia Police Department operational overtime for Gang Enforcement and Traffic Division deputies, and

**WHEREAS**, the notice of funding for the JAG 2021 grant was not released until after the FY 2023-24 Budget was approved; and

**WHEREAS**, JAG 2021 funding not expended by June 30, 2024 is required to be returned; and

**WHEREAS**, the City Council of the City of Hesperia has reviewed the proposed budget amendment for the JAG 2021 grant and has found it acceptable.

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY OF HESPERIA CITY COUNCIL AS FOLLOWS:

Section 1. That the recitals above are true and correct, and adopted as findings.

Section 2. That the City Council accepts the JAG 2021 grant allocation.

Section 3. That the City Council hereby amends the FY 2023-24 Budget and appropriates \$29,697 to Account No. 100-51-510-0000-8000.

Section 4. That City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**ADOPTED AND APPROVED** this 16th day of April, 2024.

---

Larry Bird, Mayor

ATTEST:

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Erin Baum, Assistant City Clerk

# City of Hesperia

## STAFF REPORT



**DATE:** April 16, 2024

**TO:** Mayor and City Council Members

**FROM:** Rachel Molina, City Manager

**BY:** Melinda Sayre, Deputy City Manager  
Tammy Pelayes, Assistant to the City Manager

**SUBJECT:** Amended Agreement for the Joint Exercise of Powers Relative to the San Bernardino Associated Governments, SANBAG JPA Amendment #4

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### RECOMMENDED ACTION

It is recommended that the City Council approve Amendment No. 4 to the Joint Exercise of Powers Agreement Relative to the San Bernardino Associated Governments (SANBAG), now referred to as the San Bernardino Council of Governments (SBCOG), to increase membership dues by \$28,847, for a total of \$47,249.

### BACKGROUND

The purpose of the SBCOG is to address important regional issues that affect its Member Agencies. This collective voice represents elected officials from 24 cities and towns, and the San Bernardino County Board of Supervisors. Recognizing that many issues and concerns are not constrained by municipal boundaries, SBCOG provides a forum to reduce duplication of effort and share information. This collaboration helps strengthen regional advocacy and funding opportunities in the San Bernardino County.

### ISSUES/ANALYSIS

SBCOG is governed by a Joint Powers Authority (JPA) and has relied on funds from the Property Assessed Clean Energy/Home Energy Renovation Opportunity program to supplement dues. These programs are no longer an adequate option for funding and the JPA has agreed to increase member dues. The new formula consists of 50% population and 50% General Fund Tax Revenues. The dues for the City of Hesperia will increase by \$28,847.

The existing JPA Agreement specifies the particular method by which Member Agencies are to be assessed for membership dues. Currently, that method is to utilize a formula of 50% population and 50% assessed valuation. The JPA came to a consensus that the method of assessment is outdated. To change the method and move forward with the preferred assessment, the JPA Agreement must be amended.

This Amendment to the SBCOG funding structure will fund the implementation of the Emergency Communication Nurse System, and research and preparation for creation of a Housing Trust. It will also provide grant writing for the Regional Early Action Program 2.0 (REAP 2.0) being funded through the California Department of Housing and Community Development (HCD) and the Southern California Association of Governments (SCAG).

## **FISCAL IMPACT**

The proposed Amendment No. 4 will increase the membership dues for the City of Hesperia from \$18,402 to \$47,249. If approved, appropriations in the General Fund will be requested during the budget process in Fiscal Year 2024-25.

## **ALTERNATIVE(S)**

Provide alternative direction to staff.

## **ATTACHMENT(S)**

1. Final FY 2023-24 General Assessment Dues
2. Final JPA Amendment No. 4 Language
3. Printout Minute Action 01/03/24

## SBCOG General Assessment Dues & Potential Increase

Jurisdiction	Population 2022	Assessed Value	Base Sales Tax +	Original Assessment (2)	2016 Assessment (3)	2022 Assessment (4)	Total Current Assessments (2)+(3)+(4)	New	Total Current Assessments + New Assessment (5)	
		Fiscal Year	Property Tax					Assessment		50% Population/ 50% Revenue
		2022/2023	Revenues (1)					Assessment (2)		
Adelanto	36,357	\$3,011,709,510	8,290,201	\$1,856	\$5,337	\$8,000	\$15,193	\$10,379	\$25,572	
Apple Valley	75,628	\$7,557,490,866	25,206,081	\$4,166	\$5,337	\$8,000	\$17,503	\$23,345	\$40,848	
Barstow	25,202	\$1,724,738,920	19,590,846	\$1,200	\$5,337	\$8,000	\$14,537	\$10,247	\$24,784	
Big Bear Lake	5,041	\$4,416,276,035	18,299,262	\$1,204	\$5,337	\$8,000	\$14,541	\$5,221	\$19,762	
Chino	91,998	\$17,295,592,739	75,528,060	\$6,985	\$5,337	\$8,000	\$20,322	\$38,292	\$58,614	
Chino Hills	77,964	\$14,639,278,992	32,696,782	\$5,915	\$5,337	\$8,000	\$19,252	\$25,546	\$44,798	
Colton	53,617	\$5,016,940,896	31,398,593	\$2,873	\$5,337	\$8,000	\$16,210	\$19,534	\$35,744	
Fontana	212,809	\$27,019,267,552	108,183,439	\$13,084	\$5,337	\$8,000	\$26,421	\$73,906	\$100,327	
Grand Terrace	13,042	\$1,347,509,349	5,765,052	\$729	\$5,337	\$8,000	\$14,066	\$4,339	\$18,405	
Hesperia	100,324	\$8,075,905,550	23,814,083	\$5,065	\$5,337	\$8,000	\$18,402	\$28,847	\$47,249	
Highland	56,546	\$4,500,367,999	21,881,584	\$2,843	\$5,337	\$8,000	\$16,180	\$18,124	\$34,304	
Loma Linda	25,349	\$2,827,789,573	12,255,309	\$1,466	\$5,337	\$8,000	\$14,803	\$8,664	\$23,467	
Montclair	37,846	\$4,280,071,001	31,424,075	\$2,203	\$5,337	\$8,000	\$15,540	\$15,830	\$31,370	
Needles	4,876	\$495,248,695	8,921,710	\$270	\$5,337	\$8,000	\$13,607	\$3,114	\$16,721	
Ontario	179,516	\$36,223,657,090	243,176,826	\$14,216	\$5,337	\$8,000	\$27,553	\$95,842	\$123,395	
Rancho Cucamonga	174,476	\$32,965,855,079	87,561,737	\$13,287	\$5,337	\$8,000	\$26,624	\$60,344	\$86,968	
Redlands	72,585	\$12,032,086,055	66,216,730	\$5,129	\$5,337	\$8,000	\$18,466	\$31,673	\$50,139	
Rialto	103,954	\$13,115,586,958	111,985,260	\$6,372	\$5,337	\$8,000	\$19,709	\$49,142	\$68,851	
San Bernardino	220,840	\$19,097,789,522	129,701,848	\$11,462	\$5,337	\$8,000	\$24,799	\$80,540	\$105,339	
Twentynine Palms	27,685	\$1,137,526,790	10,674,796	\$1,139	\$5,337	\$8,000	\$14,476	\$8,865	\$23,341	
Upland	79,139	\$11,532,952,948	41,173,743	\$5,217	\$5,337	\$8,000	\$18,554	\$27,692	\$46,246	
Victorville	136,561	\$11,444,656,207	65,149,801	\$7,001	\$5,337	\$8,000	\$20,338	\$46,484	\$66,822	
Yucaipa	54,494	\$5,524,015,696	19,954,046	\$3,020	\$5,337	\$8,000	\$16,357	\$17,217	\$33,574	
Yucca Valley	21,813	\$2,270,934,302	11,976,891	\$1,223	\$5,337	\$8,000	\$14,560	\$7,771	\$22,331	
County	300,003	\$42,962,663,648	1,122,622,000	\$19,598	\$5,330	\$8,000	\$32,928	\$318,100	\$351,028	
	2,187,665	\$290,515,911,972	2,333,448,755	\$137,523	\$133,418	\$200,000	\$470,941	\$1,029,059	\$1,500,000	

### NOTES:

- (1) Base sales tax (7.75%) and property tax amounts obtained from financial statements for FY 2022, except for Town of Apple Valley FY 2021 and City of Adelanto FY 2020. Additional local tax is deducted.
- (2) Original assessment based on 50% population and 50% assessed value. Amounts are adjusted every fiscal year.
- (3) In FY2015/2016, the Board of Directors approved an additional \$133,418 every fiscal year for Council of Government (COG) activities.
- (4) In FY2021/2022, the Board of Directors approved additional monetary obligations for COG activities: \$66,675 for FY22-23, \$133,350 for FY23-24, \$200,000 for FY24-25 and escalation every fiscal year.
- (5) \$1.5M total sum of current assessments plus the net amount of \$1,029,059 distributed based on 50% Population/50% Revenue.

**Amended Agreement for the Joint Exercise of Powers Relative to the San Bernardino Associated Governments, SANBAG JPA Amendment #4** 01/03/2024

This Amendment No. 4 to the Agreement for the Joint Exercise of Powers (“Agreement”) Relative to the San Bernardino Associated Governments is entered into by and between San Bernardino County, a political subdivision of the State of California; the City of Adelanto, a charter city; the Town of Apple Valley, a municipal corporation; the City of Barstow, a municipal corporation; the City of Big Bear Lake, a charter city; the City of Chino, a municipal corporation; the City of Chino Hills, a municipal corporation; the City of Colton, a municipal corporation; the City of Fontana, a municipal corporation; the City of Grand Terrace, a municipal corporation; the City of Hesperia, a municipal corporation; the City of Highland, a municipal corporation; the City of Loma Linda, a charter city; the City of Montclair, a municipal corporation; the City of Needles, a charter city; the City of Ontario, a municipal corporation; the City of Rancho Cucamonga, a municipal corporation; the City of Redlands, a municipal corporation; the City of Rialto, a municipal corporation; the City of San Bernardino, a charter city; the City of Twentynine Palms, a municipal corporation; the City of Upland, a municipal corporation; the City of Victorville, a charter city; the City of Yucaipa, municipal corporation; and the Town of Yucca Valley, a municipal corporation.

## RECITALS

1. WHEREAS, each party to the Agreement is a public agency and is authorized to enter into this Amendment No. 4;
2. WHEREAS, each party to the Agreement entered into and executed a Joint Powers Agreement creating an organization (San Bernardino Associated Governments) to explore and study countywide, subregional and regional problems and to effect improved intergovernmental cooperation; and
3. WHEREAS, the parties have previously amended the Agreement three times, the last time being in 1975; and
4. WHEREAS, the parties desire to amend the Agreement to rename the entity formed by the Agreement to be San Bernardino Council of Governments; and
5. WHEREAS, the Agreement’s funding mechanism is outdated, and as such, the parties desire to amend the Agreement to provide greater funding to the joint powers entity in a more equitable manner.

NOW, THEREFORE, the parties hereto agree as follows:

1. The joint powers entity formed by the Agreement shall be known as the San Bernardino Council of Governments (“SBCOG”). All instances of “San Bernardino Associated Governments” in the Agreement are replaced with “San Bernardino Council of Governments.” All instances of “SANBAG” are replaced with “SBCOG.” All instances of “the Association” or “the association” in reference to the joint powers entity are replaced with “the COG.”
2. The article titled “ASSESSMENTS” is removed and replaced in its entirety with the following:

## ASSESSMENTS

10. In reviewing the budget, the Board of Directors shall determine what assessments are necessary. Such assessments shall be calculated in accordance with SBCOG policy adopted by the Board of Directors. The policy will identify a particular method or formula specifying how member agency dues shall be assessed, and will also allow for optional, subscription

assessments that member agencies may opt in to on a voluntary basis, based on a Board-adopted budget or budget amendment and a subscription work program.

Each party shall be informed of its estimated assessment by April 1. After the final budget becomes effective, the Board of Directors shall determine the precise amount of the assessment, if any may be necessary, and the parties shall be so informed. Assessments shall be payable on or before August 1 for the fiscal year starting July 1.

In addition to the assessments referenced in the preceding paragraphs, advances from the public funds of the parties hereto may be made for the purposes set forth in this Agreement. When such advances are made, they shall be repaid from the first available funds.

The Board of Directors shall have the power to authorize utilization of personnel, equipment, or property of one or more of the parties to this Agreement in complete or partial satisfaction of such party's obligations to pay assessments or make advances.

All assessments or other monetary obligations hereunder shall be paid to the COG and shall be authorized for expenditure by a majority vote of the Board of Directors in connection with the adoption of the annual budget.”

3. This Amendment No. 4 shall become binding upon each party hereto upon that party's execution.

Signed and attested by the following:

Jurisdiction	Date
City of Adelanto	
City of Apple Valley	
City of Barstow	
City of Big Bear Lake	
City of Chino	
City of Chino Hills	
City of Colton	
City of Fontana	
City of Grand Terrace	
City of Hesperia	

City of Highland	
City of Loma Linda	
City of Montclair	
City of Needles	
City of Ontario	
City of Rancho Cucamonga	
City of Redlands	
City of Rialto	
City of San Bernardino	
City of Twentynine Palms	
City of Upland	
City of Victorville	
City of Yucaipa	
Town of Yucca Valley	
County of San Bernardino	

Board Adopted: January 3, 2024

## ***Minute Action***

AGENDA ITEM: 26

***Date:*** January 3, 2024

***Subject:***

San Bernardino Council of Governments Services and Member Dues and Amendment No. 4 to Joint Powers Authority Agreement

***Recommendation:***

That the Board, acting as the San Bernardino Associated Governments:

A. Accept Council of Governments (COG) Ad Hoc Committee recommendation to increase work capacity, including adding staff, and increasing the budget of the San Bernardino COG (SBCOG) by increasing the cost to each agency by the 50% Population/50% General Fund Tax Revenues per Table 2 (attached).

B. Approve Amendment No. 4 to the Agreement for the Joint Exercise of Powers relative to the San Bernardino Associated Governments, SANBAG JPA to amend language concerning the method by which member agency dues are assessed, as proposed in Exhibit 1 (attached).

***Background:***

On July 5, 2023, San Bernardino Council of Governments (SBCOG) staff brought forth a Council of Governments (COG) work plan update to the SBCOG Board of Directors (Board). This work plan is marked as Exhibit 2 and is attached to this report. This item was previously heard at the June 14, 2023 General Policy Committee (GPC) meeting. Following the discussion at GPC, staff was directed to add a recommendation to the July 5, 2023 Board meeting agenda to establish an Ad Hoc Committee (Ad Hoc) to discuss expanding the capacity of the COG and increasing the dues paid by the member agencies. Since August 2023, the COG Ad Hoc has met monthly and has provided staff with direction over the last three months that has resulted in this item, which could lead to a subsequent recommendation.

Since 2018, the COG has relied on the funds from the Property Assessed Clean Energy / Home Energy Renovation Opportunity program to supplement COG dues and has implemented several programs through the 2018 work plan (Exhibit 3). These have included the creation and implementation of the Emergency Communication Nurse System, research and preparation for creation of a Housing Trust, and grant research and writing. Based on discussion at the July 5, 2023 Board meeting and pursuant to the Board's authorization, the Ad Hoc Committee has discussed the COG, its budget, and potential additional services that could be offered.

The August COG Ad Hoc meeting included a presentation of research completed which analyzed the programs and budgets of the San Gabriel Valley Council of Governments (SGVCOG), Western Riverside Council of Governments (WRCOG), and the Coachella Valley Association of Governments (CVAG). Staff completed a comparison of programs and fund sources of these sister agencies and how SBCOG compares, which showed that the funds received by those sister agencies allowed them to have large programs with a broad reach. Minimal funds and staff for SBCOG limits the agency's ability to provide a broader set of services and programs for its member agencies. In addition, the other COGs tend to have both a set of general services (or baseline services), offered to all participating jurisdictions, as well as

subscription services provided to a smaller set of jurisdictions who opt-in to benefit from each service.

The September Ad Hoc discussion included a presentation of options for increased COG services and COG budget at two different levels. The Ad Hoc identified the baseline increase as the starting point for consideration. This includes increasing COG staff to three, as well as consultant support, all of which will carry out the functions of project management, liaison, regional advocacy, and grant writer/coordinator. This would increase the annual COG Budget to \$1.5 million and three staff for a baseline of services from the current \$658,000 and 1.3 staff. The Ad Hoc is recommending that the increase to \$1.5 million of revenue for baseline services, plus an increase based on the lesser of the Consumer Price Index or 2% annual adjustment to cover the regular increases in cost, be incorporated into the SBCOG budget planning process for Fiscal Year (FY) 2024/2025 and every year thereafter. This would not include revenue from grant-funded projects or subscription services. For example, calendar years 2024 and 2025 will be seeing a large increase in grant dollars from the Regional Early Action Program 2.0 (REAP 2.0) being funded through the California Department of Housing and Community Development (HCD) and the Southern California Association of Governments (SCAG).

The October Ad Hoc discussion concerned the allocation of costs to the SBCOG member jurisdictions. Staff provided three alternative scenarios to the Ad Hoc regarding the distribution of COG baseline costs across jurisdictions:

- 100% Population
- 100% Fund Sales and Property Tax Revenues Received
- 50% Population/50% Fund Sales and Property Tax Revenues Received

Table 1 attached, shows the shares of the \$1.5 million in annual COG dues that would be assessed based on the three methods listed above. The table also includes the current jurisdiction-level dues assessments and the increase that would occur under the three scenarios. The Ad Hoc recommended the 50% Population / 50% Fund Sales and Property Tax Revenues as the proposed cost allocation method, which is shown in Table 2 attached to this item. Recommendation A reflects the Ad Hoc's recommendation to approval of the COG Ad Hoc's recommendation and increase staff incrementally over two years. This will give SBCOG an opportunity to hire staff, establish an SBCOG work plan, and contract with consulting firms.

Recommendation B is to approve amending the Joint Powers Authority (JPA) Agreement in order to implement Recommendation A. The existing JPA Agreement specifies the particular method by which member agencies are to be assessed for membership dues. Currently, that method is to utilize a formula of 50% population/ 50% assessed valuation. As previously discussed, that method of assessment is outdated and would be burdensome to many agencies across the region. Staff completed a comparison for the Ad Hoc's review showing the cost to the member agencies if member dues assessments were to be made with the existing formula. Table 3 attached shows this analysis. In order to change the method and move forward with the Ad Hoc's preferred method of assessing member agency dues, the JPA Agreement must be amended.

Staff has received direction from the COG Board Ad Hoc on how to proceed with the amendment language and what ought to be included in the provisions regarding assessing member agency dues. Discussions with the Ad Hoc included concerns that sales and property taxes are set by policy in the legislature. If the legislature decides to change how it allocates tax revenues to local agencies in the future, or a large shift in population occurs, the Board would have the authority to adjust as needed without needing to amend the JPA Agreement again. In an effort to provide the Board of Directors flexibility in the future, should the method for assessing member agency dues need to change again, proposed Amendment No. 4 removes the specific formula and instead requires Board-approved policy to be followed in assessing member agency dues. The proposed amendment language is attached to this item as Exhibit 1.

The policy referred to above, which will set the formula method, will be constructed following the approval of the amendment by the member agencies. It will include language that sets assessments reflecting the direction of the COG Board Ad Hoc. Language which will likely be considered may include the following:

*Assessments shall be computed on an annual basis as follows to create a minimum \$1,500,000 annual budget:*

*a. a base assessment whereby the prior year's base assessment is adjusted based on the annual percentage change in population of each signatory member plus the annual percentage change in assessed valuation of each signatory member added together and divided by two (2) to arrive at the annual increase; and*

*b. the additional assessment adopted in Fiscal Year 2015/2016 of \$133,418 (or approximately \$5,337 per each signatory member due to rounding); and*

*c. the additional assessment adopted in Fiscal Year 2021/2022 of \$200,000 (or \$8,000 per each signatory member) for Fiscal Year 2024/2025, escalated every Fiscal Year thereafter of the lower of Consumer Price Index (CPI) or 2%; and*

*d. a further assessment to fund any gap between the Board-approved annual budget and the total of the assessments set forth in a., b., and c., above. In determining the amount of said gap, no grant moneys shall be considered. This "gap" assessment shall be based one-half on the population of each signatory member and one-half on the combined General Fund property tax and General Fund base sales tax revenue rate of each signatory member, where "base sales tax" means the statewide sales tax and is exclusive of any additional local sales taxes, escalated every Fiscal Year thereafter of the lower of Consumer Price Index (CPI) or 2%; and*

*e. further assessments to fund optional or subscription programs and projects beyond those identified in the annual budget will be assessed on a cost-allocation basis to fund the cost of the program or project.*

Should the Board of Directors approve these recommendations, all member agencies of the JPA will need to approve and execute the Amendment for the dues increase. Staff is working toward a deadline of April 30, 2024, to complete this process so as to allow both SBCOG and the member agencies an opportunity to budget appropriately for the upcoming fiscal year.

Following execution of the Amendment by all member agencies, staff will work through an Ad Hoc of the Board and of the City/County Managers' Technical Advisory Committee to identify program and project priorities and amend the approved work plan.

***Financial Impact:***

This item has no financial impact on the Fiscal Year 2023/2024 Budget. The financial impact will be included in the Fiscal Year 2024/2025 Budget.

***Reviewed By:***

The COG Ad Hoc Committee directed staff to bring this item directly to the Board for consideration so this item has not received prior policy or technical advisory committee review. SBCOG General Counsel has reviewed this item.

***Responsible Staff:***

Monique Reza-Arellano, Chief of COG and Equity Programs

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Approved  
Board of Directors  
Date: January 3, 2024  
Witnessed By:

# City of Hesperia STAFF REPORT



**DATE:** April 16, 2024

**TO:** Mayor and Council Members

**FROM:** Rachel Molina, City Manager

**BY:** Nathan R. Freeman, Director of Development Services  
Ryan Leonard, Principal Planner

**SUBJECT:** CUP22-00017 & SPLA24-00002; Applicant: Kiss Logistics Center; APNs: 3064-401-03, -04 & -05

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## RECOMMENDED ACTION

The Planning Commission recommends that the City Council adopt Resolution No. 2024-11, recommending that the City Council make the environmental determination pursuant to the California Environmental Quality Act (CEQA) by certifying the Final Environmental Impact Report (FEIR) and adopting a statement of overriding considerations and introduce and place on first reading Ordinance No. 2024-05 approving SPLA24-00002 and adopting Resolution No. 2024-12 approving CUP22-00017.

## BACKGROUND

Proposal: Conditional Use Permit CUP22-00017 has been filed to construct a 655,468 square foot industrial warehouse on approximately 31.1 gross acres in conjunction with Specific Plan Amendment SPLA24-00002 and to change approximately nine gross acres from Neighborhood Commercial (NC) to Commercial Industrial Business Park (CIBP) within the Main Street and Freeway Corridor Specific Plan (Specific Plan).

Location: West of US Highway 395, approximately 600 feet north of Phelan Road (Attachment 1).

Current General, Plan, Zoning and Land Uses: Approximately 22.1 acres of the site are located within the CIBP zone of the Specific Plan and approximately nine acres are located within the NC zone of the Specific Plan. The surrounding land is designated and zoned as noted on Attachment 2. The site is currently vacant. Land uses to the north, south, and west consist of vacant land. US Highway 395 is located immediately to the east of the site followed by vacant land (Attachment 3). In 2022, entitlement applications were approved for three warehouse buildings totaling approximately 3,745,429 square feet immediately to the west of the site (CUP19-00010).

Planning Commission: The Planning Commission, at its March 28, 2024 meeting, reviewed the proposed project and voted 4-0 (Commissioner Sevy was absent) to forward this item to the City Council with a recommendation for approval. During the meeting, three people spoke in favor of the project. In addition, prior to the meeting four comment letters were received after the agenda was posted. Two of the comment letters were from neighboring property owners who were in support of the project and two of the comment letters were in opposition to the project. The opposition letters were received from the Golden State Environmental Justice Alliance and the Center for Biological Diversity. Both groups previously provided comment letters on the Draft EIR, and the two opposition letters received prior to the meeting generally raised similar concerns as

those that were received during the public review of the Draft EIR. During the meeting Commissioner Steeno and Commissioner Burke asked clarifying questions regarding the offsite water and sewer improvements. The Planning Commission was unanimous in their support of the proposed project.

## ISSUES/ANALYSIS

The project consists of the construction of a 655,468 square foot industrial warehouse building on approximately 31.1 gross acres of land. Gross site acreage is defined in the Development Code as the net property site acreage in addition to the area from the property line to the centerline of all public rights-of-way across the site frontage. The proposed building will contain 639,468 square feet of industrial warehouse space, 11,000 square feet of ground floor office space, and a 5,000 square foot mezzanine for additional office use. Depending on the number of future tenants, office areas could be distributed among four individual office spaces in each of the corners of the building. Regardless of how the office spaces are distributed within the building, a maximum of 16,000 square feet of office area would be allowed since it generates a higher parking demand than traditional warehouse areas. The maximum office space limitation is included as a condition of approval. The project also features an outdoor patio seating area for employees at the southeast corner of the building.

Parking: The project complies with all site development regulations, including the minimum building requirements, landscaping, and number of parking spaces. The parking regulations require a minimum of 325 parking stalls based upon the requirements listed in Table 1. As proposed, the project satisfies the minimum parking requirements.

**TABLE 1-PARKING REQUIREMENTS**

	<b>Proposed Building Square Footage</b>	<b>Parking Formula</b>	<b>Spaces Required</b>	<b>Spaces Provided</b>
<i>Warehouse</i>	639,468 SF	20 spaces + 0.40/1,000 sq. ft. of building over 10,000 sq. ft	272	-
<i>Office</i>	16,000 SF	3.33 spaces per 1,000 sq. ft. gross floor area	53	-
<b>TOTAL</b>	<b>655,468 SF</b>		<b>325</b>	<b>377</b>

The conventional parking spaces are proposed primarily along the northern and southern sides of the building, with additional parking provided at each corner of the building. In addition, the project includes 30 dock doors located along the east side of the building, and 30 dock doors located along the west side of the building for a total of 60 dock doors. The project will also provide 74 trailer stalls located opposite of the loading dock doors on the east and west perimeter of the site. Gated entries are proposed at all four corners of the building that will allow access to the truck courts.

Screening: As previously mentioned, the project includes 30 dock doors located along the east side of the building, and 30 dock doors located along the west side of the building. The dock doors are proposed to be setback approximately 200 feet from Caliente Road to the west and 200 feet away from US Highway 395 to the east. To help screen the view of the dock doors from the right-of-way, the project includes an 8' high concrete screen wall across the east and west sides of the property. In addition, as a condition of approval, the screen wall will be required to be decorative and incorporate the use of pilasters and other decorative elements. With incorporation of the

condition of approval, all the truck loading docks, and truck loading activities will not be visible from Caliente Road or US Highway 395.

Access/Roadway Improvements: Primary access to the site will be provided from a new public roadway (Caliente Road) that will be constructed by the project. Caliente Road is planned as a 70-foot wide Industrial Collector that will provide public two-way access with a turn pocket and will form the connection between Yucca Terrace Drive to the north and Phelan Road to the south. The intersection of Caliente Road and Phelan Road will be fully signalized. Secondary access will be provided at the intersection of Yucca Terrace Drive and US Highway 395. This intersection will be fully signalized and will allow full turning movements and controlled access to and from US Highway 395. Two 40-foot-wide driveway approaches will be provided off Caliente Road to provide full access for trucks, passenger vehicles, and emergency vehicles. Internal circulation will be provided by 40-foot-wide drive aisles located around the perimeter of the site.

The project will be responsible for the construction of curb, gutter, and sidewalk along the project frontage of Caliente Road and US Highway 395. In addition, the project will be responsible for paving Yucca Terrace Drive, which is currently an unimproved roadway, from US Highway 395 to the intersection of Caliente Road. The project will also be responsible for the construction of Caliente Road that will connect Phelan Road to the south with Yucca Terrace Drive to the north. Finally, the project will be responsible for constructing the required traffic signals at the Phelan Road and Caliente Road intersection, and the Yucca Terrace Drive and US Highway 395 intersection.

Architecture: The architecture of the proposed building complies with the architectural requirements of the Specific Plan (Attachments 4 & 5). The large concrete tilt-up building exhibits a clean, corporate look, exhibiting several exterior building colors, and multiple expansion joints. The building has been designed to incorporate prominent glass features at each of the corners of the structure. In addition, the sides of the building, which are adjacent to the right-of-way, feature prominent tower elements, concrete accent walls, and decorative windows. The building height will be approximately 49 feet.

The project also satisfies the minimum landscaping requirements. The minimum required landscape coverage is 10% of the developed site; the project provides 209,075 square feet (16.8%) of total landscape coverage, which will be located around the perimeter of the site and will be visible from the right-of-way.

Water and Sewer: The project will include the construction of new onsite and offsite water lines. Water lines will be constructed within the Caliente Road right-of-way to the west of the project site and extend approximately 1,300 feet south to Phelan Road. The proposed water main will then run adjacent to the existing water main within Phelan Road/Main Street for approximately 3,980 feet to Mesa Linda Street. The water main will then continue approximately 2,700 feet south and connect to the existing at Sultana Street. The new water line will provide the necessary volume to achieve the required fire flow.

The project will also include the construction of new onsite and offsite sewer lines. The proposed sewer line will begin from the northern portion of Caliente Road and extend approximately 2,600 feet south to Phelan Road. The proposed sewer system will include a combination of proposed sewer force main and proposed sewer gravity main with a sewer lift station located at the intersection of Caliente Road and Yucca Terrace Drive. The sewer will then extend approximately

one mile east on Phelan Road/Main Street and connect to the existing facilities within Cataba Road.

Drainage: The project will install new onsite storm drain lines throughout the site. No off-site storm drain improvements are proposed for this project. Stormwater would be collected using a system of catch basins and roof drains that route flows to underground pipes. All storm water run-off will be conveyed to a proposed detention basin at the north end of the project site. The detention basin will contain dry wells that would treat the stormwater collected from the project site.

Specific Plan Amendment: A Specific Plan Amendment has been filed to change approximately nine acres of the project site from Neighborhood Commercial (NC) to Commercial Industrial Business Park (CIBP). Although the City originally planned for the subject parcel to be developed with commercial uses, very little interest has ever been expressed from commercial developers. Furthermore, within the past few years, the retail industry has undergone a major shift as traditional brick and mortar retail uses face stiffening competition from online-only stores.

The proposed CIBP zoning designation is appropriate as the surrounding parcels that are located to the north, east, and west are all zoned CIBP. In addition, the two parcels located immediately to the south of the subject parcel would remain as Neighborhood Commercial (NC). The remaining parcels could accommodate commercial uses in the future if it were proposed. For these reasons, staff is in support of the proposed Specific Plan Amendment.

## **ENVIRONMENTAL ANALYSIS**

Given the size and regional importance of this project, CEQA requires that the environmental impact of the project be analyzed. An initial study was prepared, which determined that the project may have a significant impact on the environment. As a result, an Environmental Impact Report (EIR) was required. A Notice of Preparation (NOP) was distributed for public review for a period of 30 days from November 4, 2022, through December 5, 2022, and the Draft EIR was distributed for a 45-day public period from October 3, 2023 through November 16, 2023 and was subsequently extended until December 1, 2023. The environmental document was circulated to local, state, and federal agencies, and organizations as well as surrounding property owners. Five comment letters were received during the Initial Study/NOP comment period and six comment letters were received during the Draft EIR comment period. The letters, as well as the responses to them, are included in the Final EIR. The Draft and Final EIR are available for review on the City's website at <https://www.cityofhesperia.us/1466/CEQA--Environmental-Documents> and have been provided to the City Council under separate cover.

The Draft EIR identified potentially significant impacts of the project and discussed numerous mitigation measures proposed to address potential impacts of the project. Mitigation measures presented in the Draft EIR have been included in the Mitigation Monitoring Reporting Program, which is attached as Attachment 6 and incorporated by reference in the conditions of approval (Attachment 8). The mitigation measures for the project will reduce potentially significant impacts to Biological Resources, Cultural Resources, Geology and Soils, and Tribal Cultural Resources. However, the EIR concluded that despite mitigation measures, the project could result in significant and unavoidable impacts to Greenhouse Gas Emissions and Transportation. Consequently, pursuant to CEQA guidelines, a statement of overriding considerations must be made to approve the project. The following is a summary of the significant and unavoidable impacts because of the project:

**Greenhouse Gas Emissions:** Long-term operations of the project would result in greenhouse gas emissions through mobile sources and on-site equipment, area sources (landscape maintenance equipment); energy use (natural gas and generation of electricity consumed by the Project); generation of electricity associated with wastewater treatment and with water supply, treatment, and distribution; and solid waste disposal. Annual greenhouse gas emissions from these sources were estimated in the EIR.

With applicable regulatory requirements and project design features, the project would result in approximately 11,630.5 MT CO<sub>2</sub>e per year, which would exceed the GHG threshold of 3,000 MT CO<sub>2</sub>e per year. Therefore, the project would generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment, and this would represent a cumulatively potential significant impact. Mitigation measures would be required that would reduce project-generated construction and operational GHG emissions. The EIR determined that the effectiveness of the required mitigation measures cannot be accurately quantified. Therefore, project-generated greenhouse gas emissions would still exceed the applied threshold of 3,000 MT CO<sub>2</sub>e per year. The EIR concludes that there are significant unavoidable impacts upon greenhouse gas emissions and a finding of overriding considerations is included in the resolution certifying the EIR for this project.

**Traffic/Circulation:** Beginning on July 1, 2020, vehicle miles traveled (VMT) is used to determine the significance of transportation impacts. The San Bernardino Transportation Analysis Model (SBTAM) is an accepted program to estimate VMT as it considers interaction between different land uses based on socio-economic data such as population, households, and employment. A project's VMT impacts are considered significant if the project baseline and cumulative VMT per service population is above the County's regional average. The County's regional average is 32.7 VMT per service population. However, the project's cumulative VMT per service population is estimated to be 37.1 VMT. Therefore, the project would have a significant and unavoidable impact on the environment. The project would implement mitigation measures to provide a ridesharing program and provide end of trip bicycle facilities to encourage employee carpooling, use of public transit, and biking as alternative modes of transportation to work. Implementation of the mitigation measures would reduce the total VMT per service population; however, they would not reduce the project's VMT below the 32.7 countywide significance threshold.

**Overriding Considerations:** Pursuant to CEQA, the City must balance the benefits of the project against any significant and unavoidable environmental impacts that cannot be mitigated to less than significant. If the benefits of the project outweigh these environmental impacts, those impacts are considered "acceptable." Since the impact upon Greenhouse Gas Emissions and Transportation are considered significant and unavoidable, findings for a Statement of Overriding Considerations must be made. The project's benefits include strengthening the local economy by providing new employment opportunities for residents and generating tax revenues to maintain adequate infrastructure facilities. Further, the project will help satisfy the City's deficiency of high-quality local jobs, as most residents must currently travel outside of the City to obtain higher paying jobs. The project would use the locational characteristics (specifically, the project's proximity to the I-15 freeway and US Highway 395) to provide needed flexible industrial space to businesses wishing to invest in the City, as well as to provide approximately 549 permanent jobs both directly and indirectly in the region. The project's social and economic benefits render these significant and unavoidable impacts acceptable.

**Conclusion:** In summary, because the project is consistent with the City's General Plan, most of the project's impacts, whether less than significant, mitigable, or significant and unavoidable, were

known and acknowledged by the City when the General Plan EIR was adopted in 2010. Prior to acting on the project, the City Council must make the environmental determination, certifying that the Final EIR is complete; that it has been prepared in compliance with CEQA; that it reflects the City's independent judgment; and that all impacts from carrying out the project have been identified and disclosed to the public. Resolution No. 2024-11 has been prepared to document this determination. Once that has occurred, the Council can consider Specific Plan Amendment SPLA24-00002 and Conditional Use Permit CUP22-00017. If approved, the mitigation monitoring and reporting program will be administered with the project approval.

## **FISCAL IMPACT**

None. The development will be subject to payment of development impact fees and will be required to annex into the City's Industrial CFD to pay for the ongoing maintenance of public infrastructure and services.

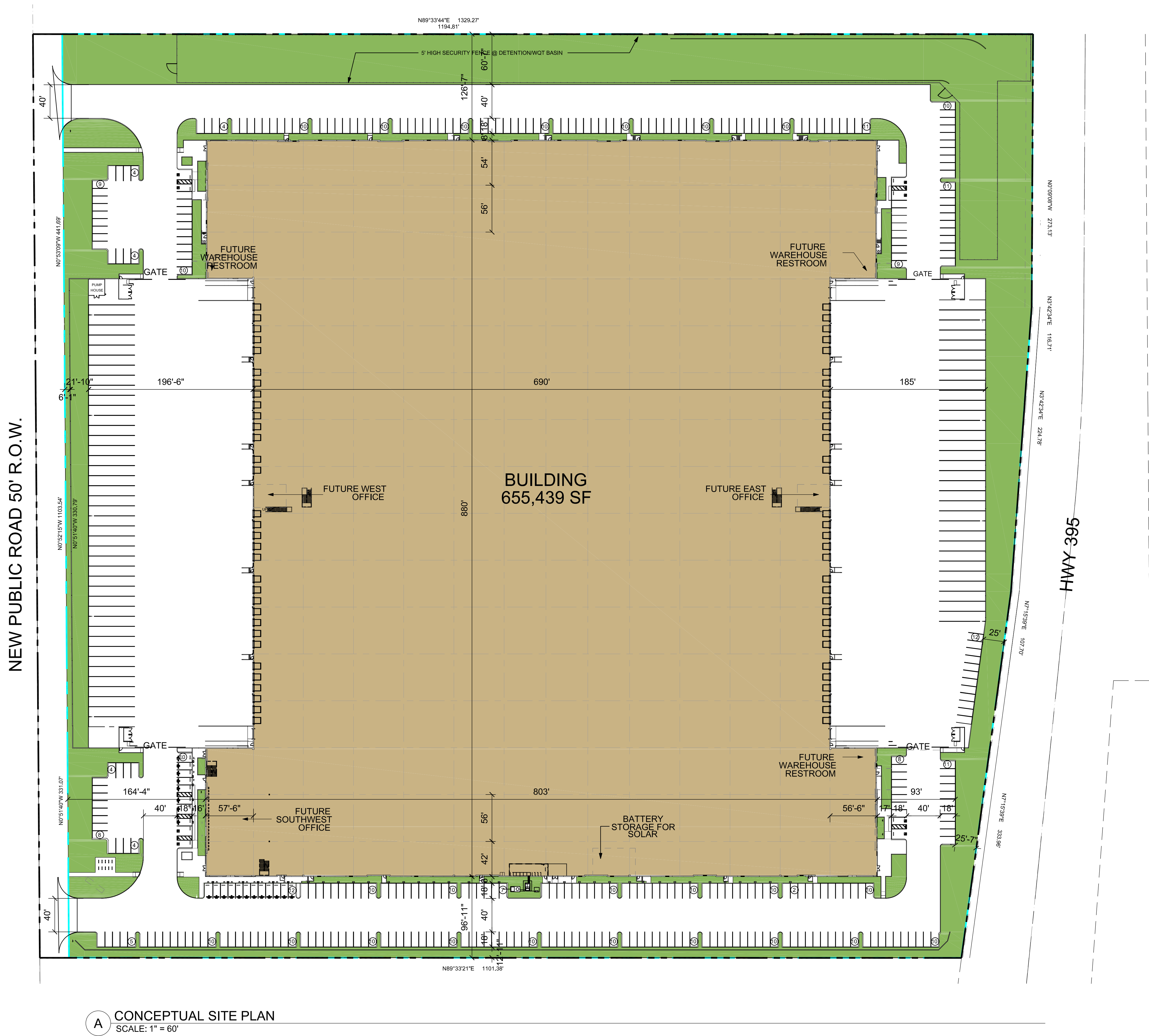
## **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

## **ATTACHMENT(S)**

1. Overall Site plan
2. General Plan / Zoning Map
3. Aerial
4. Color Elevation
5. View Rendering
6. Resolution No. 2024-11 (Adoption of the EIR including Exhibit A- Findings of Fact and Statement of Overriding Considerations and Exhibit B- MMRP)
7. Ordinance No. 2024-05. (SPLA24-00002)
8. Resolution No. 2024-12, with list of conditions (CUP22-00017)
9. Draft EIR (provided under separate cover)
10. Final EIR (provided under separate cover)

Attachment 1-Site Plan



A CONCEPTUAL SITE PLAN  
SCALE: 1" = 60'

PROJECT INFORMATION SCHEME 10			12.21.2023
GROSS SITE AREA	29.49 AC	1,284,765 SF	
NET SITE AREA	28.61 AC	1,246,211 SF	
NET FAR		52.6%	
MAX FAR		100.0%	
ZONE:		BUSINESS PARK	
SETBACKS(BLDG):			
STREET FRONT BLDG. SETBACK		25'	
SIDE BLDG. SETBACK		0'	
REAR SETBACK		0'	
TOTAL BUILDING AREA		655,439 SF	
FOOTPRINT		650,439 SF	
WAREHOUSE		639,439	
OFFICE		11,000	
MEZZANINE			
OFFICE		5,000	
TOTAL PARKING REQUIRED (9' x 18')		310	
WAREHOUSE @ 20' x 0.40/1,000		256	
OFFICE @ 3.33/1,000		54	
TRAILER REQUIREMENT			
1/DOCK HI DOOR		60	
PARKING PROVIDED (9' x 18')		377	
STANDARD		349	
VAN ADA		4	
ADA		12	
EVCS ADA		1	
EVCS VAN		1	
EV		21	
CLEAN AIR		10	
TRAILER SPACES PROVIDED		74	
LANDSCAPE	REQUIRED	10.0% 128,476 SF	
	PROVIDED	15.3% 190,772 SF	

CH REALTY PARTNERS LLC - HWY 395  
HESPERIA, CA

P R O J E C T  
SCHEME 10  
SITE PLAN



HERDMAN  
ARCHITECTURE + DESIGN

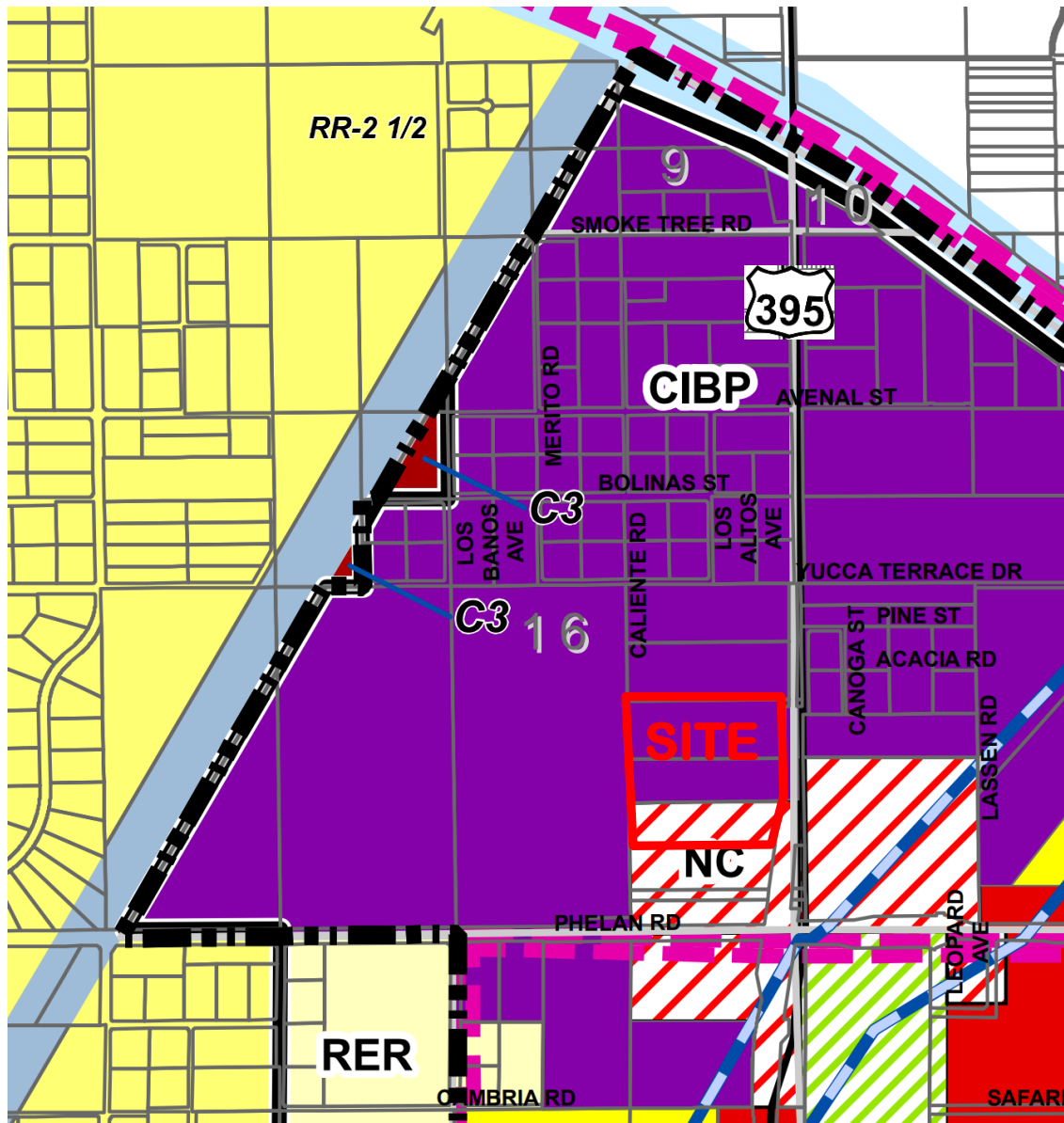
16201 Scientific Way  
Irvine, CA 92618  
www.Herdman-ad.com  
714.389.2800  
info@Herdman-ad.com

A21-2334  
12.21.2023



CONCEPTUAL  
SITE PLAN

## ATTACHMENT 2



**APPLICANT(S):**  
KISS LOGISTICS CENTER

**FILE NO(S):**  
CUP22-00017 & SPLA24-00002

**LOCATION:**  
WEST OF HIGHWAY 395, APPROXIMATELY 600 FEET NORTH  
OF PHELAN ROAD.

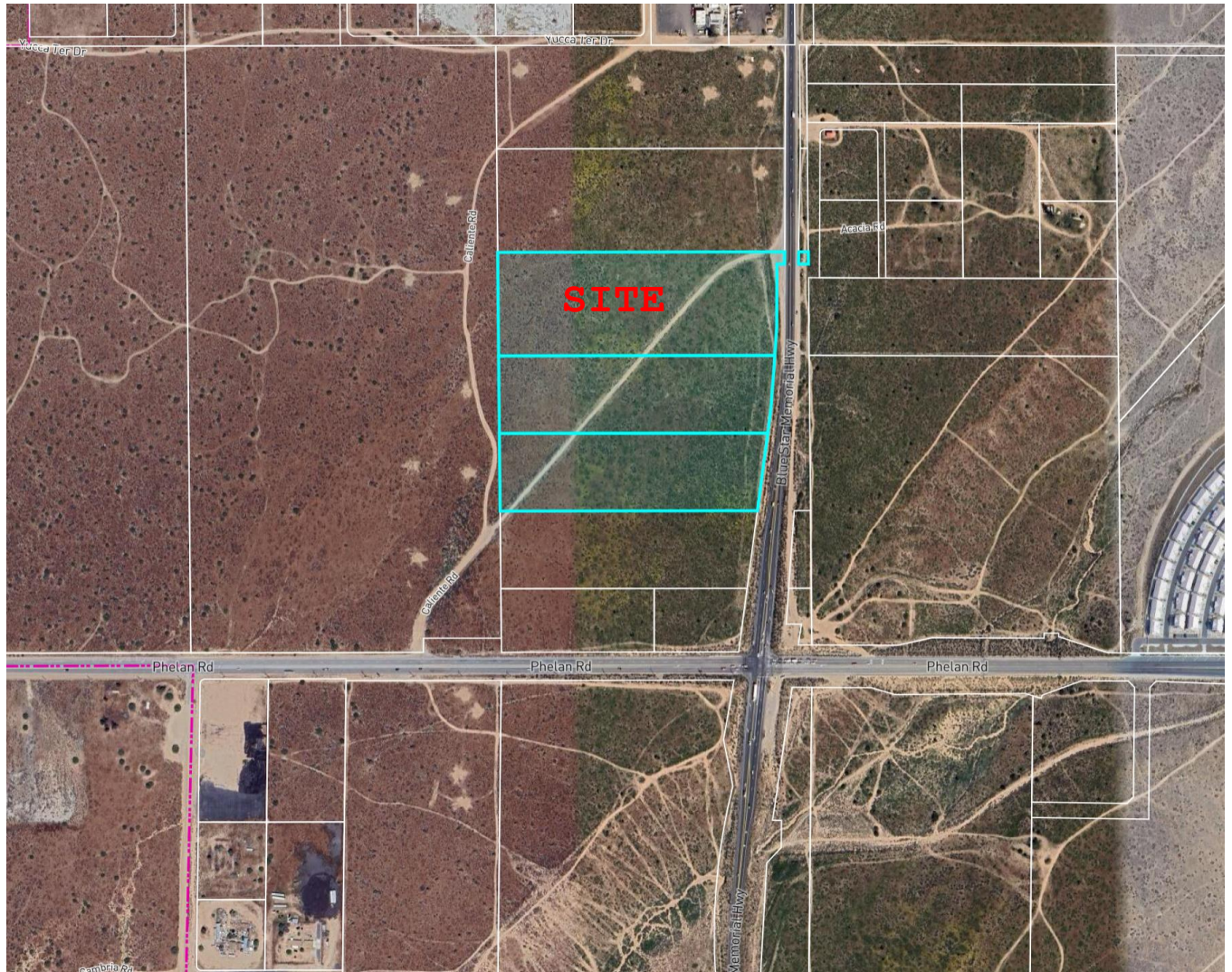
**APNs:**  
3064-401-03, -04 & -05

**PROPOSAL:**  
CONSIDERATION OF CONDITIONAL USE PERMIT CUP22-00017 TO CONSTRUCT A 655,468 SQUARE FOOT WAREHOUSE DISTRIBUTION BUILDING ON 31.1 GROSS ACRES WITHIN THE COMMERCIAL INDUSTRIAL BUSINESS PARK (CIBP) AND THE NEIGHBORHOOD COMMERCIAL (NC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN IN CONJUNCTION WITH SPECIFIC PLAN AMENDMENT SPLA24-00002 TO CHANGE THE ZONE FOR PARCEL 3064-401-05 FROM NC TO CIBP AND THE ADOPTION OF AN ENVIRONMENTAL IMPACT REPORT PURSUANT TO THE PROVISIONS OF CEQA



## GENERAL PLAN AND ZONING MAP

# ATTACHMENT 3



**APPLICANT(S):**  
KISS LOGISTICS CENTER

**FILE NO(S):**  
CUP22-00017 & SPLA24-00002

**LOCATION:**  
WEST OF HIGHWAY 395, APPROXIMATELY 600 FEET NORTH  
OF PHELAN ROAD.

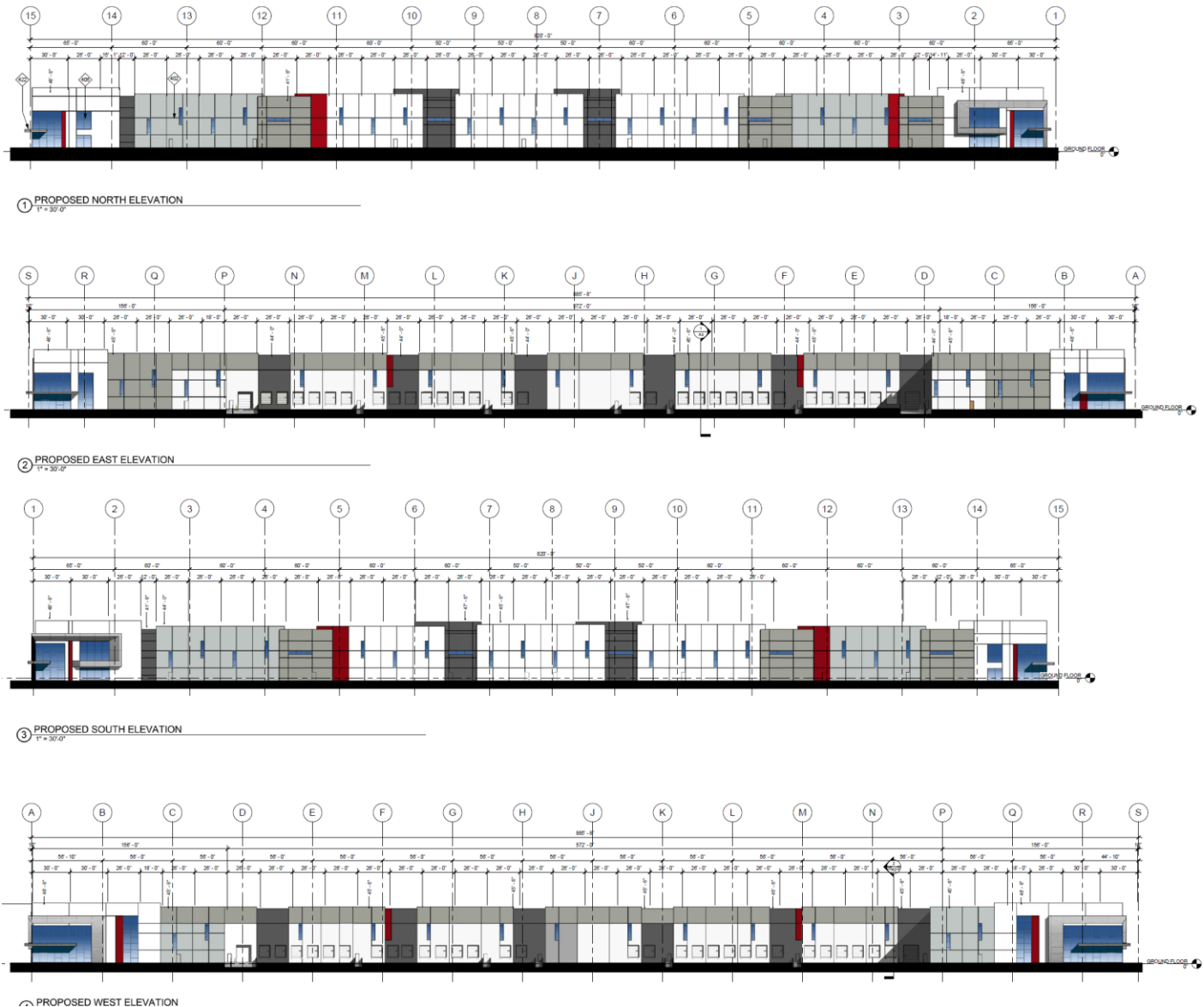
**APNs:**  
3064-401-03, -04 & -05

**PROPOSAL:**  
CONSIDERATION OF CONDITIONAL USE PERMIT CUP22-00017 TO CONSTRUCT A 655,468 SQUARE FOOT WAREHOUSE DISTRIBUTION BUILDING ON 31.1 GROSS ACRES WITHIN THE COMMERCIAL INDUSTRIAL BUSINESS PARK (CIBP) AND THE NEIGHBORHOOD COMMERCIAL (NC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN IN CONJUNCTION WITH SPECIFIC PLAN AMENDMENT SPLA24-00002 TO CHANGE THE ZONE FOR PARCEL 3064-401-05 FROM NC TO CIBP AND THE ADOPTION OF AN ENVIRONMENTAL IMPACT REPORT PURSUANT TO THE PROVISIONS OF CEQA

**N**  
↑

**AERIAL**

# ATTACHMENT 4



**APPLICANT(S):**  
KISS LOGISTICS CENTER

**FILE NO(S):**  
CUP22-00017 & SPLA24-00002

**LOCATION:**  
WEST OF HIGHWAY 395, APPROXIMATELY 600 FEET NORTH  
OF PHELAN ROAD.

**APNs:**  
3064-401-03, -04 & -05

**PROPOSAL:**  
CONSIDERATION OF CONDITIONAL USE PERMIT CUP22-00017 TO CONSTRUCT A 655,468 SQUARE FOOT WAREHOUSE DISTRIBUTION BUILDING ON 31.1 GROSS ACRES WITHIN THE COMMERCIAL INDUSTRIAL BUSINESS PARK (CIBP) AND THE NEIGHBORHOOD COMMERCIAL (NC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN IN CONJUNCTION WITH SPECIFIC PLAN AMENDMENT SPLA24-00002 TO CHANGE THE ZONE FOR PARCEL 3064-401-05 FROM NC TO CIBP AND THE ADOPTION OF AN ENVIRONMENTAL IMPACT REPORT PURSUANT TO THE PROVISIONS OF CEQA

## COLOR ELEVATION

# ATTACHMENT 5



**APPLICANT(S):**  
KISS LOGISTICS CENTER

**FILE NO(S):**  
CUP22-00017 & SPLA24-00002

**LOCATION:**  
WEST OF HIGHWAY 395, APPROXIMATELY 600 FEET NORTH  
OF PHELAN ROAD.

**APNs:**  
3064-401-03, -04 & -05

**PROPOSAL:**  
CONSIDERATION OF CONDITIONAL USE PERMIT CUP22-00017 TO CONSTRUCT A 655,468 SQUARE FOOT WAREHOUSE DISTRIBUTION BUILDING ON 31.1 GROSS ACRES WITHIN THE COMMERCIAL INDUSTRIAL BUSINESS PARK (CIBP) AND THE NEIGHBORHOOD COMMERCIAL (NC) ZONE OF THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN IN CONJUNCTION WITH SPECIFIC PLAN AMENDMENT SPLA24-00002 TO CHANGE THE ZONE FOR PARCEL 3064-401-05 FROM NC TO CIBP AND THE ADOPTION OF AN ENVIRONMENTAL IMPACT REPORT PURSUANT TO THE PROVISIONS OF CEQA

## VIEW RENDERING

## **RESOLUTION NO. 2024-11**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, MAKING THE ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH #2022110097), ADOPTING THE STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM**

**WHEREAS**, the Project consists of the construction of an approximately 655,468 square foot industrial warehouse building on approximately 31.1 gross acres of vacant land in conjunction with Specific Plan Amendment SPLA24-00002 to change approximately nine gross acres from Neighborhood Commercial (NC) to Commercial Industrial Business Park (CIBP) within the Main Street and Freeway Corridor Specific Plan; and.

**WHEREAS**, the Project will be accessible to US Highway 395 and ultimately Interstate 15 and will promote the City's economic development by creating approximately 549 permanent jobs for the citizens of Hesperia and surrounding communities, will increase the City's tax base, will fulfill the growing demand for distribution and light industrial uses in the region, and will develop the land to the highest and best allowable use that is compatible with the City's General Plan, and Main Street and Freeway Corridor Specific Plan; and

**WHEREAS**, pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et. seq.) and the State CEQA Guidelines (14 CCR, Section 15000 et. seq.), the City of Hesperia is the lead agency for the Project as the public agency with general governmental powers; and

**WHEREAS**, the City of Hesperia, as lead agency, prepared an initial study, from which it was determined that an Environmental Impact Report (EIR) should be prepared pursuant to CEQA to analyze all adverse environmental impacts of the Project; and

**WHEREAS**, a Notice of Preparation (NOP) and the Initial Study identifying the scope of environmental issues were distributed to numerous state, federal, and local agencies and organizations from November 4, 2022 thru December 5, 2022, for a period of 30 days, pursuant to State CEQA Guidelines sections 15082(a), 15103, and 15375. Five comment letters were received during the Initial Study/NOP comment period and were incorporated into the Draft EIR (DEIR); and

**WHEREAS**, a public scoping meeting for the EIR was held at Hesperia City Hall on November 17, 2022, and

**WHEREAS**, the City completed the DEIR and circulated it with the Notice of Availability (NOA) to affected public agencies and interested members of the public for a 45-day public period from October 3, 2023 through November 16, 2023. The public review period was subsequently extended until December 1, 2023. During the public review of the DEIR, six comment letters were received during the comment period. The letters, as well as the responses to them, are included in the Final EIR; and

**WHEREAS**, on March 28, 2024, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing, at which time all interested parties were provided the opportunity to give testimony for or against the issue; and

**WHEREAS**, the City Council duly noticed and conducted a public hearing on April 16, 2024, at which time all interested parties were provided the opportunity to give testimony for or against the issue; and

**WHEREAS**, as contained herein, the City has endeavored in good faith to set forth the basis for its decision on the Project; and

**WHEREAS**, 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. The City has independently reviewed and analyzed the EIR and accompanying studies and finds that the report reflects the independent judgment of the City for the purposes of making decisions on the merits of the Project; and

**WHEREAS**, all the requirements of CEQA, the State CEQA Guidelines, and the City's Local CEQA Guidelines have been satisfied in the EIR, which is sufficiently detailed so that all of the significant environmental effects of the Project have been adequately evaluated; and

**WHEREAS**, the EIR prepared in connection with the Project sufficiently analyzes both the feasible mitigation measures necessary to avoid or substantially lessen the Project's environmental impacts and a range of feasible alternatives capable of eliminating or reducing these effects in accordance with CEQA, the State CEQA Guidelines, and the City's Local CEQA Guidelines.

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY OF HESPERIA CITY COUNCIL AS FOLLOWS:

Section 1. The City Council hereby specifically finds that all the facts set forth in this Resolution are true and correct.

Section 2. Based upon substantial evidence presented to the City Council during the above-referenced April 16, 2024, hearing, including public testimony and written and oral staff reports, this City Council specifically finds as follows:

- a) The City Council has independently reviewed, analyzed, and considered the Final EIR and all written documentation and public comments prior to making recommendations on the proposed Project; and
- b) The Final EIR was prepared and completed in compliance with the provisions of CEQA, the State CEQA Guidelines, and the City's Local CEQA Guidelines; and
- c) The information and analysis contained in the Final EIR reflects the City's independent judgment as to the environmental consequences of the proposed Project; and
- d) The documents and other materials, including without limitation, staff reports, memoranda, maps, letters, and minutes of all relevant meetings, which constitute the administrative record of proceedings upon which the City Council's decision is based are located at the City of Hesperia, Planning

Division, 9700 Seventh Avenue, Hesperia, CA 92345. The custodian of the records is the Planning Division.

Section 3. That on the basis of the evidence contained in the administrative record of the Final EIR, the City Council finds based on the information submitted, following the conclusion of the public comment period on the Draft EIR, and following the consultant's responses thereto, there is no significant new information concerning the Project's environmental effects, feasible mitigation measures, or feasible project alternatives; therefore there is no need or requirement to recirculate the EIR for additional public comment.

Section 4. That the City Council of the City of Hesperia hereby certifies the Final EIR.

Section 5. **Exhibit A** (Findings of Facts and Statement of Overriding Considerations) and **Exhibit B** (Mitigation Monitoring and Reporting Program) of this Resolution provide findings required under Section 15091 of the State CEQA Guidelines for significant effects of the Project. Exhibit A of this Resolution provides the findings required under Section 15093 of the State CEQA Guidelines relating to the acceptable adverse impacts of the Project due to overriding considerations. The City has balanced the economic, legal, social, technological, and other benefits of the Project against the unavoidable environmental risks that may result, and finds that the specific economic, legal, social, technological, and other benefits outweigh the unavoidable adverse environmental effects. Therefore, the City Council hereby adopts the Findings of Facts and Statement of Overriding Considerations attached hereto as **Exhibit A**.

Section 6. Pursuant to Public Resources Code Section 21081.6, the City Council hereby approves the Mitigation Monitoring and Reporting Program attached as **Exhibit B** to this Resolution and requires the Project to comply with the mitigation measures contained therein. The City Council finds that these mitigation measures are fully enforceable on the Project and shall be binding upon the City and affected parties.

Section 7. The City Clerk shall certify the adoption of this Resolution.

**ADOPTED AND APPROVED** this 16<sup>th</sup> day of April 2024.

---

Larry Bird, Mayor

ATTEST:

---

Erin Baum, Assistant City Clerk

**EXHIBIT A**

**FINDINGS AND FACTS IN SUPPORT OF FINDINGS  
FOR THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE  
KISS LOGISTICS CENTER PROJECT  
CITY OF HESPERIA, CALIFORNIA  
STATE CLEARINGHOUSE NO. 2022110097**

## 1.0 INTRODUCTION

This statement of Findings of Fact (Findings) addresses the environmental effects associated with the proposed KISS Logistics Center Project (proposed Project), as described in the Environmental Impact Report (EIR). These Findings are made pursuant to the California Environmental Quality Act (CEQA) Public Resources Code, Section 21000 et seq., Section 21081, and the State CEQA Guidelines Section 15091. The Draft EIR examines the full range of potential effects of construction and operation of the Project and identifies standard mitigation practices that could be employed to reduce, minimize, or avoid those potential effects.

### 1.1 PURPOSE

The CEQA, Public Resources Code Section 21000 et seq. and the State CEQA Guidelines, 14 Cal. Code of Regs. Section 15000 et seq. (collectively, CEQA) require that a public agency consider the environmental impacts of a project before a project is approved and make specific findings. CEQA Guidelines Section 15091, implementing CEQA Section 21081, provides:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
  - 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
  - 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can or should be adopted by such other agency.
  - 3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

CEQA Guidelines Section 15093 further provides:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- (b) Where the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. This statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Having received, reviewed and considered the Draft Environmental Impact Report (Draft EIR) and the Final Environmental Impact Report (FEIR) for the KISS Logistics Center Project, SCH No. 2022110097 (collectively, the EIR), as well as all other information in the record of proceedings on this matter, the following Findings and Facts in Support of Findings (Findings) are hereby adopted by the City of Hesperia (City) in its capacity as the CEQA Lead Agency.

These Findings set forth the environmental basis for the discretionary actions to be undertaken by the City for the development of the Project. These actions include the approval of the Conditional Use Permit (CUP), Specific Plan Amendment (SPA), and Development Plan Review. This action is referred to herein as the Project.

## 1.2 RECORD OF PROCEEDINGS

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed Project consists of the following documents and other evidence, at a minimum:

- The NOP and all other public notices issued by the City in conjunction with the proposed Project;
- The Final EIR (includes Draft EIR) for the proposed Project;
- All written comments submitted by agencies and members of the public during the public review comment periods on the Draft EIR;
- All responses to written comments submitted by agencies and members of the public during the public review comment period on the Draft EIR;
- The Mitigation Monitoring and Reporting Program (MMRP);
- The reports and technical memoranda included or referenced in the Response to Comments of the Final EIR;
- All documents, studies, EIRs, or other materials incorporated by reference in the Draft EIR and Final EIR;
- The Ordinances and Resolutions adopted by the City in connection with the proposed Project, and all documents incorporated by reference therein;
- Matters of common knowledge to the City, including but not limited to federal, state, and local laws and regulations;
- Any documents expressly cited in these Findings; and
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

## 1.3 CUSTODIAN AND LOCATION OF RECORDS

The documents and other materials which constitute the administrative record for the City's actions related to the Project are located at the City of Hesperia Planning Department, 9700 Seventh Avenue, Hesperia, CA 92345. The City is the custodian of the administrative record for the Project.

## 1.4 DOCUMENT FORMAT

These Findings have been organized into the following sections:

- Section 1:** Provides an introduction to these Findings.
- Section 2:** Provides a summary of the Project and overview of the discretionary actions required for approval of the Project, and a statement of the Project's objectives.
- Section 3:** Provides a summary of previous environmental reviews related to the Project area that took place prior to the environmental review done specifically for the Project, and a summary of public participation in the environmental review for the Project.
- Section 4:** Sets forth that the Draft EIR reflects the City's independent judgment.
- Section 5:** Sets forth findings regarding environmental impacts identified in the EIR which were determined to be significant and unavoidable.
- Section 6:** Sets forth findings regarding environmental impacts identified in the EIR which can feasibly be mitigated to a less than significant level through the imposition of project design features, regulatory requirements, and/or mitigation measures. In order to ensure compliance and implementation, all of these measures are included in the Mitigation Monitoring and Reporting Program (MMRP) for the Project which shall be adopted by the City together with these Findings in accordance with CEQA Section 21081.6. Where potentially significant impacts can be reduced to less than significant levels through adherence to project design features and regulatory requirements, these findings specify how those impacts were reduced to an acceptable level.
- Section 7:** Sets forth findings regarding environmental impacts identified in the EIR which were determined not to be significant.
- Section 8:** Sets forth findings regarding alternatives to the proposed Project.
- Section 9:** Statement of Overriding Considerations.
- Section 10:** Provides a summary of conclusions.

## 2.0 PROJECT SUMMARY

### 2.1 PROJECT LOCATION

The proposed Project is located within the western portion of the City of Hesperia in the southwest portion of San Bernardino County. The Project site is located northwest of the intersection of Highway 395 and Main Street. Regional access to the Project site is provided by Highway 395, located directly to the east, and I-15, located approximately 1.2 miles east of the Project site. Local access to the site is provided via Caliente Road (unpaved road), which is accessible from Phelan Road to the south and Main Street to the east. Specifically, the Project site is located within Section 16, Township 4 North, Range 5 West, San Bernardino Base and Meridian (SBB&M) of the Baldy Mesa United States Geological Survey (USGS) 7.5-minute topographic quadrangle.

The Project encompasses 31.1 acres, which includes the 29.61-acre Project site and 1.3 acres of offsite improvement area. The 29.61-acre Project site is comprised of three parcels identified as Assessor's Parcel Numbers (APNs) 3064-401-03, -04, and -05.

## 2.2 PROJECT DESCRIPTION

The proposed Project would include development of a single-story, 655,468-square foot (SF) industrial building on the 29.61-acre site. The proposed Project would also include a Specific Plan Amendment (SPA) to change the site's MSFC-SP designation from NC to CIBP. Additional improvements proposed include landscaping, sidewalks, utility connections, implementation of stormwater facilities, and pavement of parking areas and drive aisles. Approximately 1.3 acres of offsite improvements would be required for necessary roadway and utility infrastructure to support the Project.

*Building and Architecture.* The proposed Project consists of a single-story, approximately 49-foot-tall warehouse building. The Project building area would provide a total of 655,468 SF, inclusive of 639,468 SF of warehouse, 11,000 SF of ground floor office space, and a 5,000 SF mezzanine for additional office use. The proposed building would result in an FAR of 0.48. Additionally, the use of landscaping, building layout, finish materials, and accenting on the Project site would create a quality architectural presence from the existing and proposed public right-of-way.

*Circulation and Street Improvements.* Access to the proposed Project would be provided via two driveways from the proposed public road ('A' Street) that would be constructed along the west side of the Project. The proposed roadway would extend from Phelan Road, approximately 630 feet south of the Project site, to Yucca Terrace Drive, approximately 930 feet north of the Project site. The roadways would be built to half width (35 feet). The proposed driveways would be 40 feet wide and provide access for trucks, passenger vehicles, and emergency vehicles. Internal circulation would be provided via 40-foot drive aisles. Trucks are expected to primarily utilize Phelan Road, Highway 395, I-15, and Joshua Road, which are all designated truck routes within the City. Additionally, The Project would construct 12-foot sidewalks along the proposed 'A' Street and Yucca Terrace Drive. Sidewalk area would be dedicated to the City as part of the Project.

*Loading Docks and Parking.* Truck loading docks would be located along the east and west sides of the building. The building would include 30 loading dock doors along the east side of the building and 30 dock doors along the west side of the building for a total of 60 dock doors. The proposed Project would also provide 82 trailer stalls located opposite of the loading dock doors on the east and west perimeter of the proposed parking areas. Additionally, the building would provide 374 vehicle parking stalls inclusive of 38 electric vehicle/clean air/carpool spaces.

*Landscaping and Walls.* The proposed Project includes approximately 209,075 SF of ornamental landscaping that would extend around the perimeter of the Project site and in between the parking areas. Additionally, the proposed Project would also include an 8-foot-tall concrete screening wall at the southern entrance of the western truck court. Additionally, the Project would include an 8-foot-tall concrete screening wall along the perimeter of the trailer parking of the eastern truck court. A 6-foot-high combination concrete masonry unit (CMU) block and wrought iron security fence is proposed around the proposed detention basin in the northern portion of the site.

*Infrastructure.* The proposed Project would include construction of new onsite and offsite water lines. Water lines would be constructed within the proposed 'A' Street or Caliente Road right-of-way to the west of the Project site and extend approximately 1,300 feet south toward Phelan Road. The proposed water main would then run adjacent to the existing water main within Phelan Road/Main Street for approximately 3,980 feet to Mesa Linda Street. The water main would then continue approximately 2,700 feet south and connect to the existing main at Sultana Street. The proposed water line within Phelan Road/Main Street and Mesa Linda Street has been approved and will be constructed as part of the adjacent Hesperia Commerce Center

II Project (SCH # 2019110418). The Project would be responsible for constructing the portion of water line from along Caliente Road from Phelan Road to Yucca Terrace Road and the connection to the proposed building. The proposed Project would also include construction of new onsite and offsite sewer lines. The proposed sewer line would begin from the northern portion of "A" Street or Caliente Road and extend approximately 2,600 feet south to Phelan Road. The proposed sewer system would include a combination of proposed sewer force main and proposed sewer gravity main with a sewer lift station located at the intersection of Caliente Road and Yucca Terrace Drive. The sewer would then extend approximately one mile to connect to existing facilities within Cataba Road. The proposed sewer line within Phelan Road/Main Street and Mesa Linda Street has been approved and will be constructed as part of the adjacent Hesperia Commerce Center II Project (SCH # 2019110418). The Project would be responsible for constructing the portion of sewer line along Caliente Road from Phelan Road to Yucca Terrace Road and the connection to the proposed building.

## 2.3 REQUIRED APPROVALS

Implementation of the Project would require, but is not limited to, the following discretionary approvals by the City (Lead Agency):

- Development Plan Review
- Specific Plan Amendment
- Lot Merger
- Conditional Use Permit (CUP) (CUP22-00017)
- Certification of the Environmental Impact Report
- Approvals and permits necessary to execute the proposed Project, including but not limited to, grading permit, building permit, etc.

## 2.4 STATEMENT OF PROJECT OBJECTIVES

The following objectives have been identified in order to aid decision makers in their review of the proposed Project and its associated environmental impacts.

1. To make efficient use of the property and add to its potential for employment-generating uses.
2. To attract new business and employment to the City and thereby promote economic growth.
3. To reduce the need for members of the local workforce to commute outside the Project vicinity for work.
4. To develop an underutilized property with an industrial warehouse building near Highway 396 and Interstate 15, to help meet demand for logistics business in the City and surrounding region.
5. To develop the property with use that is similar to and compatible with other nearby industrial buildings that were recently built or recently approved for construction in western Hesperia.
6. Develop a project that does not contribute to surface and groundwater quality degradation by treating surface and stormwater flows.

# 3.0 ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The Final EIR (FEIR) includes the Draft Environmental Impact Report (Draft EIR) dated May 2023, written comments on the Draft EIR that were received during the public review period, written responses to those comments, and changes to the Draft EIR. In conformance with CEQA and the State CEQA Guidelines, the City

of Hesperia conducted an extensive environmental review of the KISS Logistics Center Project, including the following:

- Completion of the Notice of Preparation (NOP), which was released for an initial 30-day public review period from November 4, 2022, through December 5, 2022. The NOP was posted at the San Bernardino County Clerk office on November 1, 2022, and to the State Clearinghouse (SCH) on November 4, 2022. The notice was mailed to reviewing agencies and to City residents and owners within a 300-foot radius from the Project Site. Copies of the NOP were made available for public review on the City's website at: <https://www.cityofhesperia.us/1466/CEQA--Environmental-Documents>.
- Completion of a scoping process, in which the public was invited by the City to participate. The scoping meeting for the EIR was held on November 17, 2022, at 5:30 PM at Hesperia City Hall, Planning Department, 9700 Seventh Avenue, Hesperia, California 92345.
- Preparation of a Draft EIR by the City, which was made available for a 45-day public review period from November 16, 2023, to December 1, 2023. The Draft EIR consisted of the analysis of the KISS Logistics Center Project and appendices, including the NOP and responses to the NOP. The Notice of Availability (NOA) for the Draft EIR was sent to all property owners and occupants within a 300-foot radius from the Project site, all persons, agencies, and organizations on the interest list interested persons, and posted to the SCH website for distribution to public agencies. The NOA was posted at the City of Hesperia's Planning Department (9700 Seventh Avenue, Hesperia, California 92345) on November 16, 2023. Copies of the Draft EIR were made available for public review at Hesperia Branch Library (9650 Seventh Avenue, Hesperia, California 92345), and it was available for download via the City's website at <http://www.cityofhesperia.us/1466/Environmental-Documents>.
- Preparation of a Final EIR, including the Comments and Responses to Comments on the Draft EIR, occurred. The Final EIR/Response to Comments contains comments on the Draft EIR, responses to those comments, revisions to the Draft EIR, and appended documents. The Final EIR Response to Comments was released for a 10-day agency review period prior to certification of the Final EIR on March 15, 2024.
- A Planning Commission hearing was held for the proposed Project. A notice of the Planning Commission hearing for the Project was mailed on March 15, 2024 to all property owners of record within a 300-foot radius from the Project site and all individuals that requested to be notified and posted on the City's website at <http://www.cityofhesperia.us/1466/Environmental-Documents> and at the City of Hesperia's Planning Department (9700 Seventh Avenue, Hesperia, California 92345) office, as required by established public hearing posting procedures.

## 4.0 CEQA FINDINGS OF INDEPENDENT JUDGEMENT

### 4.1 INDEPENDENT REVIEW AND ANALYSIS

The Final EIR reflects the City's independent judgment. The City has exercised independent judgment in accordance with Public Resources Code 21082.1(c)(3) in retaining its own environmental consultant in the preparation of the Draft EIR, as well as reviewing, analyzing, and revising material prepared by the consultant.

Having received, reviewed, and considered the information in the Final EIR, as well as any and all other information in the record, the City hereby makes findings pursuant to and in accordance with CEQA Sections 21081, 21081.5, and 21081.6 of the Public Resources Code.

## 5.0 IMPACTS DETERMINED TO BE SIGNIFICANT AND UNAVOIDABLE

This section identifies the significant and unavoidable impacts that require a statement of overriding considerations to be issued by the City, pursuant to CEQA Guidelines Section 15093, if the project is approved. Based on the analysis contained in the Draft EIR, the following environmental topic area and that no further, detailed analysis of this topic was required in the EIR:

### 5.1 GREENHOUSE GAS EMISSIONS

#### 5.1.1 GENERATION OF GREENHOUSE GAS EMISSIONS

**Impact Finding:** The Project would generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment (Draft EIR Page 5.7-11).

**Facts in Support of Finding:**

*Construction*

Neither the MDAQMD nor SCAQMD has an adopted threshold of significance for construction related GHG emissions. However, lead agencies are required to quantify and disclose GHG emissions that would occur during construction. The proposed Project is compared to the GHG threshold of 3,000 MT/year CO<sub>2</sub>e. The SCAQMD also requires construction GHG emissions to be amortized over the life of the project, defined by SCAQMD as 30 years, added to the operational emissions, and compared to the applicable interim GHG significance threshold tier. It is estimated that the Project would generate approximately 1,715.8 MT/year CO<sub>2</sub>e during construction of the Project. When amortized over the 30-year life of the Project, annual emissions would be 57.2 MT/year CO<sub>2</sub>e (Appendix B).

*Operation*

Long-term operations of uses proposed by the Project would generate greenhouse gas emissions from the following primary sources: area source emissions, energy source emissions, mobile source emissions, water supply, treatment, and distribution, and solid waste. A project would have less than significant GHG emissions if it would result in operational-related GHG emissions of less than 3,000 MT/year CO<sub>2</sub>e. The Project would include construction and operation of a 655,468 SF industrial facility. The Project includes several Project Design Features (PDFs) that would reduce Project emissions and energy demand. Project PDF-1 through PDF-6 include energy and GHG reduction measures such as implementation of renewable energy system, inclusion of automatic light switches and control receptacles, the Project would be designed to meet LEED certification standards, low volatile organic compound (VOC) coatings and paint would be used, and exterior glazing to reduce solar heat gain would be applied. As shown in Draft EIR Table 5.7-1, the annual GHG emissions associated with construction and operation of the proposed Project would result in annual emissions of 11,630.5 MTCO<sub>2</sub>e/yr, which is above the screening threshold of 3,000 MTCO<sub>2</sub>e/yr. Therefore, the following discussion compares the proposed Project to the efficiency-based threshold as well.

Using the Southern California Association of Governments (SCAG) employment generation rate for employees required for operation of an industrial project, operation of the Project would require approximately 549 employees. The proposed Project would not accommodate new residents; therefore, the total service population would be 549 people (residents plus employees). As such, the proposed Project would result in a per service population of 21.2 MT CO<sub>2</sub>e per year per service population, which exceeds the SCAQMD's threshold of 4.8 MT CO<sub>2</sub>e per year per service population. Therefore, the proposed Project would have the potential to generate significant GHG emissions. As such, Mitigation Measure GHG-1 is

included in the Project which requires that the Project incorporate sustainable transportation technologies and practices appropriate for the proposed use. Additionally, voluntary best practices have been included that could reduce Project GHG emissions and energy consumption but are not enforceable. These measures are subject to the availability of technology and/or are dependent on human behavior, which neither the applicant nor the Lead Agency can ensure. These measures have not been included in Project modeling and reductions in GHG emissions have not been taken.

Draft EIR Table 5.7-2 shows Project operation GHG emissions with implementation of Mitigation Measure GHG-1. As shown, with implementation of Mitigation Measure GHG-1, the proposed Project would result in approximately 10,583.4 MT/year CO<sub>2</sub>e or 19.2 MT CO<sub>2</sub>e per year per service population. Due to the GHG emissions exceedance, the proposed Project would have the potential to generate direct or indirect GHG emissions that would result in a significant impact on the environment, thereby requiring mitigation. Implementation of Mitigation Measure GHG-1 aims to reduce the Project's GHG emissions through minimization of construction emissions via idling limitations and use of lower-emission equipment. The measure also includes implementation of infrastructure necessary for building and vehicle electrification that meets existing and anticipated future demands. Mitigation Measure GHG-1 includes programs intended to reduce car trips of Project workers. Through implementation of Mitigation Measure GHG-1, 100 percent of the Project's electricity demand would come from renewable energy with the support of solar panels. Overall, Mitigation Measure GHG-1 is designed to reduce Project construction and operational-source emissions. Draft EIR Table 5.7-2 shows the GHG emission reduction associated with implementation of Mitigation Measure GHG-1.

As shown in Table 5.7-2, Mitigation Measure GHG-1 would result in a reduction in overall GHG due to the provision of 100 percent of Project electricity through renewable energy sources. However, there is no way to quantify GHG reductions of the other components of Mitigation Measures GHG-1 in CalEEMod. Although it is likely Project emissions would decrease with implementation of the other components, to provide a conservative evaluation of Project impacts, no reductions were applied to the estimated Project emissions.

Further, 94 percent of Project emissions would primarily result from mobile source emissions, both vehicle and truck. There are no available feasible Project measures that would further reduce vehicular and truck emissions to below the GHG threshold, since neither the Project Applicant nor the Lead Agency (City of Hesperia) can substantively or materially affect reductions in Project mobile-source emissions and/or available technologies. Thus, emissions would be reduced to the extent feasible; however, emissions would continue to exceed the SCAQMD threshold. Therefore, with implementation of Mitigation Measure GHG-1, operation of the proposed Project would have the potential to generate significant GHG emissions that would have a significant effect on the environment. Impacts would be significant and unavoidable.

## MITIGATION MEASURES

**Mitigation Measure GHG-1:** Prior to issuance of a building permit, the City of Hesperia shall identify project design details and specifications to document implementation and compliance with the following emission reduction measures. Implementation of the following measures will be required prior to building permits and is considered to be applicable, feasible, and effective in reducing greenhouse gas emissions generated by the project:

- Provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating on site, including but not limited to running conduit to dock doors to allow for future plug-in of TRUs or truck charging.
- All loading/unloading docks and trailer spaces shall be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units. This requirement will substantially decrease the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate at the Project site.

- All TRUs operated by the owner/applicant entering the project site shall be plug-in capable.
- All heavy-duty trucks operated by the owner/applicant on the project site shall be model year 2014 or later, expedite a transition to zero-emission vehicles, and be fully zero-emission beginning in 2030 if feasible.
- The Project Applicant shall be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation, Periodic Smoke Inspection Program (PSIP), and the Statewide Truck and Bus Regulation.
- Trucks and support equipment shall be prohibited from idling longer than three minutes while on site.
- On-site TRU diesel engine runtime shall be limited to no longer than 15 minutes.
- Include rooftop solar panels and supply 100 percent of Project electricity from renewable energy resources.
- Implement a transportation demand program. Program measures may include free transit passes for employees, electric rideshare vehicles for employees, and construction of additional transit infrastructure at the project site (see Mitigation Measure T-1 of Section 5.12, Transportation).
- Install water-efficient fixtures (toilets, faucets, showers), water efficient landscape irrigation systems (drip irrigation with control panel and soil moisture sensors), and water efficient landscaping.
- Keep onsite and furnishing to the lead agency of other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classification.
- Provide information on transit and ridesharing programs and services to construction employees.
- Provide information on nearby meal/dining destinations for construction workers.
- Run conduit to designated locations for future vehicle electric charging stations.
- Expand the electrical room by 10 percent to (25 percent total) to accommodate future expansion of electric vehicle charging capability.
- Run conduit to an additional proportion of employee parking spaces for a future increase in the number of electric light-duty charging stations.
- The building shall have breakroom with food storage capabilities.
- Signs shall be posted at every truck exist driveway to provide directional information to the truck route.
- The owner shall provide any future tenants with information on incentive programs, such as Carl Moyer program and Voucher Incentive Program, to upgrade their fleets.

Best Practices: In addition to mitigation identified above, the following voluntary best practices would be implemented by the applicant to the greatest extent possible:

- Use the cleanest technologies available.
- Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration shall be encouraged for operational fleets.
- Operational fleets shall exclusively use zero-emission light and medium-duty delivery trucks and vans when feasible.
- Implement a zero-waste program or other feasible waste reduction measures such as composting waste food scraps from employee activities and food waste processing.
- The project contractor will use Tier 4 equipment as commercially available.
- Expedite a transition to zero-emission vehicles and be fully zero-emission beginning in 2030 if feasible.

## 5.1.2 CUMULATIVE GREENHOUSE GAS EMISSION IMPACTS

**Impact Finding:** The Project would result in cumulatively considerable impacts to greenhouse gas emissions (Draft EIR Page 5.7-23).

**Facts in Support of Finding:** GHG emissions impacts are inherently cumulative since no single project can cause a discernible change to climate. Climate change impacts are the result of incremental contributions from natural processes, and past and present human-related activities. Therefore, the area in which a proposed Project in combination with other past, present, or future projects, could contribute to a significant cumulative climate change impact would not be defined by a geographical boundary such as a project site or combination of sites, city, or air basin. GHG emissions have high atmospheric lifetimes and can travel across the globe over a period of 50 to 100 years or more. Even though the emissions of GHGs cannot be defined by a geographic boundary and are effectively part of the global issue of climate change, CEQA places a boundary for the analysis of impacts at the state's borders. Thus, the geographic area for analysis of cumulative GHG emissions impacts is the State of California.

Executive Order S-3-05, Executive Order B-30-15, Executive Order B-55-18, AB 1279, AB 32, and SB 32 recognize that California is a source of substantial amounts of GHG emissions; recognize the significance of the cumulative impact of GHG emissions from sources throughout the state; and set performance standards for reduction of GHGs.

The analysis of GHG emission impacts required under CEQA and contained in this EIR effectively constitutes an analysis of a project's contribution to the cumulative impact of GHG emissions. CEQA Guidelines Section 15183.5(b) states that compliance with GHG-related plans can support a determination that a project's cumulative effect is not cumulatively considerable. Although the Project would be implemented in compliance with applicable plans for the reduction of GHG emissions, detailed previously, the Project would result in a project-specific significant and unavoidable impact, and therefore, contribution of the Project to significant cumulative GHG impacts would also be cumulatively considerable.

## 5.2 TRANSPORTATION

### 5.2.1 CONFLICT WITH CEQA GUIDELINES SECTION 15064.3 (B)

**Impact Finding:** The Project would not conflict or be inconsistent with CEQA Guidelines Section 15064.3, Subdivision (B) regarding vehicle miles traveled (Draft EIR at p. 5.9-9). The City's TIA Guidelines for VMT analysis were applied and found that the proposed Project would exceed the City's threshold.

The City hereby makes Finding 1 and determines that this impact is significant and unavoidable with implementation of Mitigation Measure T-1.

**Facts in Support of Finding:** Section 15064.3 (B) states that "Vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact." The City's TIA Guidelines (July 2020) provide VMT analysis methodology, impact thresholds, and screening thresholds to determine if projects would require a VMT analysis. If a project meets one of the following criteria, then the VMT impact of the project is considered less than significant and no further analysis of VMT would be required. The Project would not meet any of the City's screening criteria, therefore the Project's impact on VMT would not be considered less than significant, thus an analysis of VMT was prepared for the Project (Appendix L). As described previously, State CEQA Guidelines Section 15064.3(b) focuses on determining the significance of VMT-related transportation impacts. According to the City's TIA Guidance, a project's VMT impacts are considered significant if the project baseline and cumulative VMT per service population is above the County's regional average or if the project results in a greater countywide link-level VMT per service population.

As shown in the Draft EIR Tables 5.12-4 and 5.12-5, the Project's VMT would not be considered significant as the Countywide roadway VMT per service population would be reduced with the Project in both the 2016 and 2040 conditions. However, because the cumulative VMT per service population is above the County's regional average of 32.7. As shown in Draft EIR Table 5.12-3, the Project would have a less than significant impact on VMT in the baseline but would exceed the City's threshold and therefore have a significant impact

in the cumulative conditions. The Project's cumulative VMT per service population is forecast to be 13.51% above the County significance threshold. Therefore, the Project would have a significant impact related to VMT.

To mitigate the significant VMT impact, the Project will implement applicable measures from the California Air Pollution Control Officers Association (CAPCOA) *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity* (hereafter CAPCOA). The Commute Trip Reduction Marketing (CAPCOA Measure T-7), provide a Ridesharing Program (CAPCOA Measure T-8), and provide end of trip bicycle facilities (CAPCOA Measure T-10) to encourage employee carpooling, use of transit, and biking as alternative modes of transportation to work (Mitigation Measure T-1) is applicable and feasible for Project implementation to reduce VMT. A CTR Marketing strategy includes information sharing and marketing to promote and educate employees about their travel choices to the employment location. The Ridesharing Program would encourage carpooling or vanpooling by providing incentives to future employees such as priority parking spaces and/or a daily or monthly stipend for participants. As part of Mitigation Measure T-1, the Project would also install and maintain end-of-trip facilities for employee use that facilitate bicycling to work. Facilities could include bike parking, bike lockers, personal lockers, and shower facilities.

The VMT reduction resulting from the CAPCOA Measures (Mitigation Measure T-1) are calculated in Table 5.12-6 of the Draft EIR. Thus, implementation of Mitigation Measure T-1 would reduce the total VMT per service population; however, is unlikely to reduce VMT below the 32.7 Countywide significance threshold. Therefore, with implementation of the Mitigation Measure T-1, the Project's VMT impact would be significant and unavoidable.

## MITIGATION MEASURES

**MM T-1:** The Project applicant shall implement Commute Trip Reduction Marketing (CAPCOA Measure T-7), provide a Ridesharing Program (CAPCOA Measure T-8), and provide end of trip bicycle facilities (CAPCOA Measure T-10) to encourage employees carpooling, taking transit, and biking to work. 100 percent of employees would be eligible to participate in all identified measures. Each measure is discussed further below:

1. Implement Commute Trip Reduction Marketing (CAPCOA Measure T-7). A CTR Marketing strategy includes information sharing and marketing to promote and educate employees about their travel choices to the employment location. This measure would require an on-site employee transportation coordinator and commuter information services, and on-site or online transit pass sales.
2. Provide Ridesharing Program (CAPCOA Measure T-8). Incentives for carpooling or vanpooling such as priority parking spaces and/or a daily or monthly stipend for participants. Additional incentives for carpool and/or vanpool drivers could also be provided. Preferred parking for carpool or vanpool vehicles.
3. Provide End-of-Trip Bicycle Facilities (CAPCOA Measure T-10). This measure includes installation and maintenance of end-of-trip facilities for employee use that facilitate bicycling to work. Facilities could include bike parking, bike lockers, personal lockers and shower facilities. Initially, the project shall provide secure bicycle parking (bicycle racks or lockers) for at least 9 bicycles (consistent with San Bernardino County Code Section 83.14.030 which requires secure bicycle parking at a rate of one per 30 parking spaces).

To comply with components 1 and 2 of MM T-1, tenants of the Project could participate in the IE Commuter program (iecommuter.org) or alternative program. Monitoring of the program shall be conducted by the onsite transportation coordinator and an annual report shall be provided to the City. The report shall include a summary of the current CTR program, the number of employees participating in the program, summary of any partnerships with outside agencies such as IE Commuter, and total amount of subsidies provided by type (if any). If Project tenants choose to comply with MM T-1 via participation in the IE Commuter program, then the Commute Activity Report provided by IE Commuter shall be sufficient for annual reporting.

## 6.0 IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT WITH MITIGATION

The following potentially significant environmental impacts were analyzed in the Draft EIR and were determined to be less than significant with implementation of project design features, compliance with existing laws, codes and statutes, regulatory requirements, and implementation of identified feasible mitigation measures. The City has found in accordance with CEQA Section 21081(a)(1) and CEQA Guidelines Section 15091(a) (1) that “Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment,” which is referred to herein as “Finding 1”.

Where the potential impact can be reduced to less than significant solely through adherence to and implementation of project design features, standard conditions, and plans, programs, or policies, these measures are considered “incorporated into the project,” which mitigate or avoid the potentially significant effect, and in these situations, the City also makes “Finding 1” even though no mitigation measures are required. Based on substantial evidence, the City finds that adoption of the mitigation measures set forth in this section will reduce the identified significant impacts to less than significant levels:

- Biological Resources
  - Candidate, Sensitive, or Special-Status Species
  - Adverse Impacts on Riparian Habitat/Sensitive Natural Communities
  - Adverse Impacts on Wildlife Movement
  - Conflict with Biological Resources Protection Policies and Ordinances
  - Cumulative Biological Resource Impacts
- Archaeological Resources
  - Cumulative Cultural Resource Impacts
- Geology and Soils
  - Seismic-related ground failure
  - Unstable geological unit
  - Paleontological resources
  - Cumulative paleontological impacts
- Tribal Cultural Resources
- Cultural Resources

### 6.1 BIOLOGICAL RESOURCES

#### 6.1.1 CANDIDATE, SENSITIVE, OR SPECIAL-STATUS SPECIES

**Impact Finding:** The Project would not have a substantial adverse effect, either directly or through habitat modifications, on 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 or U.S. Fish and Wildlife Service (Draft EIR Page 5.3-13).

The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of Mitigation Measure BIO-1 through BIO-13.

### **Facts in Support of Finding:**

One state listed special-status plant species (the western Joshua tree) was observed within the biological survey area (BSA): .

No non-listed special-status plant species were observed or have high or moderate potential to occur within the BSA; therefore, the Project would have no direct or indirect impacts to non-listed special-status plant species. In addition, the BSA does not occur within a federally designated critical habitat for special-status plant species, and there would be no direct impacts to critical habitats.

#### *Western Joshua Trees*

#### Direct Impacts

Western Joshua tree, a candidate species for state listing under CESA at the time the DEIR was prepared, was observed on the Project site and would be directly impacted by the Project. The Western Joshua Tree Conservation Act was passed on June 27, 2023. The act provides a streamlined mitigation option for payment of in lieu fees for the removal of Joshua trees as protected under the act and under CESA. The Western Joshua Tree Conservation Act has a direct nexus to the conservation of Western Joshua trees and the costs have been established by the CFGC and CDFW to capture adequate costs for acquiring, conserving, and managing western Joshua tree conservation lands and completing other activities to conserve the western Joshua tree. All in-lieu fees collected will be deposited into the Western Joshua Tree Conservation Fund for appropriation to CDFW solely for the purposes of acquiring, conserving, and managing western Joshua tree conservation lands and completing other activities to conserve the western Joshua tree.

The Project would result in direct impacts to 248 western Joshua tree individuals. All ground-disturbing activities are considered permanent impacts to western Joshua trees. Direct impacts to western Joshua tree are considered significant absent mitigation under CEQA. Of the 248 western Joshua tree individuals, several overlap the Hesperia Commerce Center II project (ITP No. 2021-038-06) (see Draft EIR Figure 5.3-2). The project that takes those trees first would be responsible for the mitigation of those subject trees and the latter project would not be required to mitigate for the take of the trees.

As required by Mitigation Measure (MM) BIO-2 (Conservation of Western Joshua Tree Lands), mitigation for direct impacts to western Joshua trees, their seed bank, and associated habitat will be fulfilled through conservation of western Joshua trees through a payment of fees consistent with The Western Joshua Tree Conservation Act or through payment to a CDFW-approved mitigation bank as approved by the City of Hesperia and CDFW. In addition, implementation of MM BIO-3 (Compliance Monitoring), MM BIO-4 (Education Programs), and MM BIO-5 (Construction Monitoring Notebook) would further reduce potential direct impacts during Project construction to a less-than significant level.

In addition, project applicants are required to submit an application and pay applicable fees to the City of Hesperia for removal or relocation of protected native desert plants under Hesperia Municipal Code Chapter 16.24. Per City policy, obtainment of an Incidental Take Permit (ITP), and corresponding mitigations, through CDFW would satisfy the City's requirements under Chapter 16.24 of the City Municipal Code, and therefore, a relocation plan as included under MM BIO-1 would not be required so long as the requirements of CESA and/or the Western Joshua Tree Conservation Act are met.

Indirect Impacts

Indirect impacts are considered any reasonably foreseeable effects caused by a project's implementation on remaining or adjacent biological resources outside the direct disturbance zone. Construction-related, short-term indirect impacts may include inadvertent spillover impacts outside of the construction footprint, dust accumulation on Joshua trees, chemical spills, stormwater erosion and sedimentation, and increased wildfire risk.

Potential long-term (post-construction) indirect impacts from operation and maintenance activities may include effects of herbicides, changes in water quality, increased wildfire risk, induced demand of the surrounding area, increased traffic and vehicle emissions, and accidental chemical spills. Indirect impacts to Joshua trees are considered significant absent mitigation.

MM BIO-3 (Compliance Monitoring) requires that an experienced biologist oversee compliance with the protective measures, including limiting impacts to the Project impact footprint. MM BIO-4 (Education Program) would provide construction personnel with training related to western Joshua trees that are present on and adjacent to the impact footprint. MM BIO-5 (Construction Monitoring Notebook) provides for documentation that the education program was administered to applicable personnel. MM BIO-6 (Delineation of Property Boundaries) requires that impacts occur within the fenced, staked, or flagged area that is clearly delineated within the Project impact footprint. The construction crew will be responsible for unauthorized impacts from construction activities to western Joshua trees that are outside the permitted Project footprint. Thus, implementation of MM BIO-3 through MM BIO-6 will enable the Project to avoid and minimize inadvertent spillover impacts outside of the Project footprint.

To reduce fugitive dust resulting from Project construction and to minimize adverse air quality impacts, the Project would employ dust mitigation measures in accordance with the Mojave Desert Air Quality Management District's Rules 401 and 403.2, which limit the amount of fugitive dust generated during construction.

MM BIO-7 (Hazardous Waste) would ensure that a prompt and effective response to any accidental chemical spills will be implemented, and that repair and clean-up of any hazardous waste occurs. Thus, implementation of MM BIO-7 (Hazardous Waste) would help to avoid and minimize impacts to western Joshua tree from any construction-related chemical spills.

A Stormwater Pollution Prevention Plan (SWPPP) would be prepared and implemented to prevent all construction pollutants from contacting stormwater during construction activities (PPP HYD-2 of Section 5.9, Hydrology and Water Quality), with the intent of keeping sediment and any other pollutants from moving off site and into receiving waters. Best management practice categories employed on site would include erosion control, sediment control, and non-stormwater good housekeeping. Preparation and implementation of a SWPPP would help to avoid and minimize the potential effects of stormwater erosion during construction.

Construction of the Project would introduce potential ignition sources to the Project site, including the use of heavy machinery and the potential for sparks during welding activities or other hot work. However, the Project would be required to comply with City of Hesperia and state requirements for fire safety practices to reduce the possibility of fires during construction activities. Further, vegetation would be removed from the site prior to the start of construction. Adherence to City of Hesperia and state regulatory standards during Project construction would reduce the risk of wildfire ignition and spread during construction activities. Therefore, short-term construction impacts involving wildland fires would not be substantial.

MM BIO-8 (Herbicides) would limit herbicide use to instances where hand or mechanical efforts are infeasible and would only be applied when wind speeds are less than 7 miles per hour to prevent drift into off-site western Joshua trees.

Implementation of low-impact-development features and best management practices, as specified under the Project WQMP (PPP HYD-3, Section 5.9 Hydrology and Water Quality) would, to the maximum extent practicable, reduce the discharge of pollutants into receiving waters, including inadvertent release of pollutants (e.g., hydraulic fluids and petroleum); the improper management of hazardous materials; trash and debris; and the improper management of portable restroom facilities (e.g., regular service) in accordance with all relevant local and state development standards. In addition, in accordance with CALGreen requirements (California Green Building Standards Code, CCR, Title 24, Part 11), Project source controls to improve water quality would be provided for outdoor material storage areas, outdoor trash storage/waste handling areas, and outdoor loading/unloading areas. Therefore, impacts to western Joshua trees due to changes in water quality would be avoided and minimized through implementation of low-impact-development features and best management practices.

### Conclusion

Implementation of MM BIO-1 (Relocation of Desert Native Plants), MM BIO-2 (Conservation of Western Joshua Tree Lands), MM BIO-3 (Compliance Monitoring), MM BIO-4 (Education Programs), and MM BIO-5 (Construction Monitoring Notebook) would reduce potential direct impacts to western Joshua trees to less than significant. Implementation of MM BIO-3 (Compliance Monitoring), MM BIO-4 (Education Program), MM BIO-5 (Construction Monitoring Notebook), MM BIO-6 (Delineation of Property Boundaries), MM BIO-7 (Hazardous Waste), and MM BIO-8 (Herbicides), would reduce potential indirect impacts to western Joshua tree to less than significant. Therefore, the Project would result in less than significant impacts with mitigation on special status plant species.

### Wildlife Species

As described above, four special-status wildlife species, burrowing owl (*Athene cunicularia*), loggerhead shrike (*Lanius ludovicianus*), LeConte's thrasher (*Toxostoma lecontei*), and Mohave ground squirrel (*Spermophilus (Xerospermophilus) mohavensis*) had a moderate potential to occur within the BSA. In addition, two special-status wildlife species, Mojave desert tortoise and Crotch bumble bee (*Bombus crotchii*), have a low potential to occur within the BSA. Focused surveys conducted for Mohave ground squirrel and Mojave desert tortoise were negative and therefore these species are not expected to occur and will not be analyzed further.

### Construction

Indirect impacts to special-status wildlife species are those that occur during construction to species present near the site, but not within the construction zone. These include fugitive dust that can degrade habitat and result in health implications for wildlife species; noise and vibration that can stress wildlife species or cause them to leave an area of otherwise suitable habitat, or that can result in disruption of bird nesting and abandonment of nests; increased human presence, which can also disrupt daily activities of wildlife and cause them to leave an area; night-time lighting, which can disrupt the activity patterns of nocturnal species, including many mammals and some birds, amphibians, and reptiles; and release of chemical pollutants, such as from oil leaks from construction vehicles and machinery.

Project construction could result in significant, indirect impacts to four special-status wildlife species: loggerhead shrike, LeConte's thrasher, burrowing owl, and Crotch bumble bee. Those impacts could include dust, noise and vibration, increased human presence, vehicle collisions, chemical spills, and night-time lighting.

#### Loggerhead shrike and LeConte's thrasher

In the event that construction is required to occur during bird nesting season, MM BIO-9 (Pre-construction Nesting Bird Surveys and Avoidance) would require nesting bird surveys. In the event nests are not found, no further mitigation would be required. In the event that nests are found, a qualified biologist will implement

construction buffers around nests, thus limiting effects from most short-term indirect impacts, including noise and vibration, increased human presence, night-time lighting, and vehicle collisions. MM BIO-3 (Compliance Monitoring), MM BIO-4 (Education Program), and MM BIO-5 (Construction Monitoring Notebook) would require that all workers complete a WEAP training and would require ongoing biological monitoring and compliance with all biological resource mitigation requirements. MM BIO-7 (Hazardous Waste) would ensure that a prompt and effective response to any accidental chemical spills be implemented, and that repair and clean-up of any hazardous waste occurs. To reduce fugitive dust resulting from construction and to minimize adverse air quality impacts, the Project would employ dust mitigation measures in accordance with the Mojave Desert Air Quality Management District's Rules 401 and 403.2, which limit the amount of fugitive dust generated during construction. MM BIO-12 (Lighting) would require night-time lighting during construction within 50 feet of habitat for special-status species to be shielded downward.

Potential long-term indirect impacts that could result from development within or adjacent to loggerhead shrike and LeConte's thrasher habitat include nighttime lighting and increased invasive plant species that may degrade habitat. MM BIO-12 (Lighting) would require night-time lighting during operations within 50 feet of habitat for special-status species to be shielded downward. MM BIO-13 (Invasive Plant Management) would require that landscape plants within 200 feet of native vegetation communities shall not be on the most recent version of the Cal-IPC California Invasive Plant Inventory (<http://www.cal-ipc.org/ip/inventory/index.php>).

Implementation of MM BIO-3 (Compliance Monitoring), MM BIO-4 (Education Program), MM BIO-5 (Construction Monitoring Notebook), MM BIO-7 (Hazardous Waste), MM BIO-9 (Preconstruction Nesting Bird Surveys), MM BIO-12 (Lighting), and MM BIO-13 (Invasive Plant Management) would reduce potential construction impacts to loggerhead shrike and LeConte's thrasher to less than significant.

#### Burrowing Owl

Based on the results of focused surveys within the BSA, burrowing owls are considered absent from the site. However, this species may colonize an area quickly and continue to have a moderate potential to occur before construction begins. A pre-construction survey is needed to confirm their absence prior to construction. MM BIO-10 (Pre-construction Surveys for Burrowing Owl and Avoidance) would require pre-construction burrowing owl surveys and result in establishment of construction buffers around any burrowing owl burrows found, thus limiting effects from most short-term indirect impacts, including noise and vibration, increased human presence, night-time lighting, and vehicle collisions. Project construction during bird nesting season would be avoided.

MM BIO-10 (Pre-construction Surveys for Burrowing Owl and Avoidance) would require pre-construction burrowing owl surveys and result in establishment of construction buffers around any burrowing owl burrows found, thus limiting effects from most short-term indirect impacts, including noise and vibration, increased human presence, night-time lighting, and vehicle collisions. MM BIO-3 (Compliance Monitoring), MM BIO-4 (Education Program), and MM BIO-5 (Construction Monitoring Notebook) would require that all workers complete a WEAP training and would require ongoing biological monitoring and compliance with all biological resource mitigation requirements. MM BIO-7 (Hazardous Waste) would ensure that a prompt and effective response to any accidental chemical spills be implemented, and that repair and clean-up of any hazardous waste occurs. To reduce fugitive dust resulting from construction and to minimize adverse air quality impacts, the Project would employ dust mitigation measures in accordance with the Mojave Desert Air Quality Management District's Rules 401 and 403.2, which limit the amount of fugitive dust generated during construction. MM BIO-12 (Lighting) would require night-time lighting during construction within 50 feet of habitat for special-status species to be shielded downward.

Potential long-term indirect impacts that could result from development within or adjacent to burrowing owl habitat include nighttime lighting and increased invasive plant species that may degrade habitat. MM BIO-

12 (Lighting) would require night-time lighting during operations within 50 feet of habitat for special-status species to be shielded downward. MM BIO-13 (Invasive Plant Management) would require that landscape plants within 200 feet of native vegetation communities shall not be on the most recent version of the Cal-IPC California Invasive Plant Inventory (<http://www.cal-ipc.org/ip/inventory/index.php>).

Implementation of MM BIO-3 (Compliance Monitoring), MM BIO-4 (Education Program), MM BIO-5 (Construction Monitoring Notebook), MM BIO-7 (Hazardous Waste), MM BIO-9 (Preconstruction Nesting Bird Surveys), MM BIO-12 (Lighting), and MM BIO-13 (Invasive Plant Management) would reduce potential construction impacts to burrowing owl to less than significant.

#### Crotch bumble bee

MM BIO-11 (Pre-construction Survey for Crotch Bumble Bee) would require pre-construction Crotch bumble bee surveys and result in establishment of construction buffers around any active nests, thus limiting effects from most short-term indirect impacts, including noise and vibration, increased human presence, night-time lighting, and vehicle collisions. MM BIO-3 (Compliance Monitoring), MM BIO-4 (Education Program), and MM BIO-5 (Construction Monitoring Notebook) would require that all workers complete a WEAP training and would require ongoing biological monitoring and compliance with all biological resource mitigation requirements. MM BIO-7 (Hazardous Waste) would ensure that a prompt and effective response to any accidental chemical spills be implemented, and that repair and clean-up of any hazardous waste occurs. To reduce fugitive dust resulting from construction and to minimize adverse air quality impacts, the Project would employ dust mitigation measures in accordance with the Mojave Desert Air Quality Management District's Rules 401 and 403.2, which limit the amount of fugitive dust generated during construction. MM BIO-12 (Lighting) would require night-time lighting during construction within 50 feet of habitat for special-status species to be shielded downward.

Potential long-term indirect impacts that could result from development within or adjacent to burrowing owl habitat include nighttime lighting and increased invasive plant species that may degrade habitat. MM BIO-12 (Lighting) would require night-time lighting during operations within 50 feet of habitat for special-status species to be shielded downward. MM BIO-13 (Invasive Plant Management) would require that landscape plants within 200 feet of native vegetation communities shall not be on the most recent version of the Cal-IPC California Invasive Plant Inventory (<http://www.cal-ipc.org/ip/inventory/index.php>).

Implementation of MM BIO-3 (Compliance Monitoring), MM BIO-4 (Education Program), MM BIO-5 (Construction Monitoring Notebook), MM BIO-7 (Hazardous Waste), MM BIO-9 (Preconstruction Nesting Bird Surveys), MM BIO-12 (Lighting), and MM BIO-13 (Invasive Plant Management) would reduce potential construction impacts to Crotch bumble bee to less than significant.

#### Operation

#### Loggerhead shrike

Extensive suitable nesting habitat, particularly western Joshua trees, is present within the BSA. The Project would result in the loss of 32.0 acres of suitable habitat for loggerhead shrike, including impacts to desert almond—Mexican bladdersage scrub, Joshua tree woodland, and California buckwheat scrub. These potential direct impacts to loggerhead shrike could be considered significant.

To avoid potential impacts to nesting loggerhead shrike, vegetation removal activities would be conducted outside the general bird nesting season (February 1 through August 31). If vegetation cannot be removed outside the bird nesting season, a pre-construction nesting bird survey would be conducted by a qualified biologist prior to vegetation removal. This requirement is outlined in MM BIO-9 (Pre-construction Nesting Bird Surveys).

As required by MM BIO-2, mitigation for direct impacts to 9.5 acres of western Joshua trees, their seed bank, and their associated habitat will be fulfilled through conservation of western Joshua tree through purchase of credits at a CDFW-approved mitigation bank or payment of in-lieu fees per the Western Joshua Tree Conservation Act as approved by the City of Hesperia and CDFW. Conservation efforts for western Joshua tree would focus on the conservation of large, interconnected Joshua tree woodlands on lands where edge effects are limited, versus lands in urban settings that are subject to habitat fragmentation and edge effects, such as the Project site. Thus, mitigation for impacts to western Joshua tree would also mitigate impacts to loss of suitable habitat for loggerhead shrike.

Potential long-term indirect impacts that could result from development within or adjacent to loggerhead shrike habitat include night-time lighting and increased invasive plant species that may degrade habitat. MM BIO-12 (Lighting) would require night-time lighting during operations within 50 feet of habitat for special-status species to be shielded downward. MM BIO-13 (Invasive Plant Management) would require that landscape plants within 200 feet of native vegetation communities not be on the most recent version of the California Invasive Plant Council's Inventory of Invasive Plants (<http://www.cal-ipc.org/ip/inventory/index.php>).

Implementation of MM BIO-2 (Conservation of Western Joshua Tree Lands), MM BIO-9 (Pre-construction Nesting Bird Surveys and Avoidance), MM BIO-12, and MM BIO-13 would reduce potential operational impacts to loggerhead shrike to less than significant.

#### LeConte's Thrasher

The Project would result in the loss of approximately 22.5 acres of suitable habitat for LeConte's thrasher, including impacts to desert almond—Mexican bladder sage scrub, and California buckwheat scrub. These potential direct impacts to LeConte's thrasher could be considered significant.

To avoid potential impacts to nesting LeConte's thrasher, vegetation removal activities would be conducted outside the general bird nesting season (February 1 through August 31). If vegetation cannot be removed outside the bird nesting season, a pre-construction nesting bird survey would be conducted by a qualified biologist prior to vegetation removal. This requirement is outlined in MM BIO-9 (Pre-construction Nesting Bird Surveys).

As required by MM BIO-2, mitigation for direct impacts to 9.5 acres of western Joshua trees, their seed bank, and their associated habitat will be fulfilled through conservation of western Joshua tree through purchase of credits at a CDFW-approved mitigation bank or other conservation mechanism approved by the City of Hesperia and CDFW. Conservation efforts for western Joshua tree would focus on the conservation of large, interconnected Joshua tree woodlands on lands where edge effects are limited, versus lands in urban settings that are subject to habitat fragmentation and edge effects, such as the Project site. Thus, mitigation for impacts to western Joshua tree would also mitigate impacts to loss of suitable habitat for LeConte's thrasher.

Potential long-term indirect impacts that could result from development within or adjacent to LeConte's thrasher habitat include night-time lighting and increased invasive plant species that may degrade habitat. MM BIO-12 (Lighting) would require night-time lighting during operations within 50 feet of habitat for special-status species to be shielded downward. MM BIO-13 (Invasive Plant Management) would require that landscape plants within 200 feet of native vegetation communities not be on the most recent version of the California Invasive Plant Council's Inventory of Invasive Plants (<http://www.cal-ipc.org/ip/inventory/index.php>).

Implementation of MM BIO-2 (Conservation of Western Joshua Tree Lands) and MM BIO-9 (Pre-construction Nesting Bird Surveys) would reduce potential operational impacts to LeConte's thrasher to less than significant.

Burrowing Owl

The Project would result in the loss of 32.7 acres of suitable habitat for burrowing owl, including impacts to desert almond—Mexican bladdersage scrub, Joshua tree woodland, California buckwheat scrub, and disturbed habitat. These potential direct impacts to burrowing owls could be considered significant. Focused surveys for burrowing owl conducted in 2022 (see Table 5.3-1, Biological Site Surveys). Based on the results of focused surveys within the study area, burrowing owls are considered absent from the site. However, this species may colonize an area quickly and continue to have a moderate potential to occur before construction begins. A pre-construction survey is needed to confirm their absence prior to construction.

Pursuant to the California Fish and Game Code and the MBTA, a pre-construction survey in compliance with Staff Report on Burrowing Owl Mitigation, State of California Natural Resource Agency, Department of Fish and Game, May 7, 2012 (CDFW 2012) would be necessary to reevaluate the locations of potential burrowing owl burrows located within the Project limits so take of owls or active owl nests can be avoided. Consistent with MM BIO-10 (Preconstruction Surveys for Burrowing Owl), a pre-construction survey for burrowing owl shall be conducted in areas supporting potentially suitable habitat and within 14 days prior to the start of construction activities. A Burrowing Owl Relocation Plan has been prepared to facilitate implementation of this mitigation measure (included under Appendix C). In addition, implementation of MM BIO-3 (Compliance Monitoring), MM BIO-4 (Education Programs), and MM BIO-5 (Construction Monitoring Notebook) would reduce potential direct impacts to a less-than significant level.

Joshua tree woodland is considered suitable habitat for burrowing owl. As required by MM BIO-2, mitigation for direct impacts to 9.5 acres of western Joshua trees, their seed bank, and their associated habitat will be fulfilled through conservation of western Joshua tree through purchase of credits at a CDFW-approved mitigation bank or other conservation mechanism approved by the City of Hesperia and CDFW. Conservation efforts for western Joshua tree will focus on the conservation of large, interconnected Joshua tree woodlands on lands where edge effects are limited, versus lands in urban settings that are subject to habitat fragmentation and edge effects, such as the Project site. Thus, mitigation for impacts to western Joshua tree will double as mitigation for impacts to loss of suitable habitat for burrowing owl, which use similar habitat.

Potential long-term indirect impacts that could result from development within or adjacent to burrowing owl habitat include night-time lighting and increased invasive plant species that may degrade habitat. MM BIO-12 (Lighting) would require night-time lighting during operations within 50 feet of habitat for special-status species to be shielded downward. MM BIO-13 (Invasive Plant Management) would require that landscape plants within 200 feet of native vegetation communities not be on the most recent version of the California Invasive Plant Council's Inventory of Invasive Plants (<http://www.cal-ipc.org/ip/inventory/index.php>).

Implementation of MM BIO-2 (Conservation of Western Joshua Tree Lands) and MM BIO-10 (Pre-construction Surveys for Burrowing Owl) would reduce potential operational impacts to burrowing owl to less than significant.

Crotch bumble bee

To avoid potential impacts to nesting Crotch bumble bee, ground disturbing activities would be conducted outside the Colony Active Period (April 1 through August 31). If vegetation cannot be removed outside the Colony Active Period, a pre-construction survey by a qualified biologist is required prior to ground disturbance. This requirement is outlined in MM BIO-11 (Pre-construction Survey for Crotch Bumble Bee).

If nest resources occupied by Crotch bumble bee are detected within the construction area, no construction activities shall occur within 100 feet of the construction zone, or as determined by a qualified biologist through evaluation of topographic features or distribution of floral resources. The nest resources will be avoided for the duration of the Crotch bumble bee nesting period (February 1 through October 31).

If the above measures are followed, it is assumed that the Project shall not need to obtain authorization from CDFW through the California Endangered Species Act ITP process.

If the nest resources cannot be avoided, as outlined in this measure, the project applicant will consult with CDFW regarding the need to obtain an ITP. Any measures determined to be necessary through the ITP process to offset impacts to Crotch bumble bee may supersede measures provided in this CEQA document and shall be incorporated into the habitat mitigation and monitoring plan. In the event an ITP is needed, mitigation for direct impacts to Crotch bumble bee will be fulfilled through compensatory mitigation at a minimum 1:1 nesting habitat replacement of equal or better functions and values to those impacted by the Project, or as otherwise determined through the ITP process. Mitigation will be accomplished either through off-site conservation or through a CDFW-approved mitigation bank.

As required by MM BIO-1 (Western Joshua Tree Fee Payment), mitigation for direct impacts to 248 western Joshua trees will be fulfilled through payment of applicable fees consistent with The Western Joshua Tree Conservation Plan or through payment to a CDFW-approved mitigation bank. The fees will contribute to conservation of western Joshua tree, which will also provide habitat for Crotch bumble bee. Thus, mitigation for impacts to western Joshua tree would also mitigate for impacts to loss of potential habitat for Crotch bumble bee.

Implementation of MM BIO-1 (Western Joshua Tree Fee Payment) and MM BIO-11 (Pre-construction Survey for Crotch Bumble Bee) would reduce potential direct impacts to Crotch bumble bee to less than significant.

#### *Conclusion*

Therefore, the Project would result in less than significant direct or indirect impacts on species identified as candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by CDFW, or USFWS with the implementation of MM BIO-1 through BIO-13.

#### MITIGATION MEASURES

##### **MM BIO-1: Relocation of Desert Native Plants (Hesperia Municipal Code Chapter 16.24).**

Prior to the issuance of grading permits, the Project Applicant shall submit an application and applicable fee paid to the City of Hesperia for removal or relocation of protected native desert plants under Hesperia Municipal Code Chapter 16.24 as required and schedule a preconstruction site inspection with the Planning Division and the Building Division. The application shall include certification from a qualified Joshua tree and native desert plant expert(s) to determine that proposed removal or relocation of protected native desert plants are appropriate, supportive of a healthy environment, and in compliance with the City of Hesperia Municipal Code. Protected plants subject to Hesperia Municipal Code Chapter 16.24 may be relocated on-site, or within an area designated as an area for species to be adopted later. The application shall include a detailed plan for the removal of all protected plants on the Project site. The plan shall be prepared by a qualified Joshua tree and native desert plant expert(s). The plan shall include, but not be limited to, the following measures:

- Salvaged plants shall be transplanted expeditiously to either their final on-site location, or to an approved off-site area. If the plants cannot be expeditiously taken to their permanent relocation area at the time of excavation, they may be transplanted in a temporary area (stockpiled) prior to being moved to their permanent relocation site(s).

- Western Joshua trees shall be marked on their north facing side prior to excavation. Transplanted western Joshua trees shall be planted in the same orientation as they currently occur on the Project site, with the marking on the north side of the trees facing north at the relocation site(s).
- Transplanted plants shall be watered prior to and at the time of transplantation. The schedule of watering shall be determined by the qualified tree expert and desert native plant expert(s) to maintain plant health. Watering of the transplanted plants shall continue under the guidance of qualified tree expert and desert native plant expert(s) until it has been determined that the transplants have become established in the permanent relocation site(s) and no longer require supplemental watering.

**MM BIO-2:**

**Conservation of Western Joshua Tree Lands (CESA)**

In the case that the California Fish and Game Commission lists western Joshua trees as threatened under the California Endangered Species Act, the following measure will be implemented:

- Prior to the initiation of Joshua tree removal, obtain California Endangered Species Act (CESA) ITP under Section 2081 of the Fish and Game Code. The Project Applicant will adhere to measures and conditions set forth within the ITP.
- Mitigation for direct impacts to western Joshua trees shall be fulfilled through conservation of western Joshua trees at a 1:1 habitat replacement ratio, of equal or better functions and values to those impacted by the Project. Mitigation can be through purchases of credits at a California Department of Fish and Wildlife (CDFW)-approved mitigation bank for western Joshua tree. Additionally, no take of western Joshua tree will occur without authorization from CDFW in the form of an ITP pursuant to Fish and Game Code 2081.
- Name, qualifications, business address, and contact information of a biological monitor (designated botanist) shall be submitted to CDFW at least 30 days prior to Project activities. The designated botanist shall be responsible for monitoring Project activities to help minimize and fully mitigate or avoid incidental take of Joshua trees.
- The designated botanist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid unauthorized take of an individual Joshua tree.
- The Project analyzed impacts to western Joshua trees, which overlap with the adjacent proposed developments. Any impacts to overlapping Joshua trees will be analyzed by CDFW to ensure no Joshua trees are mitigated twice.
- The Western Joshua Tree Conservation Act has been approved by the California Fish and Game Commission. The Western Joshua Tree Conservation Act is now in effect, which provides an alternative mitigation option to traditional CESA mitigation. Alternative Western Joshua Tree Conservation Act mitigation mechanisms, providing equal or better function and value to existing mechanisms under CESA, will be implemented in combination with traditional mitigation banking or in lieu of mitigation banking as allowed under state law.

**MM BIO-3**

**Compliance Monitoring.** The Designated Biologist shall be on site daily when impacts occur. The Designated Biologist shall conduct compliance inspections to minimize incidental take of western Joshua trees and impacts to other sensitive biological resources; prevent unlawful take of western Joshua trees; and ensure that signs, stakes, and fencing are intact, and that impacts are only occurring outside the

permitted impact footprint. Weekly written observation and inspection records that summarize oversight activities and compliance inspections and monitoring activities required by the ITP shall be prepared.

**MM BIO-4**

**Education Program.** An education program (Worker Environmental Awareness Program [WEAP]) for all persons employed or otherwise working in the Project area shall be administered before performing impacts. The WEAP shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and status of western Joshua tree, burrowing owl, and loggerhead shrike; and other biological resources mitigation measures described in the California Environmental Quality Act document. Interpretation for non-English-speaking workers will be provided, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project area. Upon completion of the WEAP, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees who will be conducting work in the Project area.

**MM BIO-5**

**Construction Monitoring Notebook.** The Designated Biologist shall maintain a construction monitoring notebook on site throughout the construction period, which shall include a copy of the biological resources mitigation measures with attachments and a list of signatures of all personnel who have successfully completed the education program. The permittee shall ensure that a copy of the construction monitoring notebook is available for review at the Project site upon request by the California Department of Fish and Wildlife.

**MM BIO-6**

**Delineation of Property Boundaries.** Before beginning activities that would cause impacts, the contractor shall, in consultation with the Designated Biologist, clearly delineate the boundaries with fencing, stakes, or flags, consistent with the grading plan, within which the impacts will take place. All impacts outside the fenced, staked, or flagged areas shall be avoided, and all fencing, stakes, and flags shall be maintained until the completion of impacts in that area.

**MM BIO-7**

**Hazardous Waste.** The Applicant shall immediately stop work and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so.

**MM BIO-8**

**Herbicides.** The Applicant shall limit herbicide use for invasive plant species and shall use herbicides only if it has been determined that hand or mechanical efforts are infeasible. To prevent drift, the permittee shall apply herbicides only when wind speeds are less than 7 miles per hour. All herbicide application shall be performed by a licensed applicator and in accordance with all applicable federal, state, and local laws and regulations.

**MM BIO-9:**

**Pre-construction Nesting Bird Survey.** Pre-construction Nesting Bird Surveys and Avoidance. Project construction would be avoided during bird nesting season (typically February 1 through August 31). In the event construction is required to occur during bird nesting season, construction activities shall avoid the migratory bird nesting season, to reduce any potential significant impact to birds that may be nesting on the survey area. If construction activities must occur during the migratory

bird nesting season, an avian nesting survey of the Project site and within 500 feet of all impact areas must be conducted to determine the presence/absence of protected migratory birds and active nests. The avian nesting survey shall be performed by a qualified wildlife biologist within 72 hours prior to the start of construction in accordance with the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 3513. If an active bird nest is found, the nest shall be flagged and mapped on the construction plans along with an appropriate buffer established around the nest, which will be determined by the biologist based on the species' sensitivity to disturbance (typically 300 feet for passerines and 500 feet for raptors and special-status species). The nest area shall be avoided until the nest is vacated and the juveniles have fledged. The nest area shall be demarcated in the field with flagging and stakes or construction fencing. On-site construction monitoring shall also be conducted when construction occurs in close proximity to an active nest buffer. No Project activities may encroach into established buffers without the consent of a monitoring biologist. The buffer shall remain in place until it is determined the nestlings have fledged and the nest is no longer considered active.

**MM BIO-10:**

**Pre-construction Surveys for Burrowing Owl.** One pre-construction burrowing owl survey shall be completed no more than 14 days before initiation of site preparation or grading activities. If ground-disturbing activities are delayed or suspended for more than 30 days after the pre-construction surveys, the Project site shall be resurveyed. Surveys for burrowing owl shall be conducted in accordance with protocols established in the Staff Report on Burrowing Owl Mitigation (prepared by the California Department of Fish and Game [now California Department of Fish and Wildlife] in 2012) or current version.

If burrowing owls are detected, the Burrowing Owl Relocation Plan shall be implemented in consultation with the California Department of Fish and Wildlife (CDFW). As required by the Burrowing Owl Relocation Plan, disturbance to burrows shall be avoided during the nesting season (February 1 through August 31). Buffers will be established around occupied burrows in accordance with guidance provided in the Staff Report on Burrowing Owl Mitigation or current version. No Project activities shall be allowed to encroach into established buffers without the consent of a monitoring biologist. The buffer shall remain in place until it is determined that occupied burrows have been vacated or the nesting season has completed.

Outside of the nesting season, passive owl relocation techniques approved by CDFW shall be implemented. Owls shall be excluded from burrows in the immediate Project area and within a buffer zone by installing one-way doors in burrow entrances. These doors will be placed at least 48 hours prior to ground-disturbing activities. The Project area shall be monitored daily for one week to confirm owl departure from burrows prior to any ground-disturbing activities. Compensatory mitigation for permanent loss of owl habitat will be provided following the guidance in the Staff Report on Burrowing Owl Mitigation or current version.

Where possible, burrows will be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible plastic pipe shall be inserted into the tunnels during excavation to maintain an escape route for any wildlife inside the burrow.

**MM BIO-11:**

**Pre-construction Surveys for Crotch Bumble Bee.** In the event that grading starts between April and August, a pre-construction survey for Crotch bumble bee shall be conducted by a qualified biologist within the construction area during the primary flight period (April through August) prior to the start of construction activities. The survey shall ensure that no nests for Crotch bumble bee are located within the construction area. Crotch bumble bee is a habitat generalist, ground-nesting bee. For the purposes of this mitigation measure, nest resources are defined as small mammal burrows, bunch grasses with a duff layer, thatch, hollow trees, rock walls, and brush piles.

On June 6, 2023, the California Department of Fish and Wildlife (CDFW) released the "Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species". The pre-construction survey shall follow the guidance included within "Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species".

If nest resources occupied by Crotch bumble bee are detected within the construction area, no construction activities shall occur within 100 feet of the construction zone, or as determined by a qualified biologist through evaluation of topographic features or distribution of floral resources. The nest resources will be avoided for the duration of the Crotch bumble bee nesting period (February 1 through October 31).

If the above measures are followed, it is assumed that the Project shall not need to obtain authorization from CDFW through the California Endangered Species Act ITP process.

If the nest resources cannot be avoided, as outlined in this measure, the project applicant will consult with CDFW regarding the need to obtain an ITP. Any measures determined to be necessary through the ITP process to offset impacts to Crotch bumble bee may supersede measures provided in this CEQA document and shall be incorporated into the habitat mitigation and monitoring plan. In the event an ITP is needed, mitigation for direct impacts to Crotch bumble bee will be fulfilled through compensatory mitigation at a minimum 1:1 nesting habitat replacement of equal or better functions and values to those impacted by the Project, or as otherwise determined through the ITP process. Mitigation will be accomplished either through off-site conservation or through a CDFW-approved mitigation bank.

**MM BIO-12:**

**Lighting.** Lighting for construction activities and operations within 50 feet of the outside edge of the impact footprint containing habitat for special-status wildlife will be directed away from natural areas.

**MM BIO-13:**

**Invasive Plant Management.** To reduce the spread of invasive plant species, landscape plants within 200 feet of native vegetation communities shall not be on the most recent version of the California Invasive Plant Council's Inventory of Invasive Plants (<http://www.cal-ipc.org/ip/inventory/index.php>). Post-construction, the Project applicant shall continually remove invasive plant species on site by hand or mechanical methods, as feasible.

## 6.1.2 ADVERSE IMPACTS ON RIPARIAN HABITAT/SENSITIVE NATURAL COMMUNITIES

**Impact Finding:** The Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service (Draft EIR Page 5.3-21).

The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of Mitigation Measure BIO-1 and Mitigation Measure BIO-2.

**Facts in Support of Finding:** Six vegetation communities were mapped within the BSA (includes the Project site, offsite improvement area, and a 100-foot buffer), including 22.4 acres of Desert Almond-Mexican Bladdersage Scrub, 32.7 acres of Joshua Tree Woodland, 0.1 acre of California Buckwheat Scrub, and 0.7 acres of disturbed habitat (see Figure 5.3-1). State rankings of 1, 2, or 3 are considered high priority for inventory or special-status and impacts to these communities typically require mitigation Joshua Tree Woodland is ranked as S3, or “vulnerable to extirpation or extinction”, by the California Natural Community List. All other communities listed are ranked as S4 or S5, or unranked, which are not considered sensitive vegetation communities.

The Project would result in the disturbance of 29.5-acre within the Project site and 1.3 acres of off-site area. Biological research and site surveys conducted for the Project identified six vegetation communities BSA (and 100-foot buffer around the Project site), including 22.4 acres of Desert Almond-Mexican Bladdersage Scrub, 29.6 acres of Joshua Tree Woodland, 0.1 acre of California Buckwheat Scrub, and 0.7 acres of disturbed habitat. State rankings of 1, 2, or 3 are considered high priority for inventory or special-status and impacts to these communities typically require mitigation Joshua Tree Woodland is ranked as S3, or “vulnerable to extirpation or extinction”, by the California Natural Community List. All other communities listed are ranked as S4 or S5, or unranked, which are not considered sensitive vegetation communities.

All ground-disturbing activities are considered permanent impacts to Joshua tree woodland. The Project would result in permanent impacts to 9.5 acres of the 32.7 total acres of Joshua tree woodland within the BSA. The Project would also result in permanent impacts to 27.3 acres of vegetation communities and land cover types that are not considered sensitive by CDFW, including desert almond—Mexican bladdersage scrub, California buckwheat scrub, and disturbed habitat.

The impacted 248 trees would require mitigation pursuant to CESA and/or the Western Joshua Tree Conservation Act. Mitigation for direct impacts to 248 western Joshua tree individuals will also mitigate for impacts to 9.5 acres of Joshua tree woodland. As required by MM BIO-2 (Conservation of Western Joshua Tree Lands), mitigation for direct impacts to 248 western Joshua trees will be fulfilled through conservation of Western Joshua tree through purchase of credits at a CDFW-approved mitigation bank or other conservation mechanism approved by the City of Hesperia and CDFW. Conservation efforts for western Joshua tree will focus on the conservation of large, interconnected Joshua tree woodlands on lands where edge effects are limited, versus lands in urban settings that are subject to habitat fragmentation and edge effects, such as the Project site. Thus, mitigation for impacts to western Joshua tree will also mitigate for impacts to 9.5 acres of Joshua tree woodland.

Implementation of MM BIO-1 (Relocation of Desert Native Plants) and MM BIO-2 (Conservation of Western Joshua Tree Lands) would reduce potential impacts to sensitive vegetation communities (i.e., Joshua tree woodland) to less than significant.

### MITIGATION MEASURES

**MM BIO-1:** Relocation of Desert Native Plants (Hesperia Municipal Code Chapter 16.24) (previously listed – satisfied by MM BIO-2)

**MM BIO-2: Conservation of Western Joshua Tree Lands (CESA) (previously listed)**

**6.1.3 ADVERSE IMPACTS ON WILDLIFE MOVEMENT**

**Impact Finding:** The Project would not interfere substantially with the movement of any native 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 (Draft EIR Page 5.3-22).

The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of Mitigation Measures BIO-9 and BIO-13.

**Facts in Support of Finding:** No wildlife corridors exist on the Project site; however, the Project site contains ornamental trees that could be used by songbirds or raptors protected under the Federal Migratory Bird Treaty Act and Sections 3503, 3503.5, and 3513 of the California Fish and Game Code. Therefore, impacts related to nesting birds could occur if site development activities are during the avian breeding season (typically February 1 through September 15). Any activities that occur during the nesting/breeding season of birds protected by the federal Migratory Bird Treaty Act (MBTA), could result in a potentially significant impact if requirements of the MBTA are not followed. Implementation of Mitigation Measure BIO-9 would ensure MTBA compliance and would require a nesting bird survey to be conducted prior to the commencement of construction during nesting season, which would reduce potential impacts related to nesting avian species and native wildlife nursery sites to a less than significant level.

Potential long-term (post-construction) indirect impacts from operations and maintenance activities could disrupt wildlife movement around the Project due to increased lighting from buildings. MM BIO-12 (Lighting) would ensure all lighting during operations, and within 50 feet of the outside edge of the impact footprint containing habitat for special-status wildlife, would be directed away from natural areas.

Therefore, the Project with implementation of MM BIO-9 and MM BIO-12, the Project would result in less than significant impacts with mitigation on the movement of native resident, migratory fish, or wildlife species.

**MITIGATION MEASURES**

**MM BIO-9: Pre-construction Nesting Bird Survey (previously listed)**

**MM BIO-12: Lighting (previously listed)**

**6.1.4 CONFLICT WITH BIOLOGICAL RESOURCES PROTECTION POLICIES AND ORDINANCES**

**Impact Finding:** The Project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation ordinance (Draft EIR Page 5.3-23).

The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of Mitigation Measure BIO-2.

**Facts in Support of Finding:** Pursuant to the City of Hesperia Municipal Code chapter 16.24, Protected Plants, all species of the Agavaceae family (*Yuccas*, *Nolinas*, Century Plants.), all species of cactus, including chollas (*Cylindropuntia* spp.), smoketree (*Dalea spinosa*), all species of the mesquites (*Prosopis*), creosote rings 10 feet or more in diameter, all Joshua trees, and all plants protected or regulated by the California Desert Native Plants Act (California Food and Agricultural Code 80001 et. seq.) shall not be removed except under a removal permit issued by the agricultural commissioner. The Project site includes 248 Joshua trees within the Project site. As a listed species under CESA, the Project applicant would be required to obtain an ITP under Section 2081 of the Fish and Game Code (MM BIO-2). Additionally, the applicant will apply for mitigation land credits from a CDFW-approved mitigation bank established to protect Joshua trees or pay

fees according to the Western Joshua Tree Conservation Act at a minimum of a 1:1 ratio of equal or better function.

Project construction would necessitate completion of a native plant removal permit application for the removal of existing Joshua trees from the Project site. The City requires a detailed plan for the removal of all protected plants on the Project site to be prepared with the application (Mitigation Measure BIO-1). However, per City policy, obtainment of an Incidental Take Permit and corresponding mitigation under the jurisdiction of CDFW would satisfy the City's requirements under Chapter 16.24 of the City Municipal Code. Therefore, the Project's potential to conflict with local policies or ordinances protecting biological resources would be less than significant with mitigation incorporated.

#### MITIGATION MEASURES

**MM BIO-1:** Relocation of Desert Native Plants (Hesperia Municipal Code Chapter 16.24) (previously listed – satisfied by MM BIO-2)

**MM BIO-2:** Conservation of Western Joshua Tree Lands (CESA) (previously listed)

### 6.1.5 CUMULATIVE BIOLOGICAL RESOURCE IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts to biological resources with mitigation (Draft EIR 5.3-23).

#### Facts in Support of Finding:

The cumulative study area for purposes of biological resources would be the area surrounding the Project site, as well as the larger City of Hesperia. This cumulative impact analysis for biological resources considers development of the proposed Project in conjunction with other development projects as well as the projects identified in Section 5.0, Environmental Impact Analysis, Table 5-1, Cumulative Projects. Projects identified in Table 5-1 are proposed adjacent to the Project site and within the larger Hesperia area.

#### Special-Status Species.

The Project could result in impacts to burrowing owls, Loggerhead shrike, Le Conte's thrasher, and Joshua trees. Joshua tree woodlands are considered a sensitive natural community by CDFW (CDFW 2020).

As required by MM BIO-2, mitigation for direct impacts to 9.5 acres of western Joshua trees will be fulfilled through purchase of credits at a CDFW-approved mitigation bank or payment of in-lieu fees per the Western Joshua Tree Conservation Act, as approved by the City of Hesperia and CDFW.

Additionally, the Project could result in potentially significant impacts on burrowing owls, Loggerhead shrike, Le Conte's thrasher through the loss of suitable habitat and degradation of suitable habitat surrounding the Project site. Implementation of MM BIO-3 (Compliance Monitoring), MM BIO-4 (Education Program), MM BIO-5 (Construction Monitoring Notebook), MM BIO-7 (Hazardous Waste), MM BIO-9 (Preconstruction Nesting Bird Surveys and Avoidance), MM BIO-12 (Lighting), and MM BIO-13 (Invasive Plant Management) would reduce potential construction impacts to loggerhead shrike, LeConte's thrasher, and burrowing owl to less than significant. Implementation of MM BIO-2 (Conservation of Western Joshua Tree Lands), MM BIO-9 (Pre-construction Nesting Bird Surveys and Avoidance), MM BIO-12, and MM BIO-13 would reduce potential operational impacts to less than significant. Additionally, MM BIO-10 (Pre-construction Surveys for Burrowing Owl) would be implemented to reduce potential operational impacts to burrowing owl to less than significant and MM BIO-11 (Pre-construction Surveys for Crotch Bumble Bee) would be implemented to reduce potential operations impacts to Crotch bumble bee to less than significant.

The less than significant impacts, with MM BIO-1 through BIO-13, from the Project are not anticipated to combine with other development projects to substantially affect these species to a point where their survival in the region is threatened. Mitigation implemented for the Project would ensure the adequate preservation and/or replacement of special status species and habitat, so to not diminish the larger population and regional habitat availability. Therefore, Project impacts would not be cumulatively considerable.

### **Sensitive Habitat.**

The Project site is currently undeveloped and does not contain any riparian habitat or jurisdictional waters. Therefore, cumulative impacts related to riparian habitat and jurisdictional waters would be less than cumulatively significant.

The Project would result in permanent impacts to 9.5 acres of Joshua tree woodland. Mitigation for direct impacts to 248 western Joshua tree individuals will also mitigate for impacts to 9.5 acres of Joshua tree woodland. In the event that western Joshua trees remain listed as a Candidate species or are elevated to "Threatened" status, as required by MM BIO-2 (Conservation of Western Joshua Tree Lands), mitigation for direct impacts to 248 western Joshua trees will be fulfilled through conservation of Western Joshua tree through purchase of credits at a CDFW-approved mitigation bank or other conservation mechanism approved by the City of Hesperia and CDFW. Conservation efforts for western Joshua tree will focus on the conservation of large, interconnected Joshua tree woodlands on lands where edge effects are limited, versus lands in urban settings that are subject to habitat fragmentation and edge effects, such as the Project site. Thus, mitigation for impacts to western Joshua tree will also mitigate for impacts to 9.5 acres of Joshua tree woodland. In the event that western Joshua trees are delisted as a Candidate threatened species, the Hesperia Municipal Code Chapter 16.24 would apply, which would require the development and implementation of a desert native plants relocation plan to plan for the removal and replacement of impacted Joshua trees (MM BIO-1). The less than significant impacts, with implementation of MM BIO-1 and/or MM BIO-2, from the Project are not anticipated to combine with other development projects to substantially affect this sensitive habitat to a point where availability in the region is substantially diminished. Therefore, Project impacts would not be cumulatively considerable.

### **Nesting and Migratory Birds.**

Mitigation is included to avoid impacts to nesting bird species through compliance with the Migratory Bird Treaty Act. As described above, the Project site contains trees and shrubs that can support nesting songbirds or raptors protected under the Federal Migratory Bird Treaty Act and Sections 3503, 3503.5, and 3513 of the California Fish and Game Code during the nesting season. The less than significant impacts, with MM BIO-9, from the Project are not anticipated to combine with other development projects to substantially affect these species to a point where their survival in the region is threatened. Therefore, Project impacts would not be cumulatively considerable.

### **Ordinances/Adopted Conservation Plans.**

The City Municipal Code chapter 16.24, Protected Plants, all species of the Agavaceae family (Yuccas, Nolin, Century Plants.), all species of cactus, including chollas (*Cylindropuntia* spp.), smoketree (*Dalea spinosa*), all species of the mesquites (*Prosopis*), creosote rings 10 feet or more in diameter, all Joshua trees, and all plants protected or regulated by the California Desert Native Plants Act (California Food and Agricultural Code 80001 et. seq.) shall not be removed except under a removal permit issued by the agricultural commissioner. The Project would result in the removal of Joshua trees from the site. All past, current, and probable future projects, including the proposed Project, would be required to comply with the City's native plant ordinance and provide preservation/mitigation as determined by the City. The less than significant impacts, with implementation of MM BIO-1, from the Project are not anticipated to combine with

other development projects to substantially affect these species to a point where their survival in the region is threatened. Therefore, Project impacts would not be cumulatively considerable.

Cumulatively considerable impacts to these limited biological resources would not occur from implementation of the proposed Project with implementation of Mitigation Measures BIO-1 through BIO-13.

#### MITIGATION MEASURES

**MM BIO-1 through BIO-13:** As previously listed.

## 6.2 CULTURAL RESOURCES

### 6.2.1 ARCHAEOLOGICAL RESOURCES

**Impact Finding:** The Project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5 (Draft EIR Page 5.4-7).

The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of Plans, Programs, Policies (PPP) CUL-1 and Mitigation Measure CUL-1.

**Facts in Support of Finding:** The records search conducted for the Project revealed 53 previously recorded resources (two prehistoric and 51 historic) within one mile of the Project site. None of the 53 resources were identified as being within the Project site. The prehistoric resources consist of a lithic scatter and a single isolate. The historic resources consist of nine roads, one highway, various segments of the Spanish Trail, a transmission line, one residence, one homestead property, 25 trash scatters, and 12 isolates. The site is vacant and undeveloped with the exception of a dirt road, Caliente Road, which bisects the site from northeast to southwest and a manhole located in the southeast portion of the site. Additionally, the 1902 Hesperia USGS map indicates that the Project site is located adjacent to the west bank of the Oro Grande Wash.

During the field visit, no evidence of any historic or prehistoric cultural resources was identified within the Project site; however, ground visibility at the time of the survey was poor, with only 50 percent of the Project site visible due to vegetation, which affected the potential to discover any surface scatters of artifacts. Additionally, the City of Hesperia General Plan Update EIR identifies the Project site as within an area of “medium sensitivity” for the presence of cultural resources (City of Hesperia 2010). As a result, Mitigation Measure CUL-1 is included which requires archaeological monitoring during all ground-disturbance activities, Mitigation Measure CUL-1 also includes procedures to follow in the event a potential resource is uncovered, including that work must be halted within 60 feet of the find in the event that a resource is inadvertently discovered during ground-disturbing activities, and requiring coordination with the Yuhaaviatam of San Manuel Nation if significant pre-contact and/or historic-era cultural resources are discovered. Thus, with implementation of Mitigation Measure CUL-1, potential impacts related to archaeological resources would be reduced to a less than significant level.

#### MITIGATION MEASURES

**MM CUL-1:** **Archaeological Monitoring.** Prior to the issuance of the first grading permit, the applicant shall provide a letter to the City Planning Division, or designee, from a qualified professional archeologist meeting the Secretary of Interior’s Professional Qualifications for Archaeology as defined at 36 CFR Part 61, Appendix A, stating that qualified archeologists have been retained and will be present at pre-grade meetings and for all initial ground disturbing activities, up to five feet in depth.

In the event that a resource is inadvertently discovered during ground-disturbing activities, work must be halted within 60 feet of the find until it can be evaluated

by the qualified archaeologist. Construction activities could continue in other areas. If the find is considered a “resource” the archaeologist shall pursue either protection in place or recovery, salvage, and treatment of the deposits. Recovery, salvage, and treatment protocols shall be developed in accordance with applicable provisions of Public Resource Code Section 21083.2 and State CEQA Guidelines 15064.5 and 15126.4 in consultation with the City. Per CEQA Guidelines Section 15126.4(b)(3), preservation in place shall be the preferred means to avoid impacts to archaeological resources qualifying as historical resources. Consistent with CEQA Guidelines Section 15126.4(b)(3)(C), if unique archaeological resources cannot be preserved in place or left in an undisturbed state, recovery, salvage, and treatment shall be required at the developer/applicant’s expense. If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to Yuhaaviatam of San Manuel Nation (YSMN) for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.

## 6.2.2 CUMULATIVE CULTURAL RESOURCE IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts to cultural resources. (Draft EIR Page 5.4-8).

The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of Mitigation Measure CUL-1.

### **Facts in Support of Finding:**

**Historic Resources:** The Project’s contribution to cumulative impacts to historical resources was analyzed in context with past projects in southwestern San Bernardino County that were once similarly influenced by the historical agricultural industry in the region. Record searches and field surveys indicate the absence of significant historical resources within the Project site. Thus, the Project would not generate potentially significant impacts that would have the potential to combine and then become cumulatively significant. Therefore, the Project would result in a less than significant cumulatively considerable impact related to historic resources.

**Archaeological Resources:** The Project’s impact to prehistoric archaeological resources was analyzed in the context of past projects in the southwestern San Bernardino County region, which is identified as sensitive for archaeological resources. Construction activities within the Project site – as with other development projects in the region – may uncover subsurface prehistoric archaeological resources that meet the CEQA Guidelines section 15064.5 definition. However, Mitigation Measure CUL-1 has been included to reduce the potential impacts to uncovering unknown resources during Project construction, which would reduce potential impacts to a less than significant level.

Additionally, the Project would comply with Policy CN 5.3, which states that all historical, paleontological, and cultural resources discovered shall be inventoried and evaluated according to CEQA regulations and the California Office of Historic Preservation. Therefore, the Project would not generate potentially significant impacts that would have the potential to combine and then become cumulatively significant. Thus, the Project would result in a less than significant cumulatively considerable impact related to archaeological resources.

## 6.3 GEOLOGY AND SOILS

### 6.3.1 SEISMIC-RELATED GROUND FAILURE

**Impact Finding:** The Project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss injury, or death involving seismic-related ground failure, including liquefaction (Draft EIR Page 5.6-11).

The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of Mitigation Measure GEO-1.

**Facts in Support of Finding:**

Liquefaction occurs when vibrations or water pressure causes soil particles to lose its friction properties. As a result, soil behaves like a liquid, has an inability to support weight, and can flow down very gentle slopes. This condition is usually temporary and is most often caused by an earthquake vibrating water-saturated fill or unconsolidated soil. However, effects of liquefaction can include sand boils, settlement, and structural foundation failures. Soils that are most susceptible to liquefaction are clean, loose, saturated, and uniformly graded fine-grained sands in areas where the groundwater table is within approximately 50 feet below ground surface.

The Geotechnical Investigation completed for the Project did not encounter groundwater during its subsurface exploration and estimates that groundwater depths are several hundred feet below ground surface (bgs) (AGS 2022). Therefore, the Geotechnical Investigation concluded that the Project site is not susceptible to liquefaction. However, all structures built in the City are required to be developed in compliance with the CBC (California Code of Regulations, Title 24, Part 2), which is adopted as City of Hesperia Municipal Code Chapter 15.04. Compliance with the CBC would require proper construction of building footings and foundations so that it would withstand the effects of potential ground movement, including liquefaction. Furthermore, the Geotechnical Investigation prepared for the Project includes recommendations for grading and foundation strength that would ensure that the Project would be consistent with CBC requirements for reducing risk related to liquefaction. Therefore, Mitigation Measure GEO-1 has been incorporated into the Project to require that the Project follow the recommendations included the Geotechnical Investigation.

The City of Hesperia Building and Safety Department reviews structural plans and geotechnical data prior to issuance of a grading permit and conducts inspections during construction, which would ensure that all required CBC measures are incorporated. Compliance with the CBC as included as a condition of approval and verified by the City's review process would ensure that impacts related to liquefaction are less than significant. Therefore, with implementation of Mitigation Measure GEO-1 and compliance with the CBC as verified by City review, impacts related to seismic related ground failure including liquefaction would be less than significant.

#### MITIGATION MEASURES

**MM GEO-1: Incorporation of and Compliance with the Recommendations in the Geotechnical Investigation.** Prior to issuance of grading and building permits, the Hesperia Building Department shall verify all recommendations included in the Geotechnical Investigation prepared for the project by Advanced Geotechnical Solutions, Inc., in March 2022 are incorporated into all design and engineering plans including, but not limited to site preparation, grading, fill placement, foundations, pavement design, seismic design, etc.

### 6.3.2 UNSTABLE GEOLOGICAL UNIT OR SOIL

**Impact Finding:** The Project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse (Draft EIR Page 5.6-13).

The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of Mitigation Measure GEO-1.

**Facts in Support of Finding:** The Project site and the adjacent parcels are relatively flat and do not contain any hills or steep slopes. Therefore, impacts related to landslides or rock falls would not occur from implementation of the proposed Project.

Groundwater was not encountered during subsurface exploration conducted as part of the Geotechnical Investigation and is estimated to exist at depths several hundred feet below ground surface. Due to the absence of groundwater and dense nature of the underlying older alluvium, the potential for seismically induced liquefaction is anticipated to be very low. The Geotechnical Investigation concluded that since the site is fairly flat and the potential for liquefaction is low, the potential for lateral spreading is also low. In addition, the Project would be required to adhere to California Building Code (CBC) requirements to limit risk associated with lateral spreading. As such, compliance with CBC requirements, as ensured through the City's permitting process, would ensure that lateral spreading and liquefaction impacts would be less than significant.

According to the Geotechnical Investigation, subsidence was not detected within the Project site during a recent USGS study period between 2014 and 2019. Additionally, risk of subsidence would be lowered through adherence to CBC grading and earthwork operation recommendations. Compliance with the CBC would be required by the Hesperia Building and Safety Division, as implemented as a condition of approval.

The Geotechnical Investigation performed consolidation testing in order to measure the collapse potential of the Project site soils. Based on the results of consolidation testing, site soils were found to have a slight to moderate potential for collapse. The Geotechnical Investigation describes that the recommended removal and recompaction during site grading would reduce impacts related to collapse (AGS 2022). Therefore, Mitigation Measure GEO-1 has been incorporated into the Project to require that the Project follow the recommendations included in the Geotechnical Investigation. Thus, with implementation of Mitigation Measure GEO-1 any potential impacts related to collapsible soils would be minimized to a less than significant level. As such, excavation and recompaction of the artificial fill soils in compliance with the CBC as required through the City's permitting process would ensure that collapse related impacts would be less than significant.

#### MITIGATION MEASURES

**MM GEO-1:** **Incorporation of and Compliance with the Recommendations in the Geotechnical Investigation.** As previously listed.

### 6.3.3 PALEONTOLOGICAL RESOURCES

**Impact Finding:** The Project would not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature (Draft EIR Page 5.6-15).

The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of Mitigation Measure PAL-1.

**Facts in Support of Finding:** The Paleontological Assessment prepared for the Project did not identify the presence of known fossil localities within the Project site. However, it did identify previously recorded fossil localities within 2.5 miles of the site and within the greater Victorville area. Additionally, the Assessment

identified that the Project site is underlain by Holocene deposits that have a low potential to contain paleontological resources, while the underlying Pleistocene-aged alluvial fan deposits may be considered to have an undetermined to high potential to yield paleontological resources.

As such, the potential for encountering significant paleontological resources within the Project site is considered high due to the presence of potentially fossiliferous Pleistocene-aged alluvial fan deposits that are likely present in the shallow subsurface of the Project, and the known occurrence of significant terrestrial vertebrate fossils at shallow depths from the Pleistocene deposits in the vicinity of the Project. As such, Mitigation Measure PAL-1 shall be implemented as part of the Project to require preparation of a Paleontological Resources Management Plan (PRMP) prior to construction activities. Implementation of Mitigation Measure PAL-1 would ensure that any potential impacts to undiscovered paleontological resources would not be impacted by the Project.

#### MITIGATION MEASURES

**MM PAL-1:** **Paleontological Resource Management Plan.** Prior to the start of construction, a Paleontological Resources Management Plan (PRMP) shall be prepared by a qualified Paleontologist and include the following procedures:

- Monitoring of mass grading and excavation activities in areas identified as likely to contain paleontological resources shall be performed by a qualified paleontologist or paleontological monitor. Starting at the surface, monitoring will be conducted fulltime in areas of grading or excavation in undisturbed alluvial deposits.
- Development of an inadvertent discovery plan to expediently address treatment of paleontological resources should any be encountered during development associated with the Project. If these resources are inadvertently discovered during ground-disturbing activities, work must be halted within 50 feet of the find until it can be evaluated by a qualified paleontologist. Construction activities could continue in other areas. If the discovery proves to be significant, additional work, such as fossil collection and curation, may be warranted and would be discussed in consultation with the appropriate regulatory agency(ies).

### 6.3.4 CUMULATIVE PALEONTOLOGICAL RESOURCE IMPACTS

**Paleontological Resources:** The geographic area of potential cumulative impacts related to paleontological resources includes areas that are underlain by similar geologic units from the same time period. A cumulative impact could occur if development projects incrementally result in the loss of the same types of unique paleontological resources. The southwestern San Bernardino County Region, including the Project site, is underlain by deep sediments that are sensitive to paleontological resources. However, with incorporation of Mitigation Measure PAL-1 and compliance with Policy CN 5.3, which states that all historical, paleontological, and cultural resources discovered shall be inventoried and evaluated according to CEQA regulations and the California Office of Historic Preservation, the potential for cumulatively considerable impacts to paleontological resources would be reduced to a less than significant level.

## 6.4 TRIBAL CULTURAL RESOURCES

### 6.4.1 REGISTER OF HISTORICAL RESOURCES

**Impact Finding:** The Project would not 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) (Draft EIR Page 5.13-4).

The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of PPP TCR-1, PPP CUL-1, Mitigation Measure TCR-1, Mitigation Measure TCR-2, Mitigation Measure CUL-1, and Mitigation Measure 6 from the MSFCSP EIR.

**Facts in Support of Finding:** On September 13, 2022, the NAHC responded with a list of Native American tribes and that the SLF search yielded negative results for known tribal cultural resources or sacred lands within a 1-mile radius of the Project site. To identify if any tribal cultural resources are potentially located within the Project site, the City sent notices on September 8, 2022, regarding the Project to the Native American tribes provided by the NAHC.

One response was received from the Yuhaaviatam of San Manuel Nation (YSMN) (formerly known as the San Manuel Band of Mission Indians) on January 10, 2023. YSMN stated the Project site is located within Serrano ancestral territory and is therefore of interest to the Tribe. However, the Tribe stated they had no issue with implementation of the Project and did not request consultation. The letter included a series of mitigation measures to be incorporated into the Project.

Based on literature review (i.e., records check and archival research) and pedestrian surveys, no prehistoric resource sites or isolates—including a historic TCR—as defined by PRC Section 5020.1(k) have been identified within the Project site. As discussed in Section 5.4, *Cultural Resources*, the potential for encountering archaeological resources, including TCR's, within the Project site is considered moderate due to the site's proximity of the Project to a freshwater resource (the Oro Grande Wash, adjacent to the east), the high frequency of historic and prehistoric cultural resources identified within one mile of the site and based upon the limited visibility during the pedestrian survey.

Construction of the proposed Project would include earthmoving activities, such as grading, which have the potential to disturb previously unknown tribal cultural resources. As a result, Mitigation Measure CUL-1 is included (as detailed in the Draft EIR Section 5.4, *Cultural Resources*) which requires that a qualified archeologist be retained and present at pre-grade meetings, as well as for all initial ground disturbing activities, such as site preparation, up to five feet in depth, in order to quickly assess the potential for discoveries of archaeological resources during construction. The Main Street and Freeway Corridor Specific Plan (MSFCSP) Final Environmental Impact Report (EIR) included Mitigation Measure 6, which requires the landowner to relinquish ownership of all cultural resources, including sacred items, burial goods and all archaeological artifacts that are found on the Project site to the appropriate Tribe for proper treatment and disposition.

The Project would include implementation of PPP TRC-1, which requires that descendants be notified when Native American human remains are discovered and provide for treatment and disposition of human remains and associated grave goods; PPP CUL-1, which complies with State Health and Safety Code Section 7050.5, which states that no further disturbance may occur in the vicinity of the body until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98.

Mitigation Measure CUL-1, TCR-1, TCR-2, and Mitigation Measure 6 from the MSFCSP EIR, requiring the landowner to relinquish ownership of all cultural resources found on the Project site to the appropriate Tribe for proper treatment and disposition, would ensure that potential impacts a result of the inadvertent discovery of tribal cultural resources would be less than significant.

## REGULATORY REQUIREMENTS

**PPP TCR-1:** Native American historical and cultural resources and sacred sites are protected under PRC Sections 5097.9 to 5097.991, which require that descendants be notified when Native American human remains are discovered and provide for treatment and disposition of human remains and associated grave goods.

**PPP CUL-1:** As previously listed.

## MITIGATION MEASURES

**MM CUL-1:** As listed previously.

**MM TCR-1:** The Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed in Mitigation Measure CUL-1, of any pre-contact and/or historic-era cultural resources 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 archaeologist, in coordination with YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site.

**MM TCR-2:** Any and all archaeological/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 YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.

Main Street and Freeway Corridor Specific Plan Final Environmental Impact Report  
Mitigation included the following applicable mitigation measure:

**MSFCSP EIR MM 6:** The landowner will relinquish ownership of all cultural resources, including sacred items, burial goods and all archaeological artifacts that are found on the project area to the appropriate Tribe for proper treatment and disposition.

## 6.4.2 PUBLIC RESOURCE CODE SECTION 5024.1

**Impact Finding:** The Project would not 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 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, that considers the significance of the resource to a California Native American tribe (Draft EIR 5.13-6).

The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of PPP TCR-1, PPP CUL-1, Mitigation Measure TCR-1, Mitigation Measure TCR-2, Mitigation Measure CUL-1, and Mitigation Measure 6 from the MSFCSP EIR.

**Facts in Support of Finding:** As discussed previously, no known tribal cultural resources were identified within the Project site by the Cultural Resources Assessment (Appendix D). Additionally, as part of the City's AB 52 consultation process, the City reached out to Native American tribes who may have knowledge of tribal

cultural resources within the Project area. No known tribal cultural resources or sensitive sites were identified within the Project site during the AB 52 consultation process.

However, construction of the proposed Project would require ground disturbing activities that could result in the excavation of soils up to seven feet in depth and has the potential to disturb unknown tribal cultural resources on the Project site. California Health and Safety Code Section 7050.5 and CEQA Guidelines 15064.5(e) requires that if human remains are discovered, disturbance to the site shall halt and remain halted until the coroner has conducted an investigation. If the coroner determines that the remains are those of a Native American, he or she shall contact the Native American Heritage Commission by telephone within 24 hours. Although AB 52 consultation did not yield substantial evidence that listed or eligible tribal cultural resources—pursuant to criteria in PCR Section 5024.1(c)—within the Project site, PPP TRC-1, PPP CUL-1, Mitigation Measure CUL-1, TCR-1, TCR-2, and Mitigation Measure 6 from the MSFCSP EIR would be implemented to ensure that potential impacts related to the inadvertent discovery of tribal cultural resources are less than significant.

Furthermore, the Project would be subject to CEQA Guidelines Section 15064.5, PRC Section 21083.2 and 5097.9, and Health and Safety Code Section 7050.5, to properly recover human remains if encountered. Therefore, with implementation of mitigation and applicable regulations, impacts related to tribal cultural resources would be less than significant.

#### REGULATORY REQUIREMENTS

**PPP TCR-1:** As listed previously.

**PPP CUL-1:** As listed previously.

#### MITIGATION MEASURES

**MM CUL-1:** As listed previously.

**MM TCR-1:** As listed previously.

**MM TCR-2:** As listed previously.

**MM 6:** As listed previously.

### 6.4.3 CUMULATIVE TRIBAL CULTURAL RESOURCES IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts to tribal cultural resources. (Draft EIR Page 5.13-6)

A. The City hereby makes Finding 1 and determines that this impact is less than significant with implementation of PPP TCR-1, PPP CUL-1, Mitigation Measure TCR-1, Mitigation Measure TCR-2, Mitigation Measure CUL-1, and Mitigation Measure 6 from the MSFCSP EIR.

**Facts in Support of Finding:** The cumulative study area for tribal cultural resources includes the City of Hesperia, which contains the same general tribal historic setting. Other projects throughout the City that would involve ground disturbances could reveal buried tribal cultural resources.

Cumulative impacts to tribal cultural resources would be reduced by compliance with applicable regulations and consultations required by AB 52. As described above, the Project area is not known to contain tribal cultural resources; however, Mitigation Measure CUL-1 and MSFCSP EIR Mitigation Measure 6 would be implemented to ensure that impacts would not occur in the case of an inadvertent discovery of a potential tribal cultural resource. These mitigation measures ensure that the Project would not contribute to a cumulative loss of tribal cultural resources. Therefore, potential cumulative impacts would be less than significant.

## REGULATORY REQUIREMENTS

**PPP TCR-1:** As listed previously.

**PPP CUL-1:** As listed previously.

## MITIGATION MEASURES

**MM CUL-1:** As listed previously.

**MM TCR-1:** As listed previously.

**MM TCR-2:** As listed previously.

**MM 6:** As listed previously.

## 7.0 IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT

Based upon the NOP and a review of the Project by the City, the City determined that the Project would have no impact or a less than significant impact on the following environmental topic areas and that no further, detailed analysis of these topics was required in the EIR:

- Agriculture & Forestry Resources
- Mineral Resources
- Population and Housing
- Public Services
- Recreation
- Wildfire

The evidence in support of the finding that the Project will not have a significant impact on these environmental topic areas are set forth in the Draft EIR which is incorporated by reference.

- Aesthetics
  - Conflict with an applicable air quality plan
- Air Quality
- Biological Resources
  - Wetlands
  - Conservation plans
- Cultural Resources
  - Historical resources
  - Disturbance of human remains
- Energy
- Geology and Soils
  - Rupture of a known earthquake fault
  - Seismic ground shaking
  - Landslides Soil erosion
  - Expansive soil
  - Septic tanks
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
  - Conflict with applicable circulation plan, program, ordinance, or policy
  - Geometric design features
  - Inadequate emergency access
- Utilities and Service Systems

For those environmental impacts that were analyzed in the Draft EIR, the City determined, based upon the CEQA threshold criteria for significance, that the Project would have no impact or a less than significant impact to the following environmental topic areas, and that no mitigation measures were required. This determination is based upon the environmental analysis in the Draft EIR and the comments received on the

Draft EIR. No substantial evidence was submitted to or identified by the City which indicated that the Project would result in a significant impact related to the following.

## 7.1 AESTHETICS

Based upon the NOP and a review of the Project by the City, the City determined that the Project would have no impact or a less than significant impact on the following environmental topic areas and that no further, detailed analysis of these topics was required in the EIR:

### 7.1.1 SCENIC VISTAS

**Impact Finding:** The Project would not have a substantial adverse effect on a scenic vista (Draft EIR Page 5.1-6).

**Facts in Support of Findings:** A scenic vista can be impacted in two ways: a development project can have visual impacts by either directly diminishing the scenic quality of the vista, or by blocking the view corridors or “vista” of the scenic resource at public locations. The City of Hesperia General Plan does not specifically identify any scenic vistas from the Project site, roadways adjacent to the Project site, or the Project site vicinity. However, the City’s General Plan generally describes scenic vistas within the City as views of scenic resources, including the Mojave River to the east, the San Bernardino and San Gabriel Mountain ranges to the south, and the surrounding Victor Valley, along with neighboring hillsides and the natural desert environment.

The Project site includes natural desert landscape (Joshua tree woodland and habitat) and provides distant views of the San Bernardino and San Gabriel Mountain ranges. would continue to be available from public vantage points on I-395. Therefore, the Project would not substantially damage scenic resources, obstruct any prominent scenic vista or view open to the public, or result in the creation of an aesthetically offensive site. As such, impacts would be less than significant.

### 7.1.2 SCENIC RESOURCE DAMAGE WITHIN A STATE SCENIC HIGHWAY

**Impact Finding:** The Project would not substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway (Initial Study Page 28).

**Facts in Support of Findings:** The Project site is not located within a scenic highway corridor. There are no officially designated State scenic highways adjacent to the Project site. According to the California Department of Transportation (Caltrans), the closest State-eligible scenic highway is a portion of Route 138, located approximately 7 miles south of the Project site. Accordingly, the Project site is not located within a state scenic highway corridor and implementation of the proposed Project would not have a substantial effect on scenic resources, including but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway corridor. Therefore, the Project would not result in any impacts to a scenic resource within a state scenic highway, and this topic was not further analyzed in the Draft EIR.

### 7.1.3 SCENIC QUALITY

**Impact Finding:** The Project would not conflict with applicable zoning and other regulations governing scenic quality (Draft EIR Page 5.1-5).

**Facts in Support of Finding:** The Project site is located within an “urbanized area,” as defined by Public Resources Code Section 21071; therefore, the analysis focuses on the Project’s consistency with applicable zoning and other regulations governing scenic quality.

To protect the existing visual resources, the goal of the Urban Design Framework is to develop the MSFC-SP area as a system of spaces, structures, and environments rather than as linear strips of unrelated buildings

and undefined streetscapes. To protect the MSFC-SP area's High Desert setting and panoramic mountain views, the MSFC-SP specifies that architectural character of new buildings should maximize views of the surrounding landscape while taking inspiration from the surrounding natural elements. As determined by the MSFC-SP EIR, the MSFC-SP encourages good design, and high-quality development by recommending a set of development and design standards that create the desired aesthetic and high-quality environment. Through implementation of these design standards, buildout of the MSFC-SP would result in less than significant impacts on the MSFC-SP area visual character and quality.

The Project site contains two industrial zones, namely, Commercial/Industrial Business Park (CIBP), and Neighborhood Commercial (NC). The MSFC-SP would be amended to designate the entire Project site CIBP. Section II: Private Development, Chapter 9: Non-Residential Zones, includes permitted uses, conditionally permitted uses, and development standards for CIBP. Additionally, the MSFC-SP includes Chapter 11 (Industrial Design Standards and Guidelines), which contains the landscaping, lighting, design, and architectural requirements (scale, mass, materials, etc.) for industrial uses within the MSFC-SP.

The proposed Project would develop the 29.61-acre vacant site with a new built-to-suit 655,468 SF warehouse. The Project would include various architectural elements such as stamped concrete, stacked stone with textured or sandblasted finishes, glass and curtainwall glazing systems, natural and/or manufactured stone and limited metal panel systems including light and warm-toned exterior building colors. Additionally, the Project's landscape would incorporate low water need plant species that can maintain vibrancy during drought conditions.

The Project would be consistent with policies identified in the MSFC-SP applicable to visual character and quality. In addition, the Project would be consistent with applicable development standards provided under Section II: Private Development, Chapter 9: Non-Residential Zones, includes permitted uses, conditionally permitted uses, and development standards for CIBP.

Additionally, MSFC-SP Chapter 11 (Industrial Design Standards and Guidelines) contains design guidelines for industrial uses in the MSFC-SP. Guidelines specify site layout, building scaling and massing, building entry design, vehicle and pedestrian circulation, parking and loading area requirements, and more. Earth tones would be used for the proposed building consistent with the MSFC-SP Industrial Design Standards. The use of strong or bright, unnatural colors, including the bright "white-on white" color schemes for exterior stucco, wood siding, trim doors and shutters, is discouraged as earth tones are considered to be the best suited for cohesion with existing City architecture. Further, the MSFC-SP design standards are nonspecific and Project colors and building materials would be reviewed and approved during Development Plan Review by the City which would ensure consistency with design standards and other regulations governing scenic quality and consistency with the surrounding visual landscape. The proposed Project would not conflict with zoning and other regulations governing scenic quality and impacts would be less than significant.

#### 7.1.4 SOURCES OF LIGHT OR GLARE

**Impact Finding:** The Project would not create a new source of substantial light or glare that would adversely affect day and nighttime views in the area (Draft EIR Page 5.1-10).

##### **Facts in Support of Finding:**

###### *Construction*

Limited, if any, nighttime lighting would be needed for Project construction during winter months. Section 16.20.125 of the City's Development Code limits construction to between the hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday and does not allow construction on Sundays or federal holidays. Thus, most construction activity would occur during daytime hours during the week, and construction-related illumination would be used for limited safety and security purposes and would be required to be directed downward.

In addition, construction of the Project would not include any materials that would generate offsite glare that could direct light to sensitive receptors. Therefore, impacts related to lighting and glare during construction would be less than significant.

#### Operation

**Lighting:** As discussed in the MSFC-SP, the buildout of the planning area would introduce new lighting sources to the mostly undeveloped landscape. Development of the MSFC-SP would result in significant and unavoidable impacts related to light and glare.

The Project site is currently undeveloped and does not contain sources of light or glare. Nighttime lighting sources include vehicles from Phelan Road and U.S. Route 395.

Section 16.16.350 of the City's Municipal Code, states that industrial activity shall not cause light trespass exceeding 0.5 foot-candles (Fc) at the property lines neighboring a residential street or property. The Project site is bordered by vacant, undeveloped land on all sides and further, parcels in proximity are designated as CIBP and Regional Commercial (RC) within the MSFC-SP. Therefore, the Project would not result in the trespass of lighting onto a residential street or property and would be in compliance with the City code.

Further, the City defers to Table 5.106.8 Maximum Allowable Backlight, Uplight and Glare (BUG) Ratings codified in the CA Energy Code and Chapter 10 of the CA Administrative Code. As shown in Figure 5.1-1 Lighting Plan, the Project would fall within Lighting Zone 3 (LZ3) and would comply with the maximum allowable limits of LZ3 listed in Table 5.106.8. Therefore, Project development would not result in substantial light that would adversely affect views of the area, and impacts related to lighting would be less than significant.

Glare from reflective surfaces occurs as a result of the addition of large expanses of glass, metal, and other reflective surfaces for building façades with new construction. The Project would develop a new building that would generally be constructed of concrete with blue glass windows, painted concrete, and painted metal doors. The glass windows would not dominate building elevations and are intended to bring daylight into the building as well as provide design treatments to the exterior building walls. The windows would be individually framed openings and would be extended or recessed to create more depth and shadow.

Overall, the proposed Project would create limited new sources of light or glare from security and site lighting but would not adversely affect day or nighttime views in the area given the similarity of the existing lighting in the surrounding urbanizing environment. Thus, the Project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area, and impacts would be less than significant.

### 7.1.5 CUMULATIVE AESTHETICS IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts to aesthetics. (Draft EIR Page 5.1-15)

**Facts In Supporting Finding:** The cumulative aesthetics study area for the Project is the viewshed from public areas that can view the Project site and locations that can be viewed from the Project site. Development of the Project site with industrial uses would contribute to a change in visual characteristics of the Project site and Project vicinity. As discussed previously, implementation of the land uses approved by the MSFC-SP would substantially change the existing visual character of the Project site. However, the Project would be compliant with the City's Development Standards and MSFC-SP Development Standards, which would minimize aesthetic impacts related to the planned land use.

The cumulative change in visual condition that would result from Project development and operation, in combination with future nearby projects would not be considered adverse, because the Project would implement the MSFC-SP related to architecture, landscaping, signs, lighting, and other related items intended

to improve visual quality. The Project would also be consistent with MSFC-SP design guidelines, which would be ensured by the City through review and approval of the Project's Development Plans. Project development and operation would result in a less than significant cumulatively considerable impact related to degradation of the existing visual character or quality of the Project site and its surroundings.

The cumulative study area for light and glare includes areas immediately adjacent to the Project site that could receive light or glare from the Project or generate daytime glare or nighttime lighting that would be visible within the Project site and could combine with lighting from the Project. Project lighting would comply with existing requirements to focus lighting sources on the Project site and shield lighting from spillage onto adjacent land uses. This would minimize nighttime light pollution and reduce the potential for glare onto adjacent roadways and land uses. Other projects located throughout the MSFC-SP would similarly be required to comply with these regulations as well. Cumulative projects would result in more intense development than currently exists within the MSFC-SP area. However, through implementation of existing standards and applicable lighting measures, the Project, in combination with past, present, and reasonably foreseeable future projects would result in less than significant cumulative nighttime lighting and daytime glare impacts.

## 7.2 AGRICULTURE AND FOREST RESOURCES

### 7.2.1 CONVERSION OF AGRICULTURAL LANDS AND FORESTLANDS

**Impact Finding:** The Project would not involve the conversion of any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to urban uses (Initial Study Page 30).

**Facts in Support of Finding:** The Project site is not designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance by the California Department of Conservation. The Project site is identified as "Grazing Land" by the California Department of Conservation's California Important Farmland Finder (FMMP, 2022). The Project site is currently zoned as Commercial/Industrial Business Park (CIBP) and Neighborhood Commercial (NC) by the Main Street and Freeway Corridor Specific Plan. The implementation of the proposed Project would not involve the conversion of any Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to urban uses. The Project also lacks any characteristics that would lead to farmland or forest land being converted into a nonagricultural or non-forest use. As a result, no impact would occur, and this topic was not further analyzed in the Draft EIR.

### 7.2.2 WILLIAMSON ACT CONTRACT

**Impact Finding:** The Project would not result in the cancellation of a Williamson Act contract (Initial Study Page 31).

**Facts in Support of Finding:** The Project site is currently zoned as Commercial Industrial Business Park (CIBP) and Neighborhood Commercial (NC). The property is vacant and undeveloped. There are no existing agricultural uses located within the site or adjacent to the site that would be affected by the Project's implementation. According to Exhibit 3.2-2, Williamson Act Map, of the Hesperia General Plan Update Environmental Impact Report, the Project site is not subject to a Williamson Act Contract. Therefore, development of the Project would not result in the cancellation of a Williamson Act contract. As a result, no impact would occur, and this topic was not be evaluated in the EIR.

### 7.2.3 TIMBERLAND PRODUCTION

**Impact Finding:** The Project would not conflict with forest land or timberland, or timberland zoned timberland production (Initial Study Page 31).

**Facts in Support of Finding:** The Project site is designated Commercial/Industrial Business Park (CIBP) and Neighborhood Commercial (NC), and is not zoned for forest land, timberland, or TPZ. Therefore, the Project would not result in impacts to forests or timberlands, and this topic was not further analyzed in the Draft EIR.

## 7.2.4 FORESTLAND

**Impact Finding:** The Project would not result in the loss or conversion of forest land (Initial Study Page 31).

**Facts in Support of Finding:** The Project site is designated Commercial/Industrial Business Park (CIBP) and Neighborhood Commercial (NC). The Project site does not contain any forest land. Consequently, the proposed Project would not result in the loss or conversion of forest land to non-forest use, and this topic was not further analyzed in the Draft EIR.

## 7.2.5 CUMULATIVE AGRICULTURE

The proposed Project would result in no impact related to agricultural resources. The proposed Project is not located within an area zoned for agriculture or forest land, is not within a property under a Williamson Act, and is not located on state-important farmland. Thus, the development of the proposed Project and cumulative projects would not result in a significant impact to agricultural resources. Therefore, impacts to agricultural resources would not be cumulatively considerable.

## 7.3 AIR QUALITY

### 7.3.1 CONFLICT WITH AN APPLICABLE AIR QUALITY PLAN

**Impact Finding:** The Project would not conflict with or obstruct implementation of an applicable air quality plan (Draft EIR Page 5.2-15).

**Facts in Support of Finding:** The Federal Particulate Matter Attainment Plan and Ozone Attainment Plan for the Mojave Desert set forth a comprehensive set of programs that will lead the Basin into compliance with federal and state air quality standards. The control measures and related emission reduction estimates within the Federal Particulate Matter Attainment Plan and Ozone Attainment Plan are based upon emissions projections for a future development scenario derived from land use, population, and employment characteristics defined in consultation with local governments.

A project is non-conforming with an air quality plan if it conflicts with or delays implementation of any applicable attainment or maintenance plan. A project is conforming if it complies with all applicable MDAQMD rules and regulations, complies with all proposed control measures that are not yet adopted from the applicable plan(s), and is consistent with the growth forecasts in the applicable plan(s) (or is directly included in the applicable plan). Zoning changes, specific plans, general plan amendments and similar land use plan changes that do not increase dwelling unit density, do not increase vehicle trips, and do not increase VMT are also deemed to comply with the applicable air quality plan (MDAQMD 2020).

The Project site has a General Plan Land Use designation of Main Street and Freeway Corridor Specific Plan (MSFC SP) per the City's 2010 General Plan. Within the MSFC SP, the two northerly parcels of the site (APNs 3064-401-03 and -04) are zoned as Commercial/Industrial Park (CIBP). The MSFC SP states that the purpose of the CIBP zone is to provide service for commercial, light industrial, light manufacturing, and industrial support uses, mainly conducted in enclosed buildings. Within the MSFC SP, the southerly parcel of the site (APN 3064-401-05) is designated as Neighborhood Commercial (NC). The MSFC SP states that the NC is intended for immediate day-to-day convenience shopping and services for the residents of nearby neighborhoods. NC does not permit industrial and warehousing uses; therefore, the proposed Project would require a Specific Plan amendment. The proposed CIBP land use would ultimately be anticipated to result in a lower trip and/or VMT than compared to the NC land use currently existing in the southern portion of the

Project site, because commercial uses typically generate a higher number of overall trips and VMT than industrial uses, as demonstrated in Tables 5.2-5 and 5.2-6 (Draft EIR Page 5.2-17). Therefore, the proposed change to the Specific Plan designation is consistent with the surrounding properties and uses and the Project would not increase dwelling unit density or vehicle trips. Therefore, because the Project does not exceed any of the thresholds it would not conflict with MDAQMD's goal of bringing the Basin into attainment for all criteria pollutants and, as such, is consistent with the AQMP. As a result, impacts related to conflict with the AQMP from the proposed Project would be less than significant.

### 7.3.2 CUMULATIVELY CONSIDERABLE NET INCREASE OF CRITERIA POLLUTANTS

**Impact Finding:** The Project would not result in a cumulatively considerable net increase of a criteria pollutant for which the project region is non-attainment under and applicable federal or state ambient air quality standard (Draft EIR Page 5.2-16).

**Facts in Support of Finding:**

*Construction*

Construction activities associated with the proposed Project would result in emissions of CO, VOCs, NO<sub>x</sub>, SO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. Pollutant emissions associated with construction would be generated from the following construction activities: (1) grading and excavation; (2) construction workers traveling to and from the Project site; (3) delivery and hauling of construction supplies to, and debris from, the Project site; (4) fuel combustion by onsite construction equipment; (5) building construction; application of architectural coatings; and paving. These construction activities would temporarily create emissions of dust, fumes, equipment exhaust, and other air contaminants.

Construction emissions, including the offsite improvements, are short-term and temporary, and emissions resulting from construction would not exceed criteria pollutant thresholds as shown in Table 5.2-5 (Draft EIR, Page 5.2-16). Therefore, impacts would be less than significant, and no mitigation measures are required.

*Operation*

Implementation of the proposed Project would result in long-term emissions of criteria air pollutants from area sources generated by the proposed high-cube warehouse building and related vehicular emissions, landscaping, and use of consumer products. As shown in Table 5.2-6, the Project's operational activities would not exceed the numerical thresholds of significance established by the MDAQMD (Draft EIR, Page 5.2-17). Therefore, impacts would be less than significant.

### 7.3.3 EXPOSE SENSITIVE RECEPTORS TO SUBSTANTIAL POLLUTANT CONCENTRATIONS

**Impact Finding:** The Project would not expose sensitive receptors to substantial pollutant concentrations (Draft EIR Page 5.2-18).

**Facts in Support of Finding:**

**Construction Mobile Source Health Risk.** A Construction Health Risk Assessment, included as part of Appendix B, was prepared to evaluate the health risk impacts as a result of exposure to DPM as a result of heavy-duty diesel trucks and equipment activities from Project construction. The closest sensitive receptor to the Project site include residential uses located approximately 1,100 feet southwest of the Project site along Phelan Road. As shown in Draft EIR Table 5.2-7, the maximum cancer risk for the sensitive receptor maximally effected individual (MEI) would be 4.60 7.36 in one million, which would not exceed the MDAQMD cancer

risk threshold of 10 in one million. The worker receptor risk would be lower at 0.08 0.18 in one million, which would also not exceed the threshold. The total chronic hazard index would be 0.005 0.010 for both the worker receptor MEI and 0.008 for the sensitive receptor MEI, which is would both be below the threshold of 1.0. In addition, the total acute hazard index would be nominal (0.000), which would also not exceed the threshold of 1.0. As such, the Project would not cause a significant human health or cancer risk to adjacent land uses as a result of Project construction activity, and impacts would be less than significant.

**Operational Diesel Mobile Source Health Risk.** A Health Risk Analysis, included as part of Appendix B, was prepared to evaluate the operational health risk impacts as a result of exposure to DPM as a result of heavy-duty diesel trucks traveling to and from the Project site, maneuvering onsite, and entering and leaving the site during operation of the proposed industrial uses. All health risk levels to nearby residents from operation-related emissions of TACs would be well below the MDAQMD's HRA thresholds. Therefore, impacts related to operational TAC emissions would be less than significant.

**Friant Ranch Case.** In December 2018, in the case of *Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, the California Supreme Court held that an EIR's air quality analysis must meaningfully connect the identified air quality impacts to the human health consequences of those impacts, or meaningfully explain why that analysis cannot be provided. As noted in the *Brief of Amicus Curiae* filed by the SCAQMD in the Friant Ranch case (April 6, 2015, Appendix 10.1), SCAQMD has among the most sophisticated air quality modeling and health impact evaluation capability of any of the air districts in the State, and thus it is uniquely situated to express an opinion on how lead agencies should correlate air quality impacts with specific health outcomes.

The SCAQMD discusses that it may be infeasible to quantify health risks caused by projects similar to the proposed Project, due to many factors. It is necessary to have data regarding the sources and types of air toxic contaminants, location of emission points, velocity of emissions, the meteorology and topography of the area, and the location of receptors (worker and residence). The *Brief* states that it may not be feasible to perform a health risk assessment for airborne toxics that will be emitted by a generic industrial building that was built on "speculation" (i.e., without knowing the future tenant(s)). Even where a health risk assessment can be prepared, however, the resulting maximum health risk value is only a calculation of risk--it does not necessarily mean anyone will contract cancer as a result of the Project. The *Brief* also cites the author of the CARB methodology, which reported that a PM<sub>2.5</sub> methodology is not suited for small projects and may yield unreliable results. Similarly, SCAQMD staff does not currently know of a way to accurately quantify O<sub>3</sub>-related health impacts caused by NO<sub>x</sub> or VOC emissions from relatively small projects, due to photochemistry and regional model limitations. The *Brief* concludes, with respect to the Friant Ranch EIR, that although it may have been technically possible to plug the data into a methodology, the results would not have been reliable or meaningful.

On the other hand, for extremely large regional projects (unlike the proposed Project), SCAQMD states that it has been able to correlate potential health outcomes for very large emissions sources – as part of their rulemaking activity, specifically 6,620 lbs./day of NO<sub>x</sub> and 89,180 lbs./day of VOC were expected to result in approximately 20 premature deaths per year and 89,947 school absences due to O<sub>3</sub>. The proposed Project would generate up to 51.3 lbs/day of NO<sub>x</sub> during construction and 11.2 lbs/day of NO<sub>x</sub> during operations. The VOC emissions would be a maximum of 63.9 lbs/day during construction and 13.6 lbs/day during operations.

Therefore, the emissions are not sufficiently high enough to use a regional modeling program to correlate health effects on a basin-wide level. Notwithstanding, a Mobile Source Health Risk Assessment was prepared, as detailed below, and the proposed Project would not result in emissions that exceeded the MDAQMD's health risk thresholds. Therefore, the proposed Project would not be expected to exceed the most stringent applicable federal or state ambient air quality standards for emissions.

**Long-Term Microscale (CO Hot Spot) Analysis.** Vehicular trips associated with the proposed Project would contribute to congestion at intersections and along roadway segments in the project vicinity. Localized air quality impacts would occur when emissions from vehicular traffic increase as a result of the proposed Project. The primary mobile-source pollutant of local concern is CO, a direct function of vehicle idling time and, thus, of traffic flow conditions. CO transport is extremely limited; under normal meteorological conditions, CO disperses rapidly with distance from the source. However, under certain extreme meteorological conditions, CO concentrations near a congested roadway or intersection may reach unhealthful levels, affecting local sensitive receptors (e.g., residents, schoolchildren, the elderly, and hospital patients). Typically, high CO concentrations are associated with roadways or intersections operating at unacceptable levels of service or with extremely high traffic volumes. In areas with high ambient background CO concentrations, modeling is recommended to determine a project's effect on local CO levels.

An assessment of Project-related impacts on localized ambient air quality requires that future ambient air quality levels be projected. Existing CO concentrations in the immediate Project vicinity are not available. Ambient CO levels monitored at the Victorville station, the closest station to the Project site, showed a highest recorded 1-hour concentration of 1.6 ppm (the State standard is 20 ppm) and a highest 8-hour concentration of 1.4 ppm (the State standard is 9 ppm) during the past 3 years. The highest CO concentrations would normally occur during peak traffic hours; hence, CO impacts calculated under peak traffic conditions represent a worst-case analysis.

As described in the Project's Traffic Impact Analysis, the proposed Project would generate 131 AM peak hour trips and 149 PM peak-hour trips. Conversely, the busiest intersection evaluated in the 2003 analysis was at Wilshire Boulevard and Veteran Avenue, which had a daily traffic volume of approximately 100,000 trips and AM/PM traffic volumes of 8,062 trips and 7,719 trips, respectively. As shown in Table 5.2-9, the 2003 AQMP estimated that the 1-hour concentration for this intersection was 4.6 ppm. Therefore, this indicates that, should the daily traffic volume increase four times to 400,000 vehicles per day, CO concentrations ( $4.6 \text{ ppm} \times 4 = 18.4 \text{ ppm}$ ) would still not likely exceed the most stringent 1-hour CO standard (20.0 ppm). Therefore, given the extremely low level of CO concentrations in the Project area, and significantly lower volumes of Project related trips at any intersections, Project-related vehicles are not expected to contribute significantly to result in the CO concentrations exceeding the State or federal CO standards. As such, impacts related to CO would be less than significant.

### 7.3.4 OTHER EMISSIONS

**Impact Finding:** The Project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people (Draft EIR, Page 5.2-21).

**Facts in Support of Finding:** The proposed Project would not emit other emissions, such as those generating objectionable odors, that would affect a substantial number of people. Odors generated by the operation of the proposed Project are not expected to be significant or highly objectionable and would be required to be in compliance with MDAQMD Rule 402, which would prevent nuisances to sensitive land uses.

During construction, emissions from construction equipment, architectural coatings, and paving activities may generate odors. However, these odors would be temporary, intermittent in nature, and not expected to affect a substantial number of people. Additionally, noxious odors would be confined to the immediate vicinity of the construction equipment. By the time such emissions reach any residences, they would be diluted to well below any level of odor concern. Furthermore, short term construction-related odors are expected to cease upon the drying or hardening of the odor producing materials.

During operations, trucks and vehicles operating at the loading docks may emit odor. A southern California study (Zhu, 2002) showed measured concentrations of vehicle-related pollutants, including diesel exhaust, decreased dramatically (more than 90%) within approximately 300 feet. There are no sensitive receptors

adjacent to the Project site or within 300 feet of proposed loading dock facilities. Therefore, by the time any diesel exhaust emissions reach the nearest receptor, they would be diluted and not generate an objectionable odor. In addition, all Project-generated solid waste would be stored in covered containers and removed at regular intervals in compliance with solid waste regulations and would not generate objectionable odors. Therefore, impacts associated with operation- and construction-generated odors would be less than significant, and this topic was not further analyzed in the Draft EIR.

### 7.3.5 CUMULATIVE AIR QUALITY IMPACTS

**Impact Finding:** The Project would not result in cumulative air quality impacts (Draft EIR Page 5.2-22).

**Facts In Supporting Finding:** The geographic area for analysis of cumulative air quality impacts is the Basin. The proposed Project is consistent with the assumptions in the City's General Plan and would not conflict with MDAQMD's attainment plans. Other cumulative projects would also be required to demonstrate consistency with the MDAQMD attainment plans as part of the CEQA review process and/or provide mitigation, as appropriate.

As described previously, per MDAQMD's methodology, if an individual project would result in air emissions of criteria pollutants that exceed the MDAQMD's thresholds for project-specific impacts, then it would also result in a cumulatively considerable net increase of these criteria pollutants. Emissions from operation of the proposed Project would not exceed MDAQMD's thresholds for any criteria pollutants or TACs and would not expose sensitive receptors to substantial pollutant concentrations. Because emissions from implementation of the proposed Project would not exceed applicable thresholds, they would not be cumulatively considerable, and cumulative air quality impacts would be less than significant.

## 7.4 BIOLOGICAL RESOURCES

### 7.4.1 WETLANDS

**Impact Finding:** The Project would not have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means (Draft EIR Page 5.3-22).

**Facts in Support of Findings:** According to the General Biological Assessment and subsequent study, the Project site does not contain any jurisdictional areas that would be subject to Section 404 of the Clean Water Act. The Oro Grande Wash is located approximately 0.25 mile southeast of the Project site, and the proposed sewer line includes jack and bore pits that would be used to align the sewer would run beneath Oro Grande Wash. However, the Project site would not directly impact the Oro Grande Wash. Therefore, Project development and operation would not have any impacts to State or Federally protected wetlands, including vernal pools or marsh areas. Thus, impacts to state or federally protected wetlands would not occur from implementation of the proposed Project.

### 7.4.2 CONSERVATION PLANS

**Impact Finding:** The Project would not conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan (Draft EIR Page 5.3-24).

**Facts in Support of Findings:** The Project is located within the California Desert Conservation Area Plan (BLM 1980) planning area, which includes plan amendments: Draft West Mojave Plan (BLM 2005) and the Desert Renewable Energy Conservation Plan (BLM 2016). The Project would not conflict with the conservation criteria associated with the California Desert Conservation Area Plan or Desert Renewable Energy Conservation Plan. The California Desert Conservation Area Plan is applicable to the management of public

lands. The Project site is privately owned, and therefore, the Project would result in no impact. As such, the Project would not conflict with Habitat Conservation Plans, Natural Community Conservation Plans, or other approved local, regional, or state habitat conservation plan, and impacts would be less than significant.

## 7.5 CULTURAL RESOURCES

### 7.5.1 HISTORICAL RESOURCES

**Impact Finding:** The Project would not cause a substantial adverse change in the significance of a historical resource pursuant to § 15064.5 (Draft EIR Page 5.4-6).

**Facts in Support of Findings:**

A Project-specific cultural resources assessment was conducted for the Project site and included a records search and pedestrian survey (Appendix D). The records search also revealed 53 previously recorded resources (two prehistoric and 51 historic) within one mile of the Project site. None of the 53 resources were identified as being within the Project site. During the field visit, no evidence of any historic or prehistoric cultural resources within the Project site was identified. Therefore, since no historical resources have been identified on the Project site, the Project would not cause an adverse change in the significance of a historic resource pursuant to §15064.5.

### 7.5.2 DISTURBANCE OF HUMAN REMAINS

**Impact Finding:** The Project would not disturb any human remains, including those interred outside of formal cemeteries. (Draft EIR Page 5.4-7).

**Facts in Support of Findings:** The Project site is not known to include any burial grounds, graveyards, or dedicated cemeteries. However, it is possible that human remains are buried outside of formal cemeteries. Therefore, should human remains be unearthed during grading and excavation activities, the Project would be required to comply with California Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98, and CEQA Guidelines Section 15064.5, which provide guidance on the discovery of human remains and their treatment or disposition with appropriate dignity. Through mandatory compliance with these required regulations, impacts would be less than significant.

## REGULATORY REQUIREMENTS

**PPP CUL-1.** Should human remains or funerary objects be discovered during Project construction, the Project would be required to comply with State Health and Safety Code Section 7050.5, which states that no further disturbance may occur in the vicinity of the body (within a 100-foot buffer of the find) until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission, which will determine the identity of and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD must complete the inspection within 48 hours of notification by the NAHC.

## 7.6 ENERGY

### 7.6.1 WASTEFUL, INEFFICIENT, OR UNNECESSARY CONSUMPTION OF ENERGY

**Impact Finding:** The Project would not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation (Draft EIR Page 5.5-5).

#### **Facts in Support of Finding:**

##### *Construction*

Construction activities related to the proposed Project and the associated infrastructure are not expected to result in demand for fuel greater on a per-unit-of-development basis than other development projects in Southern California. Demolition of existing structures on the site is limited and much of the demolition materials would be recycled. Also, CCR Title 13, Motor Vehicles, section 2449(d)(3) Idling, limits idling times of construction vehicles to no more than 5 minutes, thereby precluding unnecessary and wasteful consumption of fuel due to unproductive idling of construction equipment. The energy analysis modeling for the proposed Project (included as Appendix B) details that construction-related use of off-road equipment would utilize 135,870.5 gallons of diesel fuel and 116,177.2 gallons of gasoline. Construction contractors are required to demonstrate compliance with applicable California Air Resources Board (CARB) regulations governing the accelerated retrofitting, repowering, or replacement of heavy-duty diesel on- and off-road equipment. In addition, compliance with existing CARB idling restrictions and the use of newer engines and equipment would reduce fuel combustion and energy consumption. Overall, construction activities would require limited energy consumption, would comply with all existing regulations, and would therefore not be expected to use large amounts of energy or fuel in a wasteful manner. Thus, impacts related to construction energy usage would be less than significant.

##### *Operation*

Once operational, the Project building would generate demand for electricity, natural gas, as well as gasoline for motor vehicle trips. Operational use of energy includes the heating, cooling, and lighting of buildings, water heating, operation of electrical systems and plug-in appliances within buildings, parking lot and outdoor lighting, and the transport of electricity, natural gas, and water to the areas where they would be consumed. This use of energy is typical for urban development, and no operational activities or land uses would occur that would result in extraordinary energy consumption. The Project includes several Project Design Features (PDFs) that would reduce Project emissions and energy demand. Project PDF-1 through PDF-6 include energy reduction measures such as implementation of renewable energy system, inclusion of automatic light switches and control receptacles, the Project would be designed to meet LEED certification standards, low volatile organic compound (VOC) coatings and paint would be used, and exterior glazing to reduce solar heat gain would be applied.

Operation of the Project is estimated to annually use 676,198.1 gallons of diesel fuel and 371,755.7 gallons of gasoline. CCR Title 13, Motor Vehicles, section 2449(d)(3) Idling, limits idling times of construction vehicles to no more than 5 minutes. The idling restrictions would preclude unnecessary and wasteful consumption of fuel due to unproductive idling of trucks.

In addition, operation of the Project would use approximately 4,417,821 (kWh) per year of electricity. Because this use of energy is typical for urban development, no operational activities or land uses would occur that would result in extraordinary energy consumption. Through City permitting, assurance would be provided that existing regulations related to energy efficiency and consumption, such as Title 24 regulations

and CCR Title 13, Motor Vehicles, section 2449(d)(3) related to idling, would be implemented. Therefore, impacts related to operational energy consumption would be less than significant.

## 7.6.2 CONFLICT WITH PLAN FOR RENEWABLE ENERGY OR ENERGY EFFICIENCY

**Impact Finding:** The Project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency (Draft EIR Page 5.5-6).

**Facts in Support of Finding:** The proposed Project would be required to meet the CCR Title 24 energy efficiency standards in effect during permitting of the proposed Project. The City's administration of the CCR Title 24 requirements includes review of design components and energy conservation measures that occurs during the permitting process, which ensures that all requirements are met. In addition, the Project would not conflict with the idling limits imposed by CCR Title 13, Motor Vehicles, section 2449(d)(3) Idling. Furthermore, the Project would not conflict with or obstruct opportunities to use renewable energy, such as solar energy. In addition, the Project would provide solar panels in order to offset the Project's energy demands. Thus, the Project would not obstruct use of renewable energy or energy efficiency.

The CEC's 2021 *Integrated Energy Policy Report* and 2022 *Integrated Energy Policy Report Update* provides the results of the CEC's assessments of a variety of energy issues facing California. Energy usage on the Project site during construction would be temporary in nature and would be relatively small in comparison to the overall use in the County. In addition, energy usage associated with operation of the proposed Project would be relatively small in comparison to the overall use in San Bernardino County, and the State's available energy resources. Therefore, energy impacts at the regional level would be negligible. Because California's energy conservation planning actions are conducted at a regional level, and because the proposed Project's total impact on regional energy supplies would be minor, the proposed Project would not conflict with or obstruct California's energy conservation plans as described in the CEC's *Integrated Energy Policy Report*. Overall, the Project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Impacts would be less than significant.

## 7.6.3 CUMULATIVE ENERGY IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts related to energy. (Draft EIR Page 5.5-7).

**Facts in Support of Finding:** The geographic context for analysis of cumulative impacts regarding energy includes past, present, and future development within southern California because energy supplies (including electricity, natural gas, and petroleum) are generated and distributed throughout the southern California region.

All development projects throughout the region would be required to comply with the energy efficiency standards in the Title 24 requirements. Additionally, some of the developments could provide for additional reductions in energy consumption by use of solar panels, sky lights, or other LEED-type energy efficiency infrastructure. With implementation of the existing energy conservation regulations, cumulative electricity and natural gas consumption would not be cumulatively wasteful, inefficient, or unnecessary.

Petroleum consumption associated with the proposed uses and cumulative development projects would be primarily attributable to transportation, especially vehicular use. However, state fuel efficiency standards and alternative fuels policies (per AB 1007 Pavely (2005)) would contribute to a reduction in fuel use, and the federal Energy Independence and Security Act and the state Long Term Energy Efficiency Strategic Plan would reduce reliance on non-renewable energy resources. For these reasons, the consumption of petroleum

would not occur in a wasteful, inefficient, or unnecessary manner and impacts would be less than cumulatively considerable.

## 7.7 GEOLOGY AND SOILS

### 7.7.1 EXPOSE PEOPLE OR STRUCTURES TO FAULT RUPTURE

**Impact Finding:** The Project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the state geologist for the area of based on other substantial evidence of a known fault (Draft EIR Page 5.6-11).

**Facts in Support of Finding:** The Project site is not located within an Alquist-Priolo Earthquake Fault zone (California Geological Survey 2021). The closest Alquist-Priolo Earthquake Fault zone is the San Andreas Fault Zone, located approximately 10.9 miles southwest of the Project site. Due to the distance of the Project site from the closest fault zone, there is no potential for the Project to be subject to rupture of a known earthquake fault. Impacts related to a fault zone would not occur from implementation of the proposed Project.

### 7.7.2 EXPOSE PEOPLE OR STRUCTURES TO STRONG SEISMIC GROUND SHAKING

**Impact Finding:** The Project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking (Draft EIR Page 5.6-11).

**Facts in Support of Finding:** The Project site, like most of southern California, could be subject to seismically related strong ground shaking. The closest active fault zone to the Project site is the San Andreas fault zone, located approximately 10.9 miles from the Project site. A major earthquake along this fault or another regional fault could cause substantial seismic ground shaking at the site. However, structures built in the City are required to be built in compliance with the CBC (California Code of Regulations, Title 24, Part 2) that provides provisions for earthquake safety based on factors including building occupancy type, the types of soils onsite, and the probable strength of ground motion. Compliance with the CBC would require the incorporation of: 1) seismic safety features to minimize the potential for significant effects as a result of earthquakes; 2) proper building footings and foundations; and 3) construction of the building structure so that it would withstand the effects of strong ground shaking.

Pursuant to Title 15, Buildings and Construction, of the Hesperia Municipal Code, the Project would incorporate the design recommendations included in its geotechnical report, which will be subject to review and approval by City staff prior to issuance of a grading permit. Compliance with the CBC as verified by the City's review process and included as a condition of approval, would reduce impacts related to strong seismic ground shaking to a less than significant level.

#### REGULATORY REQUIREMENTS

**PPP GEO-1: CBC Compliance.** The Project is required to comply with the California Building Standards Code as included in Chapter 15.04 of the Hesperia Municipal Code to preclude significant adverse effects associated with seismic and soils hazards. CBC related and geologist and/or civil engineer specifications for the proposed Project are required to be incorporated into grading plans and building specifications as a condition of construction permit approval.

### 7.7.3 EXPOSE PEOPLE OR STRUCTURES TO LANDSLIDES

**Impact Finding:** The Project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving landslides (Draft EIR Page 5.6-12).

**Facts in Support of Finding:** According to the Geotechnical Investigation, the Project site is located in a flat area that does not contain nor is adjacent to large slopes, and the Project would not generate large slopes. As a result, implementation of the Project would not expose people or structures to substantial adverse effects involving landslides, and impacts related to landslides would not occur.

### 7.7.4 SOIL EROSION OR LOSS OF TOPSOIL

**Impact Finding:** The Project would not result in substantial soil erosion or the loss of topsoil (Draft EIR Page 5.6-12).

**Facts in Support of Finding:**

*Construction*

Construction of the proposed Project has the potential to contribute to soil erosion and the loss of topsoil. Grading activities that would be required for the Project would expose and loosen topsoil, which could be eroded by wind or water. Hesperia Municipal Code Chapter 15.06.110, *National Pollutant Discharge Elimination System Compliance*, implements the requirements of the California Regional Water Quality Control Board (RWQCB) National Pollutant Discharge Elimination System (NPDES) Storm Water Permit Order No. R8-2002-0011 (MS4 Permit) which establishes minimum stormwater management requirements and controls that are required to be implemented for the Project.

To reduce the potential for soil erosion and the loss of topsoil, a Stormwater Pollution Prevention Plan (SWPPP) is required by these City and RWQCB regulations to be developed by a QSD (Qualified SWPPP Developer), which would be implemented by the City's conditions of approval. The SWPPP is required to address site-specific conditions related to specific grading and construction activities that could cause erosion and the loss of topsoil and provide erosion control BMPs to reduce or eliminate the erosion and loss of topsoil. Erosion control BMPs include use of silt fencing, fiber rolls, or gravel bags, stabilized construction entrance/exit, hydroseeding, etc. With compliance with the Municipal Code Chapter 15.06.110 stormwater management requirements, RWQCB SWPPP requirements, and installation of BMPs, which would be implemented by the City's Project review by the Building and Safety Division, construction impacts related to erosion and loss of topsoil would be less than significant.

*Operation*

The proposed Project includes installation of landscaping adjacent to the proposed building and throughout the proposed parking areas. With this landscaping, areas of loose topsoil that could erode by wind or water would not exist upon operation of the proposed Project. In addition, as described in Draft EIR Section 5.9, *Hydrology and Water Quality*, the hydrologic features of the proposed Project have been designed to slow, filter, and retain stormwater within landscaping and the proposed underground infiltration basins, which would also reduce the potential for stormwater to erode topsoil. Furthermore, implementation of the Project requires City approval of a Water Quality Management Plan (WQMP) (Appendix K), which would ensure that RWQCB requirements and appropriate operational BMPs would be implemented to minimize or eliminate the potential for soil erosion or loss of topsoil to occur. As a result, with implementation of existing requirements, impacts related to substantial soil erosion or loss of topsoil would be less than significant.

### 7.7.5 EXPANSIVE SOIL

**Impact Finding:** The Project would not be located on expansive soils, as defined in Table 18-1-B of the Uniform Building Code (1994), and would not create substantial risks to life or property (Draft EIR Page 5.6-14).

**Facts in Support of Finding:** Table 18-1-B of the Uniform Building Code mandates that special foundation design consideration be employed if the Expansion Index of soils is 20 or greater. The Geotechnical Investigation describes that the Project site's near-surface soils consist of fine- to coarse-grained, silty sand with some roots that is in a loose condition. According to the Geotechnical Investigation, these materials have an Expansion Index of 0 and therefore are expected to have very low to low expansion potential (AGS 2022). Accordingly, the Project site does not contain expansive soils and as such, would not create substantial direct or indirect risks to life or property associated with the presence of expansive soils. No impact would occur.

### 7.7.6 SOILS INCAPABLE OF SUPPORTING SEPTIC TANKS

**Impact Finding:** The Project would not have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater (Draft EIR Page 5.6-14).

**Facts in Support of Finding:** The proposed Project would install new onsite and offsite sewer lines and would not include the use of septic tanks or alternative wastewater disposal systems. No impacts related to septic tanks or alternative wastewater disposal systems would occur from implementation of the Project.

### 7.7.7 CUMULATIVE GEOLOGICAL HAZARDS AND SOILS IMPACTS

**Impact Finding:** The Project would not result in cumulatively considerable impacts to geology and soils (Draft EIR Page 5.6-15).

**Facts in Support of Finding:** Geotechnical impacts are site-specific rather than cumulative in nature. Direct and indirect impacts related to geology and soils would be mitigated through mandatory conformance with the California Building Code, City of Hesperia Municipal Code, and site-specific geotechnical recommendations, which will be incorporated as part of the Project's design and construction efforts. With the exception of erosion hazards, potential hazardous effects related to geologic and soil conditions are unique to each project site, and inherently restricted to the developments proposed. That is, issues including fault rupture, seismic ground shaking, liquefaction, landslides, and expansive soils would involve effects to (and not from) the development, are specific to conditions on the property, and are not influenced by or additive with the geologic and/or soils hazards that may occur on other, off-site properties. Because of the site-specific nature of these potential hazards and the measures to address them, there would be no direct or indirect connection to similar potential issues or cumulative effects at the Project site.

Impacts related to erosion and loss of topsoil could be cumulatively considerable. However, mandates related to the NPDES permit, preparation of a WQMP, and SWPPP, as well as compliance with SCAQMD Rule 403 (Fugitive Dust) incorporate measures during construction activities to ensure that significant erosion impacts do not occur. Other development projects in the vicinity of the Project site would be required to comply with the same regulatory requirements as the Project to preclude substantial adverse water and wind erosion impacts. Because the Project and related projects within the cumulative study area would be subject to similar mandatory regulatory requirements to control erosion hazards during construction and long-term operation, cumulative impacts associated with wind and water erosion hazards would be less than significant.

## 7.8 GREENHOUSE GAS EMISSIONS

### 7.8.1 CONFLICT WITH AN APPLICABLE GREENHOUSE GAS PLAN, POLICY, OR REGULATION

**Impact Finding:** The Project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases (Draft EIR Page 5.7-14).

**Facts in Support of Finding:** The Project would provide contemporary, energy-efficient/energy-conserving design features and operational procedures. The proposed Project would not interfere with the state's implementation of AB 1279's target of 85 percent below 1990 levels and carbon neutrality by 2045 because it does not interfere with implementation of the GHG reduction measures listed in CARB's Updated Scoping Plan (2022), as demonstrated in Draft EIR Tables 5.7-3. CARB's 2022 Scoping Plan reflects the 2045 target of a, 85 percent reduction below 1990 levels, set by Executive Order B-55-18, and codified by AB 1279. In addition, the Project would be consistent with the following state policies that were adopted for the purpose of reducing GHG emissions.

Further, the proposed Project is consistent with AB 32 and SB 32 through implementation of measures that address GHG emissions related to building energy, solid waste management, wastewater, and water conveyance. Thus, the Project would be consistent with the State's requirements for GHG reductions.

As demonstrated in Draft EIR Table 5.7-4, the proposed Project would be consistent with each reduction measure evaluated for the City of Hesperia, as identified in the San Bernardino County Regional Greenhouse Gas Reduction Plan. In addition, the City has included the efficient use of energy resources as a goal in the General Plan Conservation Element. Moreover, as shown in Draft EIR Table 5.7-5, the Project would not conflict with the relevant General Plan goals and policies related to GHGs.

Overall, the proposed Project would not result in a conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of GHGs. The Project would be implemented in compliance with state energy standards provided in Title 24, in addition to provision of sustainable design features. The Project would not interfere with the state's implementation of Executive Order B-30-15 and SB 32's target of reducing statewide GHG emissions to 40 percent below 1990 levels by 2030; or Executive Order S-3-05's target of reducing statewide GHG emissions to 80 percent below 1990 levels by 2050 because it would be consistent with the CARB 2017 Scoping Plan, which is intended to achieve the reduction targets required by the state. In addition, the proposed Project would be consistent with the relevant City General Plan goal and policies. Thus, the proposed Project would not result in a conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of GHGs, and impacts would be less than significant.

## 7.9 HAZARDS AND HAZARDOUS MATERIALS

### 7.9.1 ROUTINE TRANSPORT, USE, OR DISPOSAL OF HAZARDOUS MATERIALS

**Impact Finding:** The Project would not create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials (Draft EIR Page 5.8-15).

**Facts in Support of Finding:** Development and long-term operation of the Project would require standard transport, use, and disposal of hazardous materials and wastes.

#### *Construction*

Construction contractors would be required to comply with federal, state, and local laws and regulations regarding the transport, use, and storage of hazardous materials. Applicable laws and regulations include

CCR, Title 8 Section 1529 (pertaining to ACM) and Section 1532.1 (pertaining to LBP); CFR, Title 40, Part 61, Subpart M (pertaining to ACM); CCR, Title 23, Chapter 16 (pertaining to UST); CFR, Title—29 - Hazardous Waste Control Act; CFR, Title 49, Chapter I; and Hazardous Materials Transportation Act requirements as imposed by the USDOT, CalOSHA, CalEPA and DTSC. Additionally, construction activities would require a SWPPP, which is mandated by the NPDES General Construction Permit (included as PPP WQ-1 herein) and enforced by the Lahontan RWQCB. The SWPPP will include strict onsite handling rules and BMPs to minimize potential adverse effects to workers, the public, and the environment during construction.

Mandatory compliance with applicable laws and regulations related to the routine transport, use, and disposal of hazardous materials during construction activities at the Project site would limit potentially significant hazards to construction workers, the public, and the environment. Impacts would be less than significant.

#### Operation

The Project site would be developed with a new industrial building that would support high-cube warehousing, manufacturing, and office uses utilizing up to five percent cold storage. Operations would include the manufacturing and storage of make-up products which may contain the use of various types and quantities of hazardous materials, including lubricants, solvents, cleaning agents, wastes, paints and related wastes, petroleum, wastewater, and batteries (lead acid, nickel cadmium, nickel, iron, carbonate). These hazardous materials would be used, stored, and disposed of in accordance with applicable regulations and standards (such as CFR, Title 49, Chapter I; CCR, Title 8; CFR, Title 40, Part 263) that are enforced by the USEPA, USDOT, CalEPA, CalOSHA, DTSC, and County of San Bernardino Environmental Health Services. Under California Health and Safety Code Section 25531 et seq., CalEPA requires businesses operating with a regulated substance that exceeds a specified threshold quantity to register with a managing local agency, known as the Certified Unified Program Agency (CUPA). In Hesperia, the San Bernardino County Fire Department is the CUPA. If the operations of future tenants of the proposed warehouse facility exceed established thresholds, CUPA permits would be required. The County requires businesses subject to any of the CUPA permits to file a Business Emergency/Contingency Plan. Additionally, businesses would be required to provide workers with training on the safe use, handling, and storage of hazardous materials. Additionally, businesses would be required to maintain equipment and supplies for containing and cleaning up spills of hazardous materials that can be safely contained and cleaned by onsite workers and to immediately notify emergency response agencies in the event of a hazardous materials release that cannot be safely contained and cleaned up by onsite personnel.

Additionally, prior to the approval of the Grading Plan and issuance of Grading Permits a completed Water Quality Management Plan (WQMP) shall be submitted to and approved by the Public Works Department, included as PPP WQ-2. BMPs would be incorporated in the WQMP that would protect human health and the environment should any accidental spills or releases of hazardous materials occur during operation of the Project, including onsite collection and treatment of potentially polluted runoff, as well as nonstructural maintenance implemented to prevent potentially hazardous spills or leaks of stored materials. Compliance with existing laws and regulations governing hazard and hazardous materials results in less than significant impacts related to the routine transport, use, and disposal of the hazardous materials, and this topic was not further analyzed in the Draft EIR.

#### REGULATORY REQUIREMENTS

**PPP WQ-1: NPDES/SWPPP.** Prior to issuance of any grading permits, the applicant shall provide the City Building and Safety Department evidence of compliance with the NPDES (National Pollutant Discharge Elimination System) requirement to obtain a construction permit from the State Water Resource Control Board (SWRCB). The permit requirement applies to grading and construction sites of one acre or larger. The Project applicant/proponent shall comply

by submitting a Notice of Intent (NOI) and by developing and implementing a Stormwater Pollution Prevention Plan (SWPPP) and a monitoring program and reporting plan for the construction site.

**PPP WQ-2:** **WQMP.** Prior to the approval of the Grading Plan and issuance of Grading Permits a completed Water Quality Management Plan (WQMP) shall be submitted to and approved by the Public Works Department. The WQMP shall be submitted using the Mojave River Watershed Technical Guidance Document for Water Quality Management Plans and shall identify all Post-Construction, Site Design, Source Control, and Treatment Control Best Management Practices (BMPs) that will be incorporated into the development project in order to minimize the adverse effects on receiving waters.

## 7.9.2 RELEASE OF HAZARDOUS MATERIALS AND THE POTENTIAL FOR UPSET CONDITIONS

**Impact Finding:** The Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset or accident conditions involving the release of hazardous materials into the environment (Draft EIR Page 5.8-16).

### Facts in Support of Finding:

#### *Construction*

Construction of the proposed Project would involve the limited use and disposal of hazardous materials. Equipment that would be used in construction of the Project has the potential to release gas, oils, greases, solvents, and spills of paint and other finishing substances. However, the amount of hazardous materials onsite would be limited, and construction activities would be required to adhere to all applicable regulations regarding hazardous materials storage and handling, as well as to implement construction BMPs (through implementation of a required SWPPP implemented by City conditions of approval, and included as PPP WQ-1) to prevent a hazardous materials release and to promptly contain and clean up any spills, which would minimize the potential for harmful exposures. With compliance to existing laws and regulations, which is mandated by the City through construction permitting, the Project's construction-related impacts would be less than significant.

#### *Operation*

The future tenants within the Project site may use, store, and dispose of various types and quantities of hazardous materials that would be required to comply with regulations and standards (such as CFR, Title 49, Chapter I; CCR, Title 8; CFR, Title 40, Part 263; San Bernardino County regulations; and City of Hesperia regulations enforced by the USEPA, USDOT, CalEPA, CalOSHA, DTSC, and San Bernardino County Fire Department). The San Bernardino County Fire Department, as CUPA would require that future tenants prepare Business Emergency/Contingency Plans, which provide information to emergency responders and the general public regarding hazardous materials, and coordinates reporting of releases and spill response among businesses and local, state, and federal government authorities. Moreover, the proposed development Project would include a WQMP, included as PPP WQ-2. BMPs would be incorporated in the WQMP that would protect human health and the environment should any accidental spills or releases of hazardous materials occur during operation of the Project, including onsite collection and treatment of potentially polluted runoff, as well as nonstructural maintenance implemented to prevent potentially hazardous spills or leaks of stored materials. Therefore, operations within the Project site would not result in a significant hazard to the public or the environment through reasonably foreseeable upset and accident involving hazardous material. Impacts related to hazardous materials from operation would be less than significant.

## REGULATORY REQUIREMENTS

**PPP WQ-1:** NPDES/SWPPP. As previously listed.

**PPP WQ-2:** WQMP. As previously listed.

### 7.9.3 HAZARDOUS MATERIALS WITHIN ONE-QUARTER MILE OF AN EXISTING OR PROPOSED SCHOOL

**Impact Finding:** The Project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 0.25 mile of an existing or proposed school (Draft EIR Page 5.8-17).

**Facts in Support of Finding:** The nearest school to the Project site is Canyon Ridge High School, located 1.5-miles southwest. Therefore, there are no schools located within a 0.25 mile of the Project site. In addition, trucks traveling to and from the Project site would stay on designated truck routes, which are not within a 0.25-mile proximity of any existing school in the City of Hesperia.

Additionally, the use of hazardous materials related to the proposed industrial warehouse uses would be limited and used and disposed of in compliance with federal, state, and local regulations, which would reduce the potential of accidental release into the environment. Also, the emissions that would be generated from construction and operation of the proposed Project were evaluated in the air quality analysis presented in Section 5.2 of the Draft EIR, and the emissions generated from the proposed Project would not cause or contribute to an exceedance of the federal or state air quality standards. Thus, the proposed Project would not emit hazardous or handle acutely hazardous materials, substances, or waste within 0.25 mile of school, and no impacts would occur.

### 7.9.4 CORTESE LIST

**Impact Finding:** The Project would not be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and would not create a significant hazard to the public or the environment (Draft EIR Page 5.8-17).

**Facts in Support of Finding:** The Phase I ESA (Appendix H) conducted database searches to determine if the Project area or any nearby properties are identified as currently having hazardous materials. The record searches determined that the Project site is not included on a list of hazardous materials sites pursuant to Government Code Section 65962.5 (McAlister GeoScience, 2022). As such, no impacts related to hazardous materials sites would occur.

### 7.9.5 NEAR AN AIRPORT OR WITHIN AN AIRPORT LAND USE PLAN

**Impact Finding:** The Project would not result in a safety hazard or excessive noise for people residing or working in the Project area for a project area for a project located within an airport land use plan or, where such a plan has not been adopted, be within two miles of a public airport or public use airport (Draft EIR Page 5.8-18).

**Facts in Support of Finding:** The Project site is located approximately six miles northwest of the Hesperia Airport. According to the Hesperia Airport Comprehensive Land Use Plan, the site is outside of the 60-65 dBA CNEL noise contour and would not be subject to excessive noise levels due to operations at the Hesperia Airport. The site is also outside of the established airport safety zones. Thus, the Project would not result in a safety hazard or excessive noise for people residing or working in the area. As such, no impact would occur.

### 7.9.6 IMPAIR OR INTERFERE WITH AN ADOPTED EMERGENCY RESPONSE PLAN OR EMERGENCY EVACUATION PLAN

**Impact Finding:** The Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan (Draft EIR Page 5.8-18).

**Facts in Support of Finding:** The City of Hesperia has adopted an Emergency Operations Plan (EOP) intended to provide comprehensive procedures and guidance for the City to prepare and respond to large-scale emergencies and disasters in the community. In addition, the City of Hesperia is part of the San Bernardino County Operational Area and therefore has created a plan that complements the San Bernardino County Operational Area Emergency Operations Plan. Emergency responses are coordinated through various offices within City and County government and aligned agencies. The City of Hesperia, San Bernardino County Fire, and Sheriff's office provide emergency response.

#### *Construction*

The proposed construction activities, including equipment and supply staging and storage, would occur within the Project site and would not restrict access of emergency vehicles to the Project site or adjacent areas. During construction of the Project, driveways, and connections to existing infrastructure along Phelan Road and Caliente Road would remain open to ensure adequate emergency access to the Project area and vicinity. Construction activities within the Project site that may temporarily restrict vehicular traffic would be required to implement adequate measures to facilitate the safe passage of persons and vehicles during required temporary road restrictions. In accordance with Section 503 of the California Fire Code (Title 24, California Code of Regulations, Part 9), prior to any activity that would encroach into a right-of-way, the area of encroachment must be safeguarded through the installation of safety devices to ensure that construction activities would not physically interfere with emergency access or evacuation. Compliance with Section 503 of the California Fire Code would be specified by the City's Building and Safety Division during the construction permitting process. Therefore, the Project would not block any evacuation routes or conflict with an emergency response plan, and impacts related to interference with an adopted emergency response of evacuation plan during construction activities would be less than significant.

#### *Operation*

Project access would occur off Caliente Road and Phelan Road. As described in Draft EIR Section 5.12, *Transportation*, these driveways and roadways would provide adequate and safe circulation to, from, and through the Project site and would provide a variety of routes for emergency responders to access the site and surrounding areas. Additionally, the Project would comply with Municipal Code standards, which require design and construction specifications to allow adequate emergency access to the site and ensure that roadway improvements would meet public safety requirements. Furthermore, drivers are expected to comply with all state driving laws, roadway signage, as well as restrictions related to vehicle stopping and parking. Therefore, the Project would not impair implementation or interfere with adopted emergency response or evacuation plans. Impacts would be less than significant.

### 7.9.7 WILDLAND FIRES

**Impact Finding:** The Project would not expose people or structures, either directly or indirectly to a significant risk of loss, injury or death involving wildland fires (Draft EIR Page 5.8-19).

**Facts in Support of Finding:** The Project site is located in an undeveloped area that is not within an identified wildland fire hazard area or an area where residences are intermixed with wildlands. According to the CAL Fire Hazard Severity Zone Map, the Project site is categorized as a Local Responsibility Area (LRA) (CALFire, 2023). Further, Project implementation would require adherence to Chapter 15.04 Building Codes of the

City Development Code which contain the adoption of the California Fire Codes to reduce potential fire hazards. The Project would also be required to comply with guidelines from San Bernardino County Fire related to fire prevention and subject to review during the plan check process by the City Building Division. Therefore, the Project would not expose people or structures to a significant risk of loss, injury, or death from wildfires, and there would be no impacts.

## 7.9.8 CUMULATIVE HAZARDS AND HAZARDOUS MATERIALS IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts related to hazards or hazardous materials (Draft EIR Page 5.8-19).

**Facts in Support of Finding:** The cumulative study area for the purposes of hazardous materials and waste would be considered the City of Hesperia. This cumulative impact analysis for hazards and hazardous materials considers development of the proposed Project in conjunction with other development projects as well as the projects identified in Draft EIR Section 5.0, *Environmental Impact Analysis*, Table 5-1, *Cumulative Projects*. None of the projects identified in Draft EIR Table 5-1 are proposed adjacent to the Project site. However, there are multiple cumulative projects within the Hesperia area, in the general vicinity of the Project.

Cumulative land use changes within the City of Hesperia would have the potential to expose future area residents, employees, and visitors to chemical hazards through the transport, storage, or use of hazardous materials. The severity of potential hazards for individual projects would depend upon the location, type, and size of development and the specific hazards associated with individual sites. All hazardous materials users and transporters, as well as hazardous waste generators and disposers are subject to regulations that require proper transport, handling, use, storage, and disposal of such materials to ensure public safety. Thus, if hazardous materials are found to be present on future project sites, appropriate remediation activities would be required pursuant to standard federal, state, and regional regulations. Compliance with the relevant federal, state, and local regulations, during the operation and construction throughout the Project site, as well as during the construction and operation of related projects would ensure that cumulative impacts from hazardous materials would be less than significant.

## 7.10 HYDROLOGY AND WATER QUALITY

### 7.10.1 VIOLATE WATER QUALITY STANDARDS OR WASTE DISCHARGE REQUIREMENTS

**Impact Finding:** The Project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality (Draft EIR Page 5.9-10).

**Facts in Support of Finding:**

*Construction*

Water quality impacts during construction of the Project would be prevented through the requirements of the existing NPDES Construction General Permit, as included in the City's Chapter 8.30, and PPP WQ-1, which establishes minimum stormwater management requirements and controls that are required to be implemented for construction of the proposed Project, including preparation of a SWPPP by a Qualified SWPPP Developer (QSD). Therefore, compliance with the State Construction General Permit, Order No. 2009-0009-DWQ, as amended by 2010-0014-DWQ and 2012-0006-DWQ, the City of Hesperia Municipal Code, and other applicable requirements, which would be verified during the City's construction permitting process, would ensure that Project impacts related to construction activities resulting in a degradation of water quality would be less than significant.

## Operation

As previously mentioned, the Project site is within the Mojave River watershed and drains to the Upper Mojave reach (Forks Reservoir Outlet to the Upper Narrows). The Mojave River (Forks Reservoir Outlet to the Upper Narrows) is classified as an impaired water body and has been placed on the 303(d) list of impaired waters for Sulfates, Fluoride, and Sodium (toxic inorganics and salinity/total dissolved solids/chlorides/sulfates).

The proposed Project would include development of a one-story, 655,468 SF warehouse building on the 29.61-acre site and the extension of sewer and water lines over 1.3 linear acres. Additional improvements would include landscaping, sidewalks, utility connections, implementation of stormwater facilities, and pavement of parking areas and driveways. The existing Project is vacant and undeveloped. The proposed development would add 1,149,815 SF of impervious surface area, with approximately 16.5 percent of the Project site including pervious landscaping.

Increases in impervious surface area would result in an increase in the volume and flow rate of surface runoff and potential pollutants from vehicles. Operation of the proposed land uses could generate pollutants including trash, debris, oil residue, and other residue that could be deposited on streets, sidewalks, which have the potential to further exacerbate existing impairments of local water bodies. Proposed drainage improvements would include construction of onsite conveyance, including catch basins and roof drains that route flows to underground pipes. In the post-project condition, the drainage characteristics would be maintained similar to the pre-Project condition. Runoff from the site will be collected via a proposed on-site private storm drain system (including catch basins and storm drainpipes) and conveyed to the linear detention basin proposed within the northern portion of the Project site. The proposed storm water management system would consist of an above-ground hybrid infiltration/bioinfiltration basin. The stormwater infrastructure would capture and treat the 100-year, 24-hour storm. This proposed system would address the San Bernardino County Phase II Small MS4 General Permit for the Mojave River Watershed requirements and design capture volume (DCV) (85th percentile, 24-hour storm). The City of Hesperia Engineering Department requested that the applicant provide capture of the 100-year, 24-hour storm, which exceeds existing San Bernardino County requirements.

Implementation of the proposed Project would comply with BMPs pursuant to the County's NPDES requirements, and the City Code. The Project would be required to implement a WQMP pursuant to Chapter 8.30 of the City of Hesperia Municipal Code and included as PPP WQ-2. Post construction BMPs and LID included in the WQMP would avoid potential quality degradation of receiving waters resulting from proposed development. As part of the permitting approval process, construction plans would be required to demonstrate compliance with these regulations. Plans for grading, drainage, erosion control and water quality would be reviewed by the City Public Works Department prior to issuance of grading permits to ensure that the applicable and required LID BMPs are constructed during implementation of the Project.

Additionally, BMPs would include non-structural water quality controls to further minimize potential of water quality degradation of receiving waters. Overall, adherence to the existing regulations as implemented by the City Code would ensure that Project impacts related to degradation of water quality from operational activities would be less than significant.

## REGULATORY REQUIREMENTS

**PPP WQ-1:** NPDES/SWPPP. As previously listed.

**PPP WQ-2:** WQMP. As previously listed.

### 7.10.2 DEplete GROUNDwater SUPPLIES OR INTERFERE WITH GROUNDwater RECHARGE

**Impact Finding:** The Project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the Basin (Draft EIR Page 5.9-12).

**Facts in Support of Finding:** The Project site is underlain by the Upper Mojave River Basin, which is fully adjudicated and managed by the Mojave Water Agency (Watermaster). The Mojave Water Agency is a low priority basin that is not required to form a groundwater sustainability agency (GSA) or groundwater sustainability plan (GSP). Additionally, Mojave Water Agency is exempt from this requirement due to the adjudication. Therefore, the Project would not conflict with the Sustainable Groundwater Management Act (SGMA).

Hesperia's primary water supply is pumped water from the Alto subarea of the Mojave Basin. The Project proposes a Specific Plan Amendment to change the Project site's MSFC-SP designation from NC to CIBP. However, as discussed in the Urban Water Management Plan (UWMP), Hesperia only extracts as much groundwater as is necessary to meet customer demands. Additionally, the Mojave Basin is adjudicated, and groundwater is pumped and allocated based on the codified allocations. Thus, the proposed Specific Plan Amendment would not result in a substantial decrease in water supplies and would not conflict with determinations of the UWMP.

Currently, the Project site is undeveloped and pervious which allows for groundwater recharge. The proposed Project would result in the addition of 1,149,815 SF of impervious surface area. According to the *Mojave River Watershed Technical Guidance Document for Water Quality Management Plans*, LID infiltration BMPs must be used to capture and infiltrate the 85th percentile, 24-hour precipitation event. Runoff from the site would be collected via a proposed on-site private storm drain system (including catch basins and storm drainpipes) and conveyed to the linear detention basin proposed within the northern portion of the Project site. The proposed storm water management system would consist of an above-ground hybrid infiltration/bioinfiltration basin. The stormwater infrastructure would capture and treat the 100-year, 24-hour storm, an excess of the regional NDPES MS4 Permit requirement to capture and infiltrate the 85th percentile, 24-hour storm. In addition, vegetated landscaping has also been incorporated into the Project design to capture, treat, and infiltrate stormwater. As specified in the Preliminary WQMP (Appendix K), the infiltration capability of the Project site is adequate based on applicable permit requirements. The Project would decrease the total pervious area and increase the infiltration rate within proposed pervious areas. The proposed stormwater system would provide similar infiltration and groundwater recharge capabilities to existing conditions. Therefore, the Project would not substantially impede groundwater recharge of the Project site.

Compliance with the MS4 permit requirements, the City Code, and other applicable requirements implemented through the WQMP, which would be verified during the Project permitting process, would ensure that Project impacts related to groundwater depletion and recharge would be less than significant.

### 7.10.3 EROSION OR SILTATION

**Impact Finding:** The Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site (Draft EIR Page 5.9-13).

## Facts in Support of Finding:

### Construction

Construction of the Project would require site clearing and grading. Excavation, grading, and other site preparation activities would loosen soils, which has the potential to result in erosion and the loss of topsoil. Also, the Project site is generally flat and does not contain substantial slopes that could induce erosion or siltation. The existing NPDES Construction General Permit, included as PPP WQ-1, requires preparation and implementation of a SWPPP by a Qualified SWPPP Developer for construction activities that disturb one acre or more of soil. The SWPPP is required to address site-specific conditions related to potential sources of sedimentation and erosion and would list the required BMPs that are necessary to reduce or eliminate the potential of erosion or alteration of a drainage pattern during construction activities.

Overall, with implementation of the existing construction regulations that would be verified by the City during the permitting approval process, impacts related to alteration of an existing drainage pattern during construction that could result in substantial erosion or siltation would be less than significant.

### Operation

The existing drainage pattern for the site generally flows from the south to the north. Runoff from the site would be collected via a proposed onsite private storm drain system (including catch basins and storm drainpipes) and conveyed in the northerly direction to a proposed storm water management system. The detention basin would contain dry wells that would treat the stormwater collected from the Project site. In the post-project condition, the drainage characteristics would be maintained as similar to the pre-Project condition.

The Project site would be mostly developed with impervious surfaces and undeveloped areas would be vegetated, minimizing the potential for erosion or siltation on site. As previously discussed, the Project would include implementation of BMPs designed to fully capture and infiltrate the Project's DCV, reducing offsite stormwater flows. As part of the permitting approval process, the proposed drainage and water quality design and engineering plans would be reviewed by the City Department of Public Works to ensure that they meet the County's NPDES Permit and limit the potential for erosion and siltation. Therefore, impacts related to alteration of a drainage pattern and erosion/siltation from operational activities would be less than significant.

## REGULATORY REQUIREMENTS

**PPP WQ-1:** NPDES/SWPPP. As previously listed.

**PPP WQ-2:** WQMP. As previously listed.

## 7.10.4 SURFACE RUNOFF

**Impact Finding:** The Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which would substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site (Draft EIR Page 5.9-14).

## Facts in Support of Finding:

### Construction

Construction of the proposed Project would include activities that could temporarily alter the existing drainage pattern of the site, for example by constructing foundations and paved areas, and could result in flooding on- or off-site if drainage is not properly controlled. However, as described previously, implementation of the Project requires a SWPPP that would address site-specific drainage issues related to

construction of the Project and would include BMPs to eliminate the potential of flooding or alteration of a drainage pattern during construction activities. This includes diverting runoff from rooftops and other impervious surfaces to vegetated areas, when possible, to promote infiltration and controlling the perimeter of the site using sandbags, berms, and silt fencing. Therefore, impacts would be less than significant.

#### Operation

The proposed Project would result in an increase in impervious area which would increase surface flows compared to existing conditions. However, installation of new stormwater facilities, including aboveground and underground stormwater basins, pervious landscaped areas, and new storm drains would be installed. The proposed stormwater drainage system would collect onsite flows via a series of catch basins and storm drains.

Proposed onsite stormwater infrastructure has capacity to treat and detain 100 percent of the WQMP DCV. In addition, stormwater runoff would be directed towards landscaped areas wherever possible for treatment and infiltration. The aboveground and underground storage facilities are expected to retain and infiltrate the 100-year 24-hour storm. The use of the detention basin and landscaping would regulate the rate and velocity of stormwater flows and would control the amount of discharge into the offsite drainage system. As determined by the Preliminary WQMP (Appendix K) and Preliminary Hydrology Report (Appendix I), the proposed drainage improvements would slightly maintain peak flow rates for a 100-year storm from existing conditions of 59.10 cubic feet per second (cfs). Proposed hydromodifications would be consistent with County requirements within the San Bernardino County Hydrology Manual flow requirements. As determined by the Preliminary WQMP (Appendix K) and Preliminary Hydrology Report (Appendix I), the proposed Project would not result in flooding conditions to upstream or downstream properties with the proposed improvements. As part of the permitting approval process, the proposed drainage and water quality design and engineering plans would be reviewed by the City Department of Public Works to ensure that they meet the County NPDES Permit requirements and would not result in flood impacts.

Overall, the drainage facilities proposed for the Project have been sized to be consistent with the County MS4 permit requirements. Thus, implementation of the Project would not substantially increase the rate or amount of surface runoff, such that flooding would occur. Impacts would be less than significant.

#### REGULATORY REQUIREMENTS

**PPP WQ-1:** NPDES/SWPPP. As previously listed.

**PPP WQ-2:** WQMP. As previously listed.

### 7.10.5 STORMWATER SYSTEM CAPACITY

**Impact Finding:** The Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff (Draft EIR Page 5.9-15).

**Facts in Support of Finding:** The proposed Project would develop an undeveloped site, which would result in the addition of 1,149,815 SF of impervious surface area. Existing Project site drainages sheet flows from the south to the north of the Project site. Flows discharge to the Oro Grande Wash southeast of the Project site.

Use of the aboveground and underground storage chambers would regulate the rate and velocity of stormwater flows and would control the amount of discharge into the off-site drainage system. As discussed

above, stormwater runoff would be treated via biotreatment, and the Project would not result in significant impacts related to water quality. In addition, the drainage facilities proposed for the Project have been sized to adequately accommodate the stormwater flows from the proposed development and are consistent with the County drainage plans and MS4 permit requirements. The proposed stormwater system would accommodate existing stormwater infrastructure capacity by holding the entire DCV and allowing high flows to discharge from the site at a reduced flowrate. The existing drainage pattern would be maintained, and peak flow rates would slightly maintain. However, the proposed drainage improvements would be consistent with County standards and permit requirements. Therefore, Project impacts would be less than significant.

### 7.10.6 IMPEDE OR REDIRECT FLOOD FLOWS

**Impact Finding:** The Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would impede or redirect flood flows (Draft EIR Page 5.9-16).

#### **Facts in Support of Finding:**

##### *Construction*

The Project site generally slopes south to north. Implementation of the Project would maintain existing drainage patterns of the Project site. Construction of the proposed Project would include activities that could temporarily alter the existing drainage pattern of the site and could result in flooding on- or off-site if drainage is not properly controlled. However, as described previously, implementation of the Project requires a SWPPP that would address site specific drainage issues related to construction of the Project and include BMPs to eliminate the potential of flooding or alteration of a drainage pattern during construction activities. This includes regular monitoring and visual inspections during construction activities. Compliance with the County's NPDES Permit and a SWPPP, as verified by the City through the construction permitting process, would prevent construction-related impacts related to potential impediment or redirection of flood flows. Therefore, Project impacts would be less than significant.

##### *Operation*

Per the Federal Emergency Management Agency (FEMA) Federal Insurance Rate Map (FIRM), the Project is within Zone X, an area determined to be outside of the 0.2 percent annual chance floodplain (Map Number 06071C6475H). As described previously, the proposed Project would result in an increase in impervious areas. As a result, the Project would increase surface flows compared to existing conditions. However, installation of new stormwater drainage facilities, including aboveground and subsurface storage chambers, pervious landscaped areas, and new storm drains would be installed. The proposed drainage system would collect onsite flows via a series of catch basins and subsurface storm drains.

Proposed onsite drainage infrastructure has capacity to retain 100 percent of the site's DCV. In addition, landscaped areas would accept runoff water from impervious surfaces. The use of the detention chambers and landscaping would regulate the rate and velocity of stormwater flows and would control the amount of discharge into the off-site drainage system. The proposed flowrate would be slightly greater than the existing flowrate; however, the drainage system would be designed consistent with County standards. As part of the permitting approval process, the proposed drainage and water quality design and engineering plans would be reviewed by the City Department of Public Works to ensure that they meet the County NPDES Permit requirements and would not result in flood impacts.

Overall, the drainage facilities proposed for the Project have been sized to be consistent with the County MS4 permit requirements. The Project site is not within an existing floodplain and would not contribute to increased flooding. Thus, implementation of the Project would not substantially impede or redirect flood flows and impacts would be less than significant.

### 7.10.7 FLOOD HAZARD, TSUNAMI, OR SEICHE ZONES

**Impact Finding:** The Project would not be located in flood hazard, tsunami, or seiche ones, and risk release of pollutants due to Project inundation (Draft EIR Page 5.9-17).

**Facts in Support of Finding:** According to the FIRM, published by FEMA (06071C6475H), the Project site is located in “Zone X”, which is an area located outside of the 100-year and 500-year flood plains.

Tsunamis are large waves that occur in coastal areas; therefore, since the City is not located in a coastal area, no impacts due to tsunamis would occur. Additionally, the Project site does not contain and is not adjacent to any water bodies that could seiche. The nearest body of water is Mojave River, approximately nine miles to the east, which is not a contained body of water with seiche potential. Therefore, the Project would result in no impacts related to a flood hazard, tsunami, or seiche or release of pollutants due to Project inundation.

### 7.10.8 CONFLICT WITH WATER QUALITY CONTROL PLAN OR SUSTAINABLE GROUNDWATER MANAGEMENT PLAN

**Impact Finding:** The Project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan (Draft EIR Page 5.9-16).

**Facts in Support of Finding:** The Project site is undeveloped, and the proposed Project would result in a substantial increase of imperviousness. The proposed storm drain system is sized to adequately accommodate increased stormwater flows from the Project area and would maintain the existing drainage pattern of the site. Runoff would discharge into the onsite detention basin, which would retain and slow runoff before its treated by the proposed biotreatment BMP, infiltrating, or being discharged offsite.

The Project would not conflict with SGMA. The City of Hesperia is within the jurisdiction of the Lahontan RWQCB (Region 8) which sets water quality standards for all ground and surface waters within its region through implementation of a Water Quality Control Plan (Basin Plan). This Basin Plan gives direction on the beneficial uses of the state waters within Region 8, describes the water quality that must be maintained to support such uses, and provides programs, projects, and other actions necessary to achieve the established standards. The County’s NPDES Storm Water Permit, included as City of Hesperia Municipal Code Chapter 08.30, would require proposed projects in the Project area to prepare a WQMP, included as PPP WQ-2. WQMPs are required to include BMPs for source control, pollution prevention, site design, and structural treatment control BMPs. As part of the permitting approval process, construction plans would be required to demonstrate compliance with these regulations to minimize the potential of the Project to result in a degradation of water quality. Plans for grading, drainage, erosion control and water quality would be reviewed by the City Public Works Department prior to issuance of grading permits to ensure compliance. As discussed under Impact WQ-2, the Mojave River Basin is adjudicated and therefore is not subject to a sustainable groundwater management plan. Thus, the Project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan. Impacts would be less than significant.

#### REGULATORY REQUIREMENTS

**PPP WQ-2: WQMP.** As listed previously.

### 7.10.9 CUMULATIVE HYDROLOGY AND WATER QUALITY IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts related to hydrology and water quality (Draft EIR Page 5.9-17).

**Facts in Support of Finding:** The areas considered for cumulative impacts to hydrology and water quality are the Mojave River Watershed for drainage and water quality impacts, and the Upper Mojave River Basin for groundwater impacts.

**Water Quality:** The geographic scope for cumulative impacts related to hydrology and water quality includes the Mojave River Basin watershed because cumulative projects and developments pursuant to the proposed Project could incrementally exacerbate the existing impaired condition and could result in new pollutant-related impairments.

Related developments within the watershed would be required to implement water quality control measures pursuant to the same NPDES General Construction Permit that requires implementation of a SWPPP (for construction), a WQMP (for operation) and BMPs to eliminate or reduce the discharge of pollutants in stormwater discharges, reduce runoff, reduce erosion and sedimentation, and increase filtration and infiltration. The NPDES permit requirements have been set by the SWRCB and implemented by the RWQCB (and Hesperia Municipal Code) to reduce incremental effects of individual projects so that they would not become cumulatively considerable. Therefore, overall potential impacts to water quality associated with present and future development in the watershed would not be cumulatively considerable upon compliance with all applicable laws, permits, ordinances and plans. As detailed previously, the proposed Project would be implemented in compliance with all regulations, as would be verified during the permitting process. Therefore, cumulative impacts related to water quality would be less than significant.

**Drainage:** The geographic scope for cumulative impacts related to stormwater drainage includes the geographic area served by the existing stormwater infrastructure for the Project area, from capture of runoff through final discharge points. As described above the proposed Project includes installation of a detention basin that would retain, slow, filter, and infiltrate the 100-year, 24-hour design storm. These facilities would retain runoff and reduce erosion and siltation. In addition, pursuant to state and regional regulations that require development projects to maintain pre-project hydrology, no net increase of off-site stormwater flows would occur. As a result, the proposed Project would not generate runoff that could combine with additional runoff from cumulative projects that could cumulatively combine to impact erosion, siltation, flooding, and water quality. Thus, cumulative impacts related to drainage would be less than significant.

**Groundwater Basin:** The geographic scope for cumulative impacts related to the groundwater basin is the Upper Mojave River Basin. As described above, the proposed Project includes installation of an infiltration chamber that would recharge stormwater into the groundwater basin. In addition, the volume of water that would be needed by the Project is within the anticipated groundwater pumping volumes since the basin is adjudicated. Therefore, the Project would not result in changes to the projected groundwater pumping that would decrease groundwater supplies. As a result, the proposed Project would not generate impacts related to the groundwater basin that have the potential to combine with effects from other projects to become cumulatively considerable. Therefore, cumulative impacts related to the groundwater basin would be less than significant.

## 7.11 LAND USE AND PLANNING

### 7.11.1 DIVISION OF AN EXISTING COMMUNITY

**Impact Finding:** The Project would not physically divide an established community (Draft EIR Page 5.10-11).

**Facts in Support of Finding:** The physical division of an established community could occur if a major road (expressway or freeway, for example) were built through an existing community or neighborhood, or if a major development was built which was inconsistent with the land uses in the community such that it divided the community. The environmental effects caused by such a facility or land use could include lack of, or disruption of, access to services, schools, or shopping areas.

The Project site is currently vacant and is surrounded by existing roadways, vacant land, and industrial uses. The Project site is currently designated for industrial and commercial uses, and with the implementation of a Specific Plan Amendment to redesignate the southern parcel to CIBP, the Project would be consistent with the planned land uses for the site. In addition, the Project does not involve development of roadways or other infrastructure that could divide a community. Therefore, the proposed Project would not divide the physical arrangement of an established community, and no impact would occur.

### 7.11.2 CONFLICT WITH LAND USE PLANS

**Impact Finding:** The Project would not cause a significant environmental impact due to conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project adopted for the purpose of avoiding or mitigating an environmental effect (Draft EIR Page 5.10-11).

**Facts in Support of Finding:**

The General Plan currently designates the Project site as Main Street and Freeway Corridor Specific Plan (MSFC-SP). Within the MSFC-SP, the two northerly parcels of the site (APN 3064-401-03 and -04) are designated Commercial/Industrial Park (CIBP) and the southerly parcel of the site (APN 3064-401-05) is designated Neighborhood Commercial (NC). The Project is consistent with the Specific Plan designation of CIBP (with approval of a Conditional Use Permit (CUP), as discussed below). Furthermore, the Project involves modifying the southern portion of the Project site's Specific Plan designation from NC to CIBP which would require a Specific Plan Amendment. Approval of the proposed Specific Plan Amendment and the CUP would make the Project consistent MSFC-SP. Therefore, in consistency with the MSFC-SP, the Project would be consistent with the General Plan. Additionally, the General Plan contains several goals and policies that address land use and planning and are applicable to the Project. An analysis of the Project's consistency with these goals and policies is provided in the Draft EIR Table 5.10-2 and demonstrates that the proposed Project would not conflict with the General Plan.

With approval of the Conditional Use Permit, the Project would be an allowable use within the CIBP zone. Additionally, the Project plans would be reviewed by City staff to ensure consistency with all applicable development standards and regulations. Additionally, the MSFC-SP contains several goals and policies that address land use and planning and are applicable to the Project. An analysis of the Project's consistency with these goals and policies is provided in the Draft EIR Table 5.10-3 and demonstrates that the proposed Project would not conflict with the MSFC-SP.

SCAG's RTP/SCS policies focus largely on regional transportation and the efficiency of transportation, which are implemented by counties and cities within the SCAG region, as part of the overall planning and maintenance of the regional transportation system. The policies are not directly applicable to the Project. As shown in the Draft EIR Table 5.10-4, the Project would not conflict with the adopted RTP/SCS. Therefore, impacts would be less than significant.

### 7.11.3 CUMULATIVE LAND USE IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts related to land use and planning.

**Facts in Support of Finding:** While the project requires a Specific Plan amendment to change the zoning of the site, the proposed Project would be consistent with the Specific Plan land use designation and zoning designation after the amendment. Past and present cumulative projects do not involve amendments that would eliminate application of policies that were adopted for the purpose of avoiding or mitigating environmental effects. Determining whether any future project might include such amendments and determining the cumulative effects of any such amendments would be speculative since it cannot be known what applications that are not currently filed might request. Thus, it is expected that the land uses of cumulative projects would be consistent with policies that avoid an environmental effect; therefore,

cumulatively considerable impacts from cumulative projects related to policy consistency would be less than significant.

## 7.12 MINERAL RESOURCES

### 7.12.1 LOSS OF KNOWN MINERAL RESOURCES

**Impact Finding:** The Project would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state (Initial Study Page 43).

**Facts in Support of Findings:** The Project would develop the site with a one-story 655,468-SF industrial building. According to the Hesperia General Plan Conservation and Open Space Element, the City of Hesperia currently has not identified any known mineral resources that would be of value to the region and the residents of the state. As a result, no impacts to mineral resources will occur, and this topic was not further analyzed in the Draft EIR.

### 7.12.2 LOSS OF RESOURCE RECOVERY SITES

**Impact Finding:** The Project would not result in the loss of availability of a locally-important mineral resource recovery site delineated on the general plan, specific plan, or other land use plan (Initial Study Page 43).

**Facts in Support of Findings:** As stated above, the Project site does not include a locally important mineral resource. Therefore, impacts related to known mineral resources would not occur from implementation of the Project, and this topic was not further analyzed in the Draft EIR.

### 7.12.3 CUMULATIVE MINERAL RESOURCE IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts related to mineral resources.

**Facts in Support of Finding:** The proposed Project would result in less than significant impacts related to mineral resources. The proposed Project is not located within the vicinity of a known mineral resource or a locally important mineral resource recovery site. Thus, the development of the proposed Project and cumulative projects would not result in a significant impact to mineral resources. Therefore, impacts to mineral resources would be cumulatively less than significant.

## 7.13 NOISE

### 7.13.1 TEMPORARY AND PERMANENT NOISE IMPACTS

**Impact Finding:** The Project would not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies (Draft EIR Page 5.11-3).

#### **Facts in Support of Finding:**

##### *Construction*

Noise generated by construction equipment would include a combination of trucks, power tools, concrete mixers, and portable generators that can reach high levels when combined. Construction is expected to occur in the following stages: excavation and grading, building construction, architectural coating, paving. Construction noise would be temporary in nature as the operation of each piece of construction equipment would not be constant throughout the construction day, and equipment would be turned off when not in use. The typical operating cycle for a piece of construction equipment involves one or two minutes of full power operation followed by three or four minutes at lower power settings.

Per City Municipal Code Section 16.20.125, noise sources associated with construction activities are exempt from the City's established noise standards as long as the activities do not take place between the hours of 7:00 p.m. of any one day and to 7:00 a.m. of the next day, or on Sundays or federal holidays. The proposed Project's construction activities would occur pursuant to these regulations. Thus, the construction activities would be in compliance with the County's construction-related noise standards.

The project construction composite noise levels at a distance of 50 feet would range from 82 dBA Leq to 88 dBA Leq with the highest noise levels occurring during the site preparation and grading phases, as shown in Draft EIR Table 5.11-4. While construction noise will vary, it is expected that composite noise levels during construction at the nearest residential uses southwest of the Project would reach 58 dBA Leq. These predicted noise levels would only occur when all construction equipment is operating simultaneously; and therefore, are conservative assumptions. While construction-related short-term noise levels have the potential to be higher than existing ambient noise levels in the Project area under existing conditions, the noise impacts would no longer occur once Project construction is completed. As shown on Draft EIR Table 5.11-5, construction noise from the proposed Project at the nearby receptor locations would range from 54 to 58 dBA Leq, which would not exceed the 80 dBA Leq 8-hour construction noise level criteria as established by the FTA for residential land uses. Therefore, impacts related to construction noise would be less than significant.

#### *Operation*

**Traffic Noise Impacts:** Vehicle noise is a combination of the noise produced by the engine, exhaust, and tires. The level of traffic noise depends on three primary factors (1) the volume of traffic, (2) the speed of traffic, and (3) the number of trucks in the flow of traffic. The proposed Project is anticipated to generate approximately 1,941 daily trips, 187 a.m. peak hour trips and 231 p.m. peak hour trips.

As shown in Draft EIR Table 5.11-6, the increase in Project-related traffic noise would be no greater than 1.8 dBA during existing conditions and no greater than 1.6 during opening year conditions which is below the threshold of a 3.0 dBA noise level increase. Therefore, traffic noise impacts from project-related traffic on off-site sensitive receptors would be less than significant, and no mitigation measures are required.

**Off-Site Stationary Noise Impacts:** Adjacent off-site land uses would be potentially exposed to stationary-source noise impacts from the proposed on-site heating, ventilation, and air conditioning (HVAC) equipment and truck deliveries and loading and unloading activities. To provide a conservative analysis, it is assumed that operations would occur equally during all hours of the day and that half of the 60 loading docks would be active at all times. Additionally, it is assumed that within the peak hour, consistent with the Project's trip generation, 20 heavy trucks would maneuver to park near or back into one of the proposed loading docks.

Delivery trucks are anticipated to generate a noise level of 75 dBA Leq at 20 feet (see Noise and Vibration Impact Analysis [Appendix J] of the Draft EIR). Maximum noise levels that would occur during the docking process are anticipated to be 86 dBA Lmax at a distance of 20 feet (see Noise and Vibration Impact Analysis [Appendix J] of the Draft EIR). Tables 5.11-7 and 5.11-8 within the Draft EIR show the combined hourly noise levels generated by HVAC equipment and truck delivery activities at the closest offsite land uses. The Project-related noise level impacts would range from 32.4 dBA Leq to 35.4 dBA Leq at the surrounding sensitive receptors. These levels would be below the City's exterior daytime and nighttime noise standards of 60 dBA Leq and 55 dBA Leq for residential land uses, respectively, as well as the 65 dBA Leq standard for office uses any time of day. Additionally, as shown in Tables 5.11-7 and 5.11-8, the existing daytime ambient noise level is 48.8 dBA Leq while the existing nighttime ambient noise level is 48.7 dBA Leq. As shown in Table 5.11-3 above, the existing ambient noise levels in the Project vicinity range between 68.4 dBA Leq during nighttime and 70.7 dBA Leq during daytime. Therefore, because Project noise levels would not exceed the current ambient noise level by 3 dBA or more, the impact would be less than significant.

### 7.13.2 EXCESSIVE GROUNDBOURNE VIBRATION OR GROUNDBOURNE NOISE LEVELS

**Impact Finding:** The Project would not result in generation of excessive groundborne vibration or groundborne noise levels (Draft EIR Page 5.11-17).

**Facts in Support of Finding:**

*Construction*

Construction activities for development of the proposed Project would include demolition, excavation, and grading activities, which have the potential to generate low levels of groundborne vibration. Based on the reference vibration levels provided by the FTA and the equipment that would be used for the proposed Project, a large bulldozer represents the peak source of vibration with a reference velocity of 0.089 PPV in/sec or 87 VdB of ground-borne vibration when measured at 25 feet, as shown on Draft EIR Table 5.11-9. Based on typical propagation rates, the vibration level at the nearest offsite structure (885 feet away) would be 0.0004 inch per second PPV (see Draft EIR Table 5.11-10), which is well below the City's 0.2 PPV inch per second vibration threshold. Therefore, impacts related to construction vibration would be less than significant.

*Operation*

Operation of the proposed Project would include operation of heavy trucks, deliveries, and moving trucks, and garbage trucks for solid waste disposal. Truck vibration levels are dependent on vehicle characteristics, load, speed, and pavement conditions. However, vibration levels generated from Project-related traffic within the Project site and on the adjacent roadways are unusual for on-road vehicles because the rubber tires and suspension systems of on-road vehicles provide vibration isolation. Vibration levels generated from Project-related traffic on the adjacent roadways would be less than significant.

### 7.13.3 EXPOSE PEOPLE RESIDING OR WORKING IN AIRPORT LAND USE PLAN TO EXCESSIVE NOISE LEVELS

**Impact Finding:** The Project is not located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, or within two miles of a public airport or public use airport and would not expose people residing or working in the project area to excessive noise levels (Draft EIR Page 5.11-19).

**Facts in Support of Finding:** The Project site is located approximately 6.2 miles northwest of Hesperia Airport. According to Figure II-3, *Hesperia Airport – 65 CNEL Noise Contour*, of the Hesperia Airport CLUP, the Project site is not located within the 65 dBA CNEL and 60 dBA CNEL noise contours. No other airports exist within the vicinity of the Project. Thus, implementation and development of the Project would not result in a safety hazard or exposure to excessive noise for people residing or working in the area, and impacts would be less than significant.

### 7.13.4 CUMULATIVE NOISE IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts related to noise (Draft EIR Page 5.11-19).

**Facts in Support of Finding:** Cumulative noise assessment considers development of the proposed Project in combination with ambient growth and other development projects within the vicinity of the Project area. As noise is a localized phenomenon, and drastically reduces in magnitude as distance from the source increases,

only projects and ambient growth in the nearby area could combine with the proposed Project to result in cumulative noise impacts.

Development of the proposed Project in combination with the related projects would result in an increase in construction-related and traffic-related noise. However, City Municipal Code Section 16.20.125, Noise, requires construction activities to not occur between the hours of 7:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or anytime on Sunday or a federal holiday. Also, construction noise and vibration is localized in nature and decreases substantially with distance. Consequently, in order to achieve a substantial cumulative increase in construction noise and vibration levels, more than one source emitting high levels of construction noise would need to be in close proximity to the proposed Project construction.

The closest cumulative project is the Hesperia Commerce Center II Project, which would be constructed directly to the west and north of the Project site. Construction of the Hesperia Commerce Center II Project was anticipated to commence in 2021 and last through 2023. However, as of February 2023, construction of the Hesperia Commerce Center II Project has not begun. Construction of the proposed Project is anticipated to last approximately 14 months and would occur from October of 2023 to November of 2024. Therefore, construction activities of the two projects could slightly overlap. However, cumulative noise increases due to construction would be temporary and localized. As discussed throughout this section, construction noise from the proposed Project at the nearby receptor locations would range from 54 to 58 dBA Leq, which is comparable to the existing ambient noise levels ranging between 58.1 dBA Leq during nighttime and 70.7 dBA Leq during daytime. Further, the distance from construction activities to nearby receptors is substantial, thus the combined noise levels are anticipated to be less than significant. Therefore, due to the distance from nearby receptors and timing differences between the projects, construction noise and vibration levels from the proposed Project would not combine to become cumulatively considerable, and cumulative noise and vibration impacts associated with construction activities would be less than significant.

Cumulative mobile source noise impacts would occur primarily as a result of increased traffic on local roadways due to the proposed Project and related projects within the study area. Therefore, cumulative traffic-generated noise impacts have been assessed based on the contribution of the proposed Project traffic volumes on the roadways in the Project vicinity. The increase in noise levels associated with the traffic volumes of the proposed Project were previously identified. As detailed, development of the proposed Project would result in noise levels much lower than the 3 dBA threshold. Therefore, the Project would not result in a cumulatively considerable impact when combined with existing and future development. Cumulative impacts would be less than significant.

## 7.14 POPULATION AND HOUSING

### 7.14.1 INDUCEMENT POPULATION GROWTH

**Impact Finding:** The Project would not induce substantial unplanned population growth in an area, either directly or indirectly (Initial Study Page 45).

**Facts in Support of Finding:** The Project would develop the site with a one-story 655,468-SF industrial building and associated onsite and offsite infrastructure. No habitable structures exist on the site or are being proposed as part of the Project.

The Project would result in an increase in employment at the Project site that could lead to a potential population increase in the surrounding area. According to the Southern California Association of Governments (SCAG), the generation rate for employees required for operation of an industrial project is 1 employee for every 1,195 SF of industrial space. Therefore, operation of the Project would require approximately 549 employees.

According to SCAG's 2020-2045 RTP/SCS population and household growth forecast for Hesperia, between 2016 and 2045, SCAG anticipates an employment increase of 23,600 additional jobs (from 22,500 to 46,100), yielding a 105 percent growth rate. SCAG also anticipates a population increase of 74,400 between 2016 and 2045 (from 93,700 to 168,100). The proposed Project would generate the need for approximately 549 employees, which represents approximately 0.74 percent of the forecasted population growth between 2016 and 2045 and approximately 2.33 percent of the forecasted employment growth between 2016 and 2045 for the City. Thus, although the Project would generate additional long-term employment in the Project area, the new employment opportunities would be within the forecasted and planned growth of the City. Therefore, the Project would result in a less than significant impact related to inducement of substantial unplanned population growth, and this topic was not evaluated in the EIR.

#### 7.14.2 DISPLACEMENT OF EXISTING HOUSING AND PEOPLE

**Impact Finding:** The Project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere (Initial Study Page 46).

**Facts in Support of Finding:** The Project site is currently vacant and undeveloped though it has been previously disturbed. No habitable structures exist on the Project site nor are they currently planned for future development of residential uses. Therefore, no impacts would occur, and this topic was not evaluated in the EIR.

#### 7.14.3 CUMULATIVE POPULATION AND HOUSING IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts related to population and housing.

**Facts in Support of Finding:** Cumulative impacts regarding population and housing would occur from the development of a combination of projects that induce population growth. Although the Project would result in minimal population growth in the City, the proposed Project would not result in direct population growth as the use proposed is not residential and would not contribute to permanent residency on site. Therefore, the proposed Project would not induce substantial unplanned population growth in an area, either directly or indirectly, and this impact would be considered less than significant. The Project would not involve development of infrastructure or roadways that would indirectly lead to population growth.

The cumulative growth induced by the Project combined with other approved and proposed projects within the City, would not result in substantial population growth beyond that which the City and region has planned. Therefore, impacts related to population and housing would be cumulatively less than significant.

### 7.15 PUBLIC SERVICES

#### NEW OR PHYSICALLY ALTERED GOVERNMENT FACILITIES

##### 7.15.1 FIRE

**Impact Finding:** The Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered fire service facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios and response times or other performance objectives for fire protection services (Initial Study Page 46).

**Facts in Support of Finding:** The City of Hesperia contracts with the San Bernardino County Fire Department (SBCFD) for all fire and emergency services. The closest fire station to the Project site is Station 305, located approximately 1.73 miles south of the Project site, at 8331 Caliente Rd, Hesperia, CA 92344. SBCFD operates two additional fire stations within the City: Fire Station 304 (15660 Eucalyptus Street) and Fire Station 302 (17288 Olive Street) (SBCFD 2022).

According to the Hesperia General Plan, average SBCFD response times are approximately seven minutes and sixteen seconds (Hesperia 2010). Construction and operation of the proposed Project would increase the number of structures and employees in the Project area; however, as previously discussed, the Project would not directly or indirectly induce unplanned population growth in the City.

If needed, fire stations from adjacent cities, such as Victorville and Apple Valley, may respond to emergency calls in Hesperia. Based on the proximity of the Project site to the existing SBCFD facilities, the average response times in the Project area, the ability for nearby cities to respond to emergency calls, and the fact that the Project site is already located within SBCFD's service area, the Project would be adequately served by the SBCFD without the construction of new, or the expansion of existing, facilities.

Overall, it is anticipated that the Project would be adequately served by existing SBCFD facilities, equipment, and personnel. Therefore, impacts would be less than significant, and this topic was not evaluated in the EIR.

### 7.15.2 POLICE

**Impact Finding:** The Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered police service facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios and response times or other performance objectives for police services (Initial Study Page 47).

**Facts in Support of Finding:** The Law enforcement services within the City are provided via a contract with the San Bernardino County Sheriff's Department which serves the community from one police station. The Hesperia Police Department is located at 15840 Smoke Tree Street, Hesperia, CA 92345, approximately 4.74 miles east of the Project site. According to the City of Hesperia, the Hesperia Police Department is comprised of approximately 58 law enforcement personnel, including one captain, one lieutenant, seven sergeants, five detectives, and 44 deputy sheriffs (City of Hesperia 2022).

The Project is not anticipated to directly or indirectly induce unplanned population growth in the City. Although the Project could potentially result in a slight incremental increase in calls for service to the Project site compared to existing conditions, this increase is expected to be nominal (as opposed to new residential or commercial/retail land uses, which do result in greater increase in calls for service) and would not result in the need for new police protection facilities.

In summary, it is anticipated that the Project would be adequately served by existing San Bernardino County Sheriff's Department facilities, equipment, and personnel. Therefore, impacts would be less than significant, and this topic was not further analyzed in the Draft EIR.

### 7.15.3 SCHOOLS

**Impact Finding:** The Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered school facilities, the construction of which could cause significant environmental impacts (Initial Study Page 47).

**Facts in Support of Finding:** The Project consists of a warehouse facility that would not directly generate students. The Project is not anticipated to generate a new population, as the employees needed to operate the Project are anticipated to come from within the Project region and substantial in-migration of employees that could generate new students is not anticipated to occur. Thus, the Project would not generate the need for new or physically altered school facilities and impacts would be less than significant.

Additionally, pursuant to Government Code Section 65995 et seq., the need for additional school facilities is addressed through compliance with school impact fee assessment. SB 50 (Chapter 407 of Statutes of

1998) sets forth a state school facilities construction program that includes restrictions on a local jurisdiction's ability to condition a project on mitigation of a project's impacts on school facilities in excess of fees set forth in the Government Code. The Project would be required to contribute fees to the Hesperia Unified School District in accordance with the Leroy F. Greene School Facilities Act of 1998 (Senate Bill 50). Pursuant to Senate Bill 50, payment of school impact fees constitutes complete mitigation under CEQA for Project-related impacts to school services. Therefore, impacts would be less than significant, and this topic was not further analyzed in the Draft EIR.

#### 7.15.4 PARKS

**Impact Finding:** The Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered park facilities, the construction of which could cause significant environmental impacts (Initial Study Page 47).

**Facts in Support of Finding:** The site is served by the City of Hesperia Recreation and Parks District. Typically, residential development increases the need for new parks and increases the use of existing citywide park facilities. The proposed Project involves development of an industrial warehouse and would not directly provide new housing opportunities and new residents to the area. Although new employees may occasionally use local parks, such increase in use would be limited and would not result in deterioration to facilities such that the construction or expansion of recreational facilities would be necessary. Therefore, any increased demand on the public parks within the city would be considered a less than significant impact, and this topic and this topic was not further analyzed in the Draft EIR.

#### 7.15.5 OTHER PUBLIC FACILITIES

**Impact Finding:** The Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered police service facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios and response times or other performance objectives for police services (Initial Study Page 48).

**Facts in Support of Finding:** The proposed Project involves construction and operation of a new warehouse facility and would not provide new housing opportunities to the area. The proposed Project is not likely to create a significant increase in the use of other public facilities such as libraries, community centers, post offices or animal shelters. Therefore, impacts are considered less than significant, and this topic was not further analyzed in the Draft EIR.

#### 7.15.6 CUMULATIVE PUBLIC SERVICES IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts related to public services.

**Facts in Support of Finding:** The proposed Project would have less-than-significant impacts on public services. Potential cumulative effects may arise from the aggregation of service demands from development of the proposed Project and with other approved and proposed projects within the City. However, projects within the City including the proposed would be required to contribute development fees specific to public services including fire and police services, schools, parks, and other facilities. As a result, the Project's cumulative impacts on public services are less than significant.

## 7.16 RECREATION

### 7.16.1 EXISTING RECREATIONAL FACILITIES

**Impact Finding:** The Project would not result in increased use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated (Initial Study Page 49).

**Facts in Support of Finding:** The proposed Project would construct a warehouse facility. Implementation of the proposed Project would not directly increase housing or population, which typically cause an increase in the demand for, and use of, existing neighborhood parks and other citywide recreational facilities. Although new employees may occasionally increase the use of existing local parks, neighborhood and regional parks, employees' limited use would not result in deterioration to facilities such that the construction or expansion of recreational facilities would be necessary. Any impacts related to the physical deterioration of existing recreation parks or facilities would be less than significant, and this topic was not further analyzed in the Draft EIR.

### 7.16.2 EXPANDED AND NEW RECREATIONAL FACILITIES

**Impact Finding:** The Project would not include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment (Initial Study Page 49).

**Facts in Support of Finding:** The proposed Project would construct a new warehouse facility. As described above, the indirect increase in population as a result of new employment opportunities would not result in use of recreational facilities sufficient to cause deterioration such that the construction or expansion of recreational facilities would be necessary. Therefore, there would be less than significant impacts associated with recreational facilities, and this topic was not further analyzed in the Draft EIR.

### 7.16.3 CUMULATIVE RECREATIONAL IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts related to recreation.

**Facts in Support of Finding:** Combined projects would lead to a significant cumulative impact in the use of parks and recreational facilities. However, the indirect increase in population as a result of new employment opportunities from combined development including the proposed warehouse facility would not result in use of recreational facilities sufficient to cause deterioration such that the construction or expansion of recreational facilities would be necessary. As previously discussed, the growth projection would be consistent with SCAG's growth projections for the City. Thus, would not result in substantial physical deterioration of existing facilities or require expansion of recreational facilities. As a result, cumulative impacts related to recreation would be less than significant.

## 7.17 TRANSPORTATION

### 7.17.1 CONFLICT WITH CIRCULATION SYSTEM PLAN, ORDINANCE, OR POLICY

**Impact Finding:** The Project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities (Draft Subsequent EIR at p. 5.8-13). Impacts are less than significant (Draft EIR Page 5.12-5).

**Facts in Support of Finding:** The Project would be consistent with the applicable goals and policies of the General Plan Circulation Element, the Main Street Freeway Corridor Specific Plan (MSFCSP), and the Regional Transportation Plan/Sustainable Community Strategy (RTP/SCS) as shown in Draft EIR Figure 5.12-

1. The Project would not hinder the City's ability to develop a safe, efficient, convenient, and attractive transportation system throughout the community. The Project would include construction of 'A' Street which would extend from Phelan Road, approximately 630 feet south of the Project site, to Yucca Terrace Drive, approximately 930 feet north of the Project site. The roadways would be built to half width (35 feet). The proposed driveways off 'A' Street would be 40 feet wide and provide access for trucks, passenger vehicles, and emergency vehicles. Internal circulation would be provided via 40-foot drive aisles.

Additionally, the Project would be served by VVTA. This existing transit service would continue to serve its ridership in the area and may also serve employees of the Project site. The proposed Project would not alter or conflict with existing transit stops and schedules, and impacts related to transit services would not occur. There are currently no plans for future bicycle infrastructure within the Project area. The proposed Project would not conflict with plans to implement Class II facilities and impacts related to bicycle facilities would not occur. A 12-foot sidewalk would be constructed along the proposed 'A' Street and Yucca Terrace Drive. Sidewalk area would be dedicated to the City as part of the Project. There are currently no plans for future pedestrian infrastructure connections within the Project area. Therefore, the proposed Project would not conflict with a plan, ordinance, or policy addressing roadway circulation, and impacts would be less than significant.

## 7.17.2 DESIGN HAZARD

**Impact Finding:** The Project would not result in not substantially increase hazards due to a geometric design feature (E.G., sharp curve or dangerous intersections) or incompatible uses (E.G., farm equipment). Impacts are less than significant (Draft EIR Page 5.12-5).

**Facts in Support of Finding:** Access to the Project site would be provided via two unsignalized full-access driveways along the proposed 'A' Street. Both driveways would accommodate trucks, passenger vehicles, and emergency vehicles. Internal circulation would be provided via 40-foot drive aisles. Trucks are expected to primarily utilize Phelan Road, US 395, I-15, and Joshua Road, which are all designated truck routes within the city.

Proposed roadway improvements as required by the Project are summarized below. All roadway improvements would be constructed in accordance with all applicable local, state, and federal roadway standards and practices.

- 'A' Street would be built to a 35-foot half width along the west side of the Project. The proposed roadway would extend from Phelan Road, approximately 630 feet south of the Project site, to Yucca Terrace Drive, approximately 930 feet north of the Project site.
- Yucca Terrace Drive would be built to a 35-foot half width approximately 930 feet north of the Project site.
- The Project would construct 12-foot sidewalks along the proposed 'A' Street and Yucca Terrace Drive.

Roadway design would conform with City Development Design Standards for internal access and local roadway improvements. Future improvements related to Caltrans facilities (US 395 and I-15) would go through an additional process to ensure interchange and ramp configurations are consistent with Caltrans design standards. Design would be confirmed during the plan check process through the City prior to issuance of a grading permit and Project approval. The Project would not result in a non-standard geometric design feature or an incompatible use that could result in a traffic safety hazard. Therefore, the Project would result in a less than significant impact.

## 7.17.3 EMERGENCY ACCESS

**Impact Finding:** The Project would not result in inadequate emergency access (Draft EIR Page 5.12-15).

**Facts in Support of Finding:** The proposed construction activities, including equipment and supply staging and storage, would occur within the Project site, and would not restrict access of emergency vehicles to the Project site or adjacent areas. The installation of new roadway extensions ('A' Street and Yucca Terrace Drive), driveways and offsite utility improvements that would be implemented during construction of the proposed Project could require the temporary closure of one side or portions of roadways for a short period of time (i.e., hours or a few days). However, the construction activities would be required to ensure emergency access in accordance with Section 503 of the California Fire Code (Title 24, California Code of Regulations, Part 9), which would be ensured through the City's permitting process. Additionally, all potential road closures would be subject to review and approval by the City, including issuance of an encroachment permit. Once the offsite utility improvements are completed, all road conditions would be restored to normal. Operation of the proposed Project would not result in inadequate emergency access or access to nearby uses. Direct access to the Project site would be provided from 'A' Street, which is adjacent to the Project site. The Project applicant is also required to design and construct internal access and provide fire suppression facilities (e.g., hydrants and sprinklers) in conformance with City Ordinances. Additionally, City's Fire Department would review the development plans prior to approval to ensure adequate emergency access pursuant to the requirements in the International Fire Code and Section 503 of the California Fire Code (Title 24, California Code of Regulations, Part 9). As part of internal emergency access, the Project includes a 40-foot-wide fire lane to ensure adequate emergency access. As a result, the proposed Project would not result in inadequate emergency access or access to nearby uses, and no impacts would occur.

## 7.18 UTILITIES AND SERVICE SYSTEMS

### 7.18.1 REQUIRE OR RESULT IN THE CONSTRUCTION OF NEW WATER, WASTEWATER TREATMENT, STORMWATER DRAINAGE, ELECTRIC POWER, NATURAL GAS, OR TELECOMMUNICATIONS FACILITIES

**Impact Finding:** The Project would not require or result in the relocation or construction of new water facilities, or expansion of existing facilities, the construction of which could cause significant environmental effects (Draft EIR Page 5.14-7 through 5.14-18).

**Facts in Support of Finding:** The Project includes the development of a one-story, 655,468 SF warehouse and manufacturing facility on the 29.61-acre site. Additional improvements would include landscaping, sidewalks, utility connections, implementation of stormwater facilities, and pavement of parking areas and driveways.

Water. The Project site would be served by the HWD water utility. A 16-inch water line would be constructed within the proposed 'A' Street right-of-way to the west of the Project site, that would extend approximately 1,300 feet south toward Phelan Road. The proposed water main would then run adjacent to the existing water main within Phalen Road/Main Street for approximately 3,980 feet to Mesa Linda Street. The water main would then continue approximately 2,700 feet south and connect to the existing main at Sultana Street. The proposed water line within Phalen Road/Main Street and Mesa Linda Street has been approved and will be constructed as part of the adjacent Hesperia Commerce Center II Project (SCH # 2019110418). The Project would be responsible for constructing the portion of water line from along Caliente Road from Phelan Road to Yucca Terrace Road and the connection to the proposed building. The new and existing onsite water system would convey water supplies to the proposed industrial uses, and landscaping through plumbing/landscaping fixtures that are compliant with the CalGreen Plumbing Code for efficient use of water. Additionally, the District would have sufficient water supplies to serve the Project during normal, dry, and multiple dry years as shown in Table 5.14-2: HWD Projected Water Demand and Supply During Normal and Dry Years (AF). The UWMP provides conservative estimates of demand conditions over a five-year drought. The supply availability paired with the slightly increased demand conditions demonstrate that the HWD has sufficient water supplies to meet five consecutive dry year conditions through 2045. Therefore, the

proposed Project would not result in the construction of new water facilities or expansion of existing facilities, the construction of which could cause significant environmental effects, and impacts would be less than significant.

**Wastewater.** Sewer services would be provided to the Project by HWD. Wastewater generated from the Project would be conveyed to the Victor Valley Wastewater Reclamation Authority (VWVRA) via a 3-mile interceptor that runs along the northeast boundary of the City. VWVRA existing facilities would have sufficient wastewater treatment capacity to serve the Project. Therefore, the proposed Project would not result in the construction of new wastewater facilities or expansion of existing facilities, the construction of which could cause significant environmental effects, and impacts would be less than significant.

**Stormwater Drainage.** Proposed drainage improvements would include construction of onsite conveyance, including curbs and gutters. Runoff from the site will be collected via a proposed on-site private storm drain system (including catch basins and storm drainpipes) and conveyed north to a proposed stormwater management system. The proposed storm water management system would consist of a detention basin at the north end of the Project site.

The stormwater infrastructure would capture and treat the 100-year, 100-hour storm which would meet and exceed the MS4 General Permit San Bernardino County Phase II Small MS4 General Permit for the Mojave River Watershed requirements. Any excess runoff would follow existing drainage patterns north to Yucca Terrace Road. Therefore, the proposed Project would not result in the construction of new stormwater facilities or expansion of existing facilities, the construction of which could cause significant environmental effects, and impacts would be less than significant.

**Solid Waste.** The Project would be served by Advance Disposal Company solid waste services. Solid waste would be transported to the Victorville Sanitary Landfill at 18600 Stoddard Wells Road in Victorville as discussed above. The Project would comply with California Code of Regulations Title 24, Part 11; the California Green Building Code, which requires that requires demolition and construction activities to recycle or reuse a minimum of 65 percent of the nonhazardous construction and demolition waste, and AB 341 that requires diversion of a minimum of 75 percent of operational solid waste. Existing solid waste facilities would have sufficient capacity to serve the Project. Therefore, the proposed Project would not result in the construction of new solid waste facilities or expansion of existing facilities, the construction of which could cause significant environmental effects, and impacts would be less than significant.

**Energy and Communications Utilities.** Regulated electrical, gas and communication utilities would be extended to the site from existing facilities along Phelan Road. The Project would be served by Southern California Gas, Southern California Edison, and by several private telecommunication providers as requested. Utility providers have existing capacity to serve the Project site. Construction of utility connections to existing utility infrastructure along Phelan Road is included as part of the Project and would not result in any physical environmental effects beyond those identified throughout this Draft EIR. Therefore, the proposed Project would not result in the construction of new utility services or expansion of existing utility facilities, the construction of which could cause significant environmental effects, and impacts would be less than significant.

The construction activities related to the new water, sewer, infrastructure solid waste, energy, and communication infrastructure that would be needed to serve the proposed industrial building is included as part of the Project and would not result in any physical environmental effects beyond those identified throughout this Draft EIR. For example, construction emissions for excavation and installation of the water infrastructure is included in Sections 5.2, *Air Quality* and 5.7, *Greenhouse Gas Emissions*. Therefore, the proposed Project would not result in the construction of new water facilities or expansion of existing facilities, the construction of which could cause significant environmental effects, and impacts would be less than significant.

## 7.18.2 SUFFICIENT WATER SUPPLIES

**Impact Finding:** The Project would have sufficient water supplies available to serve the Project and reasonably foreseeable development during normal, dry, and multiple dry years (Draft EIR Page 5.14-7).

**Facts in Support of Finding:** Water service to the Project site would be provided by the Hesperia Water District (HWD). The Hesperia Water District 2020 Urban Water Management Plan (UWMP), adopted in June 2021, was prepared for the HWD and therefore accounts for the water usage that would be attributed to development of the Project site. As shown in the Draft EIR *Table 5.14-2: HWD Projected Water Demand and Supply During Normal and Dry Years (AF)*, HWD has verified that it has the water supplies available during normal, single-dry, and multiple-dry years within a 20-year projection that would meet the projected demand associated with the Project, in addition to existing and planned future uses.

Additionally, the 2020 UWMP detailed a 2020 water demand of 129 gallons per capita per day. However, a Project specific Water Supply Assessment (WSA) was prepared for the proposed Project and is included as Appendix X. The WSA states that the water demand rate for the proposed Project is 3,000 gallons per day per acre (Appendix X).. As described previously, the Project includes development of a 29.61-acre site. Thus, the Project would generate an increased water demand of 88,830 gallons per day or 95.5 AF per year, which is within the anticipated increased demand and supply for water from 2020 to 2025, as shown on Draft EIR Table 5.14-2.

It is anticipated that existing and future water entitlements from groundwater and purchased or imported water sources, plus recycling and conservation, would be sufficient to meet the Project's demand at buildout, in addition to forecast demand for HWD's entire service area. Therefore, water demand from the proposed Project would be within the HWD's current and projected water supplies available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years. In addition, all new developments that connect to the system are required to pay its applicable fair-share Development Impact Fee(s). Thus, impacts related to the need for new or expanded water supplies and entitlements would be less than significant.

## 7.18.3 ADEQUATE CAPACITY FOR WASTEWATER TREATMENT

**Impact Finding:** The Project would not result in a determination by the wastewater treatment provider that would serve the Project that it has inadequate capacity to serve the projects projected demand in addition to the providers existing commitments (Draft EIR Page 5.14-10).

**Facts in Support of Finding:** VVWRA is the Regional Water Recycling Plant designated to service the City of Hesperia and has a treatment capacity of 18.0 million gallons per day (mgd) which is equivalent to 20,163 AFY (UWMP 2021). According to the UWMP, VVWRA collected and treated approximately 2.0 mgd or 2,240 AF. Under existing conditions, VVWRA has an excess treatment capacity of approximately 16 million gallons per day.

Industrial uses generate approximately 1,700 gallons per day (gpd) per acre of wastewater. Thus, the 29.61-acre Project site would generate approximately 50,337 gpd (0.050 mgd) of wastewater. Therefore, the proposed Project's wastewater generation would be within the current capacity for the San Bernardino Water Reclamation Facility. As such, the wastewater treatment plant has ample capacity, and the Project would not create the need for any new or expanded wastewater facility (such as conveyance lines, treatment facilities, or lift stations) to serve the proposed Project. Therefore, impacts related to wastewater infrastructure would be less than significant.

#### 7.18.4 GENERATION OF SOLID WASTE

**Impact Finding:** The Project would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals (Draft EIR Page 5.14-14).

**Facts in Support of Finding:**

*Construction*

Victorville Sanitary Landfill would serve the proposed Project and is permitted to accept 3,000 tons of solid waste per day. As of January 2023, Victorville Sanitary Landfill had an average disposal of 1,595.56 tons per day and an average remaining capacity of 1,404 tons per day (CalRecycle 2023).

Utilizing a construction waste factor of 3.89 pounds per square foot (EPA 1998), construction of the proposed Project would result in the generation of approximately 1,275 tons of waste during construction from packaging and discarded materials. However, the 2019 California Green Building Standards Code requires construction activities to recycle or reuse a minimum of 65 percent of the nonhazardous construction and demolition waste. Thus, the construction solid waste that would be disposed of at the landfill would be approximately 35 percent of the waste generated. Therefore, construction activities would generate approximately 446 tons of waste. As discussed in Section 3.0, *Project Description*, construction activities would occur over a 14-month period. This equates to approximately 1.05 tons of debris per day. Therefore, the Victorville Sanitary Landfill would be able to accommodate the addition of 1.05 tons of waste during construction.

*Operation*

The proposed Project would operate an approximately 655,468 square foot industrial building. Using the CalEEMod solid waste generation factor of 0.94 tons per 1,000 square feet per year, operation of the Project would generate approximately 616 tons per year, at least 75 percent of which is required by California law to be recycled, which would reduce the volume of landfilled solid waste to approximately 154 tons per year, or 3.0 tons per week.

As discussed above, Victorville Sanitary Landfill is permitted to accept 3,000 tons of solid waste per day and as of January 2023 had an average remaining capacity of 1,404 tons per day (CalRecycle 2023). The Project's operational solid waste generation would represent a nominal percent of the landfill's daily remaining capacity. Thus, the proposed Project would be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs and the Project would not impair the attainment of solid waste reduction goals. Impacts related to landfill capacity would be less than significant.

#### 7.18.5 SOLID WASTE STATUTES AND REGULATIONS

**Impact Finding:** The Project would comply with federal, state, and local statutes and regulations related to solid waste (Draft EIR Page 5.14-15).

**Facts in Support of Finding:** The proposed Project would result in new development that would generate an increased amount of solid waste. All solid waste-generating activities within the County is subject to the requirements set forth in the 2019 California Green Building Standards Code that requires demolition and construction activities to recycle or reuse a minimum of 65 percent of the nonhazardous construction and demolition waste, and AB 341 that requires diversion of a minimum of 75 percent of operational solid waste. Implementation of the proposed Project would be consistent with all state regulations, as ensured through the County's development project permitting process. Therefore, the proposed Project would comply with all solid waste statute and regulations; and impacts would not occur.

## 7.18.6 CUMULATIVE UTILITY AND SERVICES SYSTEM IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts related to utility and service systems (Draft EIR Page 5.14-19).

**Facts in Support of Finding:** Cumulative water supply impacts are considered on a water purveyor basis and are associated with the capacity of the infrastructure system and the adequacy of the water purveyor's infrastructure and primary sources of water that include groundwater, surface water, and purchased or imported water.

As described previously, the Project site would be served by the District's water utility and connect to existing adjacent water infrastructure. The construction activities related to connecting to the existing water lines that would be needed to serve the proposed Project is included as part of the Project and would not result in any physical environmental effects beyond those identified throughout this Draft EIR. Additionally, the District has shown that they have sufficient water supplies to serve the Project during normal, dry, and multiple dry years as part of their UMWP planning efforts. Water facilities would not need to be expanded or created as a result of the Project and Project impacts would be less than significant. Thus, the Project would not result in cumulatively considerable water utility impacts.

The Project's wastewater would be treated by VVWRA. The construction activities related to connecting to the existing sewer lines that would be needed to serve the proposed Project is included as part of the Project and would not result in any physical environmental effects beyond those identified throughout this Draft EIR. The District has determined through their UWMP long term planning efforts that VVWRA would have sufficient capacity to serve wastewater flows generated by the Project. Wastewater facilities would not need to be expanded or created as a result of the Project and Project impacts would be less than significant. Thus, the Project would not result in cumulatively considerable wastewater utility impacts.

The proposed storm water management system would consist of an above ground linear earthen basin. The treated controlled low-flow would be infiltrated, while the overflow would be pumped to the outlet at the northeast corner of the site where flows would then follow exiting drainage patterns. In the post-project condition, the drainage characteristics would be maintained as similar to the pre-Project condition. The Project would accommodate the 100-year storm, consistent with the DCV and the County's stormwater permit. The Project would not result in the addition of stormwater runoff and pollutants that would exceed capacity of existing stormwater facilities. Additional stormwater facilities would not need to be expanded or created as a result of the Project and Project impacts would be less than significant. Thus, the Project would not result in cumulatively considerable stormwater utility impacts.

Solid waste removal would be provided by Advance Disposal Company and solid waste would be transferred to the Victorville Sanitary Landfill. The landfill is anticipated to have sufficient long-term capacity to serve the Project. Solid waste facilities would not need to be expanded or created as a result of the Project and Project impacts would be less than significant. Thus, the Project would not result in cumulatively considerable solid waste facility impacts.

The Project would be served by Southern California Gas and Southern California Edison for gas and electricity, respectively. Additionally, the Project may be served by one or several telecommunication utilities offered in the Project area. These providers would have sufficient capacity to serve the Project. Additional telecommunication facilities would not need to be expanded or created as a result of the Project and Project impacts would be less than significant. Thus, the Project would not result in cumulatively considerable telecommunication utility impacts.

## 7.19 WILDFIRE

### 7.19.1 IMPAIR AN ADOPTED EMERGENCY RESPONSE PLAN

**Impact Finding:** The Project is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones and would not substantially impair an adopted emergency response plan or emergency evacuation plan (Initial Study Page 53).

**Facts in Support of Finding:** According to the CalFire Fire Hazard Severity Zone Map for San Bernardino County and Exhibit SF-2 in the City's Safety Element, the Project site is not within a State Responsibility Area (SRA) or a Very High Fire Hazard Severity Zone. The proposed Project would provide adequate emergency access to the site via two driveways from the proposed public road ('A' Street) that would be constructed along the west side of the Project. In the event Project construction requires temporary roadway closures or obstructions, the applicant would be required to prepare and implement a temporary traffic control plan consistent with the 2012 California Manual on Uniform Traffic Control Devices (MUTCD) per City requirements. Access to and from the Project site for emergency vehicles would be reviewed and approved by the San Bernardino County Fire Department and the City as part of the Project approval process to ensure the proposed Project is compliant with all applicable codes and ordinances for emergency vehicle access. Since the Project is required to comply with all applicable codes, as verified by the City, any potential impacts related to an emergency response or evacuation would be less than significant. This topic was not further analyzed in the Draft EIR.

### 7.19.2 EXACERBATE WILDFIRE RISK DUE TO SLOPE, PREVAILING WINDS, AND OTHER FACTORS

**Impact Finding:** The Project is not located in or near state responsibility areas or lands classified as a VHFHSZ, and would not involve slope, prevailing winds, and other factors, that could exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire (Initial Study Page 54).

**Facts in Support of Finding:** As described in the previous response, the Project site is not within a Very High Fire Hazard Severity Zone. Adjacent areas to the Project site are urbanized and do not contain hillsides or other factors that could exacerbate wildfire risks. This topic was not further analyzed in the Draft EIR.

### 7.19.3 EXACERBATE FIRE RISK FROM INSTALLATION OR MAINTENANCE OF ASSOCIATED INFRASTRUCTURE

**Impact Finding:** The Project is not located in or near state responsibility areas or lands classified as a VHFHSZ and would not require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment (Initial Study Page 54).

**Facts in Support of Finding:** As described in the previous responses, the Project site is not within a Very High Fire Hazard Severity Zone, and the Project does not include infrastructure that could exacerbate fire risks. Additionally, the Project is located within an urban setting. Therefore, no impact would occur, and this topic was not further analyzed in the Draft EIR.

### 7.19.4 EXPOSE PEOPLE OR STRUCTURES TO SIGNIFICANT RISKS

**Impact Finding:** The Project is not located in or near state responsibility areas or lands classified as a VHFHSZ and would not expose people or structures to significant risks, including downslope or downstream

flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes (Initial Study Page 54).

**Facts in Support of Finding:** As described in the previous responses, the Project site is not within a Very High Fire Hazard Severity Zone. In addition, the Project site is located in a flat area that does not contain or is adjacent to large slopes, and the Project would not generate large slopes. Furthermore, the Project includes installation of onsite and off-site drainage facilities. Thus, the Project would not result in risks related to wildfires or risks related to downslope or downstream flooding or landslides after wildfires, and this topic was not further analyzed in the Draft EIR.

### 7.19.5 CUMULATIVE WILDFIRE IMPACTS

**Impact Finding:** The Project would not result in cumulative impacts related to wildfire.

**Facts in Support of Finding:** Cumulative wildfire impacts associated with the proposed Project site includes the San Bernardino County area. The Project site and adjacent areas are relatively flat and urbanized in nature and do not contain factors that could exacerbate wildfire risks. The Project, including combined projects in the area, would minimally increase the population and/or activities and potential ignition sources in the area, which may increase the potential of a wildfire. However, CAL FIRE has mapped the Project site and the surrounding area not within a VHFHSZ.

The proposed Project and all projects in the City would be subject to review by City and County building and fire officials and would be required to comply with the City and County Fire Code requirements and regulations related to fire safety, building construction, access, fire flow, and fuel modification. Furthermore, combined projects including the proposed are required to not conflict or physically interfere with an adopted emergency response plan or emergency evacuation plan. Therefore, cumulative impacts related to wildfire would be less than significant.

## 8.0 FINDINGS ON PROJECT ALTERNATIVES

Key provisions of the State CEQA Guidelines relating to an alternatives analysis (Section 15126.6 et seq.) are summarized below:

- The discussion of alternatives shall focus on alternatives to the Project or its location that are capable of avoiding or substantially lessening any significant effects of the Project, even if these alternatives would impede to some degree the attainment of the Project objectives or would be more costly.
- The “No Project” alternative shall be evaluated along with its impact. The “No Project” analysis shall discuss the existing conditions, as well as what would be reasonably expected to occur in the foreseeable future if the Project is not approved.
- The range of alternatives required in an EIR is governed by a “rule of reason”; therefore, the EIR must evaluate only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the Project.
- For alternative locations, only locations that would avoid or substantially lessen any of the significant effects of the Project need be considered for inclusion in the EIR.
- An EIR need not consider an alternative if its effects cannot be reasonably ascertained and its implementation is remote and speculative.

### 8.1 RATIONALE FOR SELECTING POTENTIALLY FEASIBLE ALTERNATIVES

The alternatives must include a no-project alternative and a range of reasonable alternatives to the Project if those reasonable alternatives would attain most of the Project objectives while substantially lessening the

potentially significant project impacts. The range of alternatives discussed in an EIR is governed by a “rule of reason,” which the State CEQA Guidelines Section 15126.6(f)(3) defines as:

“ . . . set[ting] forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the Project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the Project. The range of feasible alternatives shall be selected and discussed in a manner to foster meaningful public participation and informed decision-making.”

Among the factors that may be taken into account when addressing the feasibility of alternatives (as described in the State CEQA Guidelines Section 15126.6(f)(1)) are environmental impacts, site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries, and whether the Project proponent could reasonably acquire, control, or otherwise have access to an alternative site. An EIR need not consider an alternative if its effects could not be reasonably identified and its implementation is remote or speculative.

For purposes of the EIR analysis, the Project alternatives are evaluated to determine the extent to which they attain the basic Project objectives, while significantly lessening any significant effects of the Project.

## 8.2 ALTERNATIVES CONSIDERED BUT REJECTED

Pursuant to *CEQA Guidelines* Section 15126.6(c), an EIR must briefly describe the rationale for selection and rejection of alternatives. The Lead Agency may make an initial determination as to which alternatives are potentially feasible and therefore merit in-depth consideration, and which are infeasible and need not be considered further. Alternatives that are remote or speculative, or the effects of which cannot be reasonably predicted, need not be considered (*CEQA Guidelines* Section 15126.6(f)(3)). This section identifies alternatives considered by the Lead Agency but rejected as infeasible and provides a brief explanation of the reasons for their exclusion. Alternatives may be eliminated from detailed consideration in the EIR if they fail to meet most of the Project Objectives, are infeasible, or do not avoid any significant environmental effects.

### 8.2.1 ALTERNATE SITE ALTERNATIVE

An alternate site for the Project was eliminated from further consideration. The Project's focus is to provide for an industrial warehouse within an industrializing area of the City of Hesperia that benefits from the US 395 and I-15 corridor's regional transportation network and generates employment opportunities in proximity to an available labor pool. There are no suitable sites within the control of the Project applicant near the US 395 and I-15 transportation corridors. Therefore, analysis of an alternative site for the proposed Project is neither meaningful nor necessary because the impacts and need for mitigation resulting from the proposed Project would not be avoided or substantially lessened by its implementation.

## 8.3 ALTERNATIVES SELECTED FOR ANALYSES

The following three alternatives to the Project, No Project/No Build Alternative (Alternative 1), No Project/Existing Land Use Alternative (Alternative 2) and Reduced Project Alternative (Alternative 3), have been identified for further analysis as representing a reasonable range of alternatives that attain most of the Project Objectives, may avoid or substantially lessen the Project's significant impact, avoid the need for mitigation, or are feasible from a development perspective. These alternatives have been developed based on the criteria identified in Section 8.1, and are evaluated below.

### 8.3.1 ALTERNATIVE 1: NO PROJECT/NO BUILD ALTERNATIVE

#### Description

Under this alternative, the Project would not be developed, and no development would occur. The Project site would remain vacant and undeveloped. In accordance with the CEQA Guidelines, the No Project/No Build Alternative for a development project on an identifiable property consists of the circumstance under which the project does not proceed. Section 15126.6(e)(3)(B) of the *CEQA Guidelines* states that, "In certain instances, the no project alternative means 'no build' wherein the existing environmental setting is maintained."

Accordingly, Alternative 1: No Project/No Build provides a comparison between the environmental impacts of the Project in contrast to the result from not approving, or denying, the Project. Thus, this alternative is intended to meet the requirements of *CEQA Guidelines* Section 15126.6(e) for evaluation of a no project alternative.

#### Finding

The City finds that the No Project/ No Build Alternative is infeasible because although it is environmentally superior to the proposed Project, it does not meet any of the Project objectives and it would not realize the benefits of Project implementation.

In making this determination, the City finds that when compared to the alternatives described and evaluated in the Draft EIR, the Proposed Project, as mitigated, provides a reasonable balance between satisfying the Project objectives and reducing potential environmental impacts to an acceptable level.

#### Aesthetics

Under the No Project/No Build Alternative, no new development would occur within the Project site, and the visual character and quality of the site would be maintained in its existing condition, which includes undeveloped and mostly undisturbed conditions. No structures or landscaping would be introduced on the site. No additional lighting or sources of glare would be installed. No views across the Project site would change. Thus, implementation of the No Project/No Build Alternative would not result in contrast or aesthetic incompatibilities with the existing environment, and no MMs would be required. However, the visual improvements that would be introduced throughout the Project site that include: new and improved landscaping, providing a building of contemporary design, and improvements to the public realm by streetscaping would not be implemented by the No Project/No Build Alternative. Overall, the aesthetic impacts from this alternative would be less than significant and would be reduced in comparison to the Project.

#### Air Quality

Under the No Project/No Build Alternative, no new development would occur, which means that no grading, construction and building finishing activities and the related emissions would occur either. In addition, by maintaining the existing site as vacant and undeveloped, no new operational trips would occur, which would further reduce the less than significant air quality impacts from the proposed Project. Therefore, overall air quality impacts would be reduced in comparison to the less than significant impacts of the Project.

#### Biological Resources

Under the No Project/No Build Alternative, the site would remain in its existing condition, which includes vacant and mostly undisturbed land. No grading or development would occur on the site under this alternative and there would be no potential impacts to Joshua Trees, special status wildlife species, or

migratory and nesting birds. Therefore, the No Project/No Build Alternative would not require implementation of mitigation, and impacts under this alternative would be reduced compared to the Project.

### **Cultural Resources**

Under the No Project/No Build Alternative, the site would remain in its existing condition, which includes vacant and mostly undisturbed land. No grading or development would occur on the site under this alternative and there would be no potential impacts to subsurface cultural, historical, or archaeological resources. Therefore, the No Project/No Build Alternative would avoid site disturbances that could impact resources and would not require mitigation. Thus, Project impacts would not occur under this alternative, and would be reduced compared to the Project.

### **Energy**

The Project site would remain vacant and mostly undisturbed under the No Project/No Build Alternative. Therefore, there would be no increase in demand for energy. Although the Project demands for Energy were determined to be less than significant, the amount of energy used by the No Project/No Build Alternative would be reduced compared to the Project.

### **Geology and Soils**

No new construction activities, including grading, would occur under this alternative. Thus, there would be no potential for additional workers, building, and structures to experience seismic ground shaking, liquefaction, lateral spreading, subsidence, or collapse within the Project site. Additionally, as no grading activities would occur under this alternative, potential impacts from erosion, loss of topsoil, or to paleontological resources would not occur. While the Project impacts would be less than significant with mitigation incorporated, this alternative would result in less impacts and no MMs are required. Therefore, the No Project/No Build alternative would result in less impacts than the proposed Project.

### **Greenhouse Gas Emissions**

Under the No Project/No Build Alternative, no new development would occur, which means no new development or operational activities would generate GHG emissions. Project impacts related to greenhouse gases would be significant and unavoidable; however, this alternative would not increase greenhouse gases above existing conditions. Therefore, overall GHG impacts would be reduced in comparison to the Project.

### **Hazards and Hazardous Materials**

No new construction activities would occur at the Project site or operation of new high-cube warehouse buildings that would generate, and result in transport of, hazardous materials. As there are no existing structures onsite, there would be no operation onsite that would generate hazardous materials. The No Project/No Build Alternative would not include major construction activities that would use typical construction-related hazardous materials. Thus, potential impacts related to use, disposal, and transport of hazardous materials would be avoided by this alternative. While this Draft EIR determined that the Project's impacts related to hazards and hazardous materials would be less than significant, this alternative would result in less impacts since no grading or construction would occur. Therefore, the No Project/No Build alternative would result in less impacts than the proposed Project.

### **Hydrology and Water Quality**

Existing water quality conditions, groundwater supplies, drainage patterns, and runoff water amounts would remain "as is" under this Alternative as no new development would occur. This alternative would not introduce new sources of water pollutants from either the construction or operation phases of development to the Project site, because no new development would occur. Additionally, this alternative would not require the

storm drain facility improvements that would be necessary with the Project. However, this alternative would not include installation of new low-impact development (LID) treatment control best management practices (BMPs) to minimize runoff, which would occur by the Project. Storm water leaving the site would continue to contain sediment associated with the existing conditions of the site. Due to the lack of urban activities that would occur by the No Project/No Build Alternative, a reduction in potential pollutants would result. Therefore, the No Project/No Build Alternative would reduce potential impacts to Hydrology and Water Quality, compared to those that could occur from the Project.

### **Land Use and Planning**

This alternative would not result in new development, and as such, there would be no potential for land uses to be introduced that would indirectly result in environmental impacts due to a conflict with an existing land use plan. Under this alternative a Specific Plan Amendment (SPA) to the MSFC-SP would not be required. Overall, this alternative would result in no impacts to land use and planning, and therefore, would be less than the Project's impacts.

### **Noise**

Under this alternative, no development would occur onsite, and no new sources of noise would be introduced. Since no new development would occur and no traffic trips would be generated, this alternative would not contribute to an incremental increase in area-wide traffic noise levels. In addition, this alternative would not result in construction onsite and no construction noise or vibration would occur. As a result, the No Project/No Build Alternative would not generate any noise. Thus, impacts related to noise would be less than the proposed Project.

### **Transportation**

This alternative would not result in new development, and as such, would not result in any vehicular trips or VMT related to operation of the Project site. As the Project site would not be developed and trips would not be generated, the No Project/No Development alternative would avoid the Project's significant and unavoidable impact and reduce the Project's VMT impacts so that mitigation would not be required. Therefore, the No Project/No Development Alternative would result in less impacts than the proposed Project.

### **Tribal Cultural Resources**

The No Project/No Build Alternative would not develop the Project site. No grading or excavation would occur under this alternative and there would be no potential impacts to subsurface Tribal Cultural Resources that may exist beneath the ground surface. Therefore, the Project's potential impacts to Tribal Cultural Resources would not occur and MMs would not be required. Thus, impacts under this alternative would be less than the Project.

### **Utilities and Service Systems**

Under this alternative, existing conditions would remain, and no new development would occur. No additional domestic water, wastewater, stormwater drainage, electric power, natural gas, or telecommunication facilities would be needed under this alternative, and there would be no change in the demand for domestic water or wastewater treatment services. This alternative would also not result in increased demand for solid waste collection and disposal. Selection of this alternative would avoid all of the Project's impacts to utilities and service system providers. While the Project would result in less than significant impacts, this alternative would result in less impacts due to no change in demand of these service systems. Therefore, the No Project/No Development Alternative would result in less impacts than the proposed Project.

## Conclusion

### *Ability To Reduce Impacts*

This alternative would reduce the Project's significant and unavoidable impacts related to VMT and GHG to no impact. The No Project/No Build Alternative would eliminate less than significant impacts related to the topical sections analyzed in this EIR and would not necessitate identified MMs related to aesthetics, biological resources, cultural resources, geology & soils, paleontological resources, traffic, and tribal cultural resources that would result in the identified impacts being reduced to a less than significant level under the Project.

### *Ability To Achieve Project Objectives*

Implementation of the No Project/No Build Alternative would not implement the proposed development on the Project site, and none of the Project objectives would be achieved under this alternative. The No Project/No Build Alternative would not add to the City's employment-generating uses or new businesses, would not promote economic growth, would not reduce the need for commuting to employment and would not develop the site for industrial warehousing consistent with the City's land use designation.

## 8.3.2 ALTERNATIVE 2: NO PROJECT/EXISTING LAND USE ALTERNATIVE

### Description

The No Project/Existing Land Use would reduce the intensity of the proposed industrial uses, locate the development on the northern portion of the site, and the remainder of the site would be left in its existing condition. Development under this alternative would be consistent with MSFC-SP designation of the two northerly parcels of the site (APN 3064-401-03 and -04) as Commercial/Industrial Park (CIBP) and the southerly parcel of the site (APN 3064-401-05) as Neighborhood Commercial (NC). Under this alternative, the northern 21.06-acre portion of the site (APN 3064-401-03 and -04) would be developed at a FAR of 0.48 with a 440,339 SF warehouse building (shown on Figure 8-1). A proportional reduction in the amount of loading docks, surface parking area and commensurate number of parking spaces for vehicles and trucks also would occur in the No Project/Existing Land Use. This alternative would implement all offsite improvements proposed under the Project, including the construction of "A" Street along the west side of the Project site and proposed utility improvements. The remaining 8.55 acres (29 percent) of the Project site would remain undeveloped and in its existing condition.

### Finding

The City finds that the No Project/Existing Land Use Alternative is infeasible because it would require a similar level of mitigation as the proposed Project. Additionally, although the Reduced Project Alternative would meet the Project objectives, they would not be met to the extent as would be achieved by the Project.

In making this determination, the City finds that when compared to the alternatives described and evaluated in the Draft EIR, the proposed Project, as mitigated, provides a reasonable balance between satisfying the Project objectives and reducing potential environmental impacts to an acceptable level.

### Aesthetics

Under the No Project/Existing Land Use, the same type of light industrial warehouse development would occur on the Project site. However, the development would be limited to the northern 21.06-acre portion of the site and the aesthetics of the remaining 8.55 acres (29 percent) of the Project site would remain undeveloped and in its existing condition. The No Project/Existing Land Use would be visually less dense than the proposed Project. The No Project/Existing Land Use would include construction of a building with a smaller footprint, but of the same height and the same architectural character as the Project. Thus, the visual

character and quality of the developed portion of the site would be slightly less, but similar to the Project, and impacts to visual character and quality would be less than significant.

Because 29 percent of the site would remain as undeveloped under this alternative, and fewer lights would be required to illuminate the exterior of a smaller building and parking lot, the No Project/Existing Land Use would result in fewer sources of light and glare. Overall, implementation of the No Project/Existing Land Use would result in a large area of undeveloped open space on the western portion of the Project site and requires the same MMs as the proposed Project to reduce impacts to a less than significant level. Thus, aesthetic impacts from the No Project/Existing Land Use would be neutral in comparison to the proposed Project.

### **Air Quality**

The No Project/Existing Land Use would reduce the proposed industrial development on the Project site by 29 percent. Therefore, a reduced volume of construction activities and related emissions would occur. In addition, the reduced amount of square footage that would be developed by this alternative would result in less stationary source emissions from equipment on-site, substantially less vehicular trips, and associated emissions than the Project. Therefore, overall air quality impacts would be reduced in comparison to the less than significant impacts of the Project. Thus, this alternative and cumulative impacts under this alternative would be less than the Project.

### **Biological Resources**

The No Project/Existing Land Use would reduce the amount of building area and associated parking stalls proposed for the Project site. This alternative would largely reduce the impacts to Joshua Trees. As detailed in Draft EIR Section 5.3, *Biological Resources*, 248 Joshua trees within the Project boundaries (Project site and offsite improvement areas) have the potential to be impacted. The development area of the No Project/Existing Land Use would avoid approximately 50 onsite Joshua trees. Therefore, under the No Project/Existing Land Use, the Project would result in an impact of 198 Joshua trees. Thus, this alternative would result in impacts to avoid impacts to 20 percent of the Joshua trees within the Project area. However, because some Joshua trees would still be impacted by this alternative, Mitigation Measures would continue to be required to reduce impacts to Joshua trees to a less than significant level. Similarly, the area of potential impacts to other sensitive wildlife species would be reduced; however, MMs BIO-1 through BIO-13 would continue to be required to be implemented. Thus, this alternative would result in less than significant impacts with mitigation, but fewer impacts to biological resources compared to the proposed Project.

### **Cultural And Paleontological Resources**

The No Project/Existing Land Use would result in similar impacts to potential undiscovered subsurface archaeological resources within the reduced construction area. Grading and excavation would still be required as part of the construction process; therefore, the same mitigation would be required to reduce potential impacts to less than significant. Therefore, impacts to cultural and paleontological resources from the No Project/Existing Land Use would be similar to those associated with the proposed Project.

### **Energy**

Under the No Project/Existing Land Use, approximately 29 percent less building area would be developed within the Project site. This would result in an approximately 29 percent decrease in the demand for energy in comparison to the proposed Project, which was determined to be less than significant. Although the Project demands for energy were determined to be less than significant, the amount of energy used by the No Project/Existing Land Use would be 29 percent less and would comply with the same regulations/incorporate the same measures to ensure no wasteful or inefficient use of energy. Therefore, impacts to energy would

be less under this alternative than the less than significant impacts that would occur from implementation of the Project.

### **Greenhouse Gas Emissions**

The No Project/Existing Land Use would develop the Project site with the same type of industrial warehouse use, but with a 29 percent reduction in square footage. Therefore, a reduction of construction and related production of GHG emissions would occur, compared to the proposed Project. In addition, the reduced amount of square footage that would be developed by this alternative would result in less stationary source emissions from equipment on-site, and less vehicular trip associated GHG emissions than the Project. The increase in GHG emissions that would be generated from operation of this alternative would be approximately 29 percent less than the proposed Project, which would total approximately 7,514.2 MT CO<sub>2</sub>e per year. Additionally, proportionally, the Project would still be anticipated to result in similar MT CO<sub>2</sub>e per year per service population as the Project (19.2 MT CO<sub>2</sub>e) since service population demand would proportionally decrease with building/operation scale. Therefore, the alternative would result in a significant and unavoidable impact, but less of an impact compared to the Project.

### **Hydrology And Water Quality**

The No Project/Existing Land Use would result in a reduced area of impervious surfaces compared to the Project. However, like the proposed Project, this alternative would introduce new sources of water pollutants from warehouse development and operation activities. Additionally, this alternative would be required to include storm drain facility improvements, LID, source control, site design, and treatment control BMPs that are similar to those that are included in the Project. Therefore, the No Project/Existing Land Use would result in less than significant impacts to hydrology and water quality that are similar to those that would occur from the Project. Overall, hydrology and water quality impacts would be less than significant, and neutral in comparison to the Project.

### **Land Use and Planning**

Under this alternative, approximately 29 percent less area would be developed within the Project site. Like the proposed Project, the Reduced Project alternative would develop the northern parcels zoned as CIBP with a 440,339 SF warehouse and the southern portion of the site designated as NC would remain vacant. Under this alternative an SPA to the MSFC-SP would not be required. With implementation of measures to address other environmental issues (e.g., biological resources, etc.), potential impacts due to land use compatibility under both the Project and this alternative would remain less than significant. This alternative would also not physically disrupt or divide the arrangement of an established community. Overall, impacts related to land use and planning from the No Project/Existing Land Use Alternative would be less than significant; and therefore, would be less due to the reduced requirement for an SPA, but consistent with the Project's impacts.

### **Noise**

Noise impacts would be reduced from the noise impacts of the Project because a smaller building would be constructed, and the construction timeline would be shorter. Project operational noise impacts would be reduced because this alternative would result in fewer truck trips as the Project, and the stationary noise sources would be reduced in relation to the reduction in warehouse/logistics building square footage. Overall, noise impacts from the No Project/Existing Land Use would be less than the Project's less than significant impacts.

## Transportation

Construction and operation-related traffic and truck trips would be reduced under the No Project/Existing Land Use because this alternative would decrease the Project by 29 percent. Daily vehicular trips would be reduced in relation to the reduction of the building area. Therefore, the No Project/Existing Land Use would result in 911 daily trips (see Draft EIR Table 8-1), whereas the Project would result in 1,357 daily trips. Although the project would be reduced by 29 percent, VMT is measured by employee; therefore, a reduction in project size would not be anticipated to proportionally reduce VMT impacts. Therefore, the Project's mitigation for cumulative VMT impacts would be required under this alternative and impacts would be significant and unavoidable. Overall, impacts under the No Project/Existing Land Use would remain significant and unavoidable with mitigation, and be slightly less in comparison to the Project due to reduced trips.

## Tribal Cultural Resources

Under this alternative, the Project would be reduced by approximately 29 percent. Grading and excavation would still occur under this alternative, therefore, there could be similar impacts to tribal cultural resources and the same MMs would be required for the reduced construction area. Therefore, impacts that could occur by the No Project/Existing Land Use would be similar to those associated with the Project.

## Utilities and Service Systems

The No Project/Existing Land Use would reduce the size of the Project by approximately 29 percent. This would reduce the number of employees on the Project site in relation to the reduction of building square footage; and would also reduce demand for utilities from the proposed building. Under this alternative, demand for regional water supplies would be less than that of the Project. Thus, impacts related to water supplies would be less than the less than significant impacts that would occur from implementation of the Project. Similarly, solid waste generation would be less than the amount of solid waste generated by the Project and require less landfill capacity. Therefore, impacts to utilities and service systems under this alternative would result in similar less than significant impacts as the proposed Project.

## Conclusion

### *Ability to Reduce Impacts*

Implementation of the No Project/Existing Land Use would meet the Project objectives, but some of them would not be met to the extent as would be achieved by the Project, as listed in Draft EIR Table 8-3. The No Project/Existing Land Use would provide for development of a warehouse use on the site; however, the alternative provides approximately 29 percent less of warehouse space than the Project, and it would have the ability to attract less business activity, less economic growth, and fewer local employment opportunities to area residents, and less development of an underutilized site that is designated for development.

### *Ability to Achieve Project Objectives*

The No Project/Existing Land Use would reduce the total graded and developed area which would decrease the impacts related to biological, cultural, paleontological, transportation, and tribal cultural resources. However, similar to the Project, this alternative would require MMs to ensure impacts are less than significant. Consistent with the Project, the No Project/Existing Land Use would result in a significant and unavoidable impact related to greenhouse gas emissions and vehicle miles traveled. However, the volume of impacts would be less with the No Project/Existing Land Use in comparison to the Project. Mitigation for biological resources, cultural resources, paleontological resources, traffic, and tribal cultural resources would still be required to reduce the identified potentially significant impacts to less than significant levels. This alternative

would further reduce the less than impacts related to air quality, greenhouse gas, energy, and noise. However, similar to the Project, no mitigation related to these environmental topics are required.

### 8.3.3 ALTERNATIVE 3: REDUCED PROJECT ALTERNATIVE

#### Description

The Reduced Project Alternative would reduce the intensity of the proposed industrial uses, locate the development on the northern portion of the site, and the remainder of the site would be left in its existing condition. Development under this alternative would be consistent with MSFC-SP designation of the two northerly parcels of the site (APN 3064-401-03 and -04) as Commercial/Industrial Park (CIBP) and the southerly parcel of the site (APN 3064-401-05) as Neighborhood Commercial (NC). Under this alternative, the northern 6.34-acre portion of the site (APN 3064-401-03) would be developed at a FAR of 0.48 with a 132,561 SF warehouse building (including manufacturing and cold storage as proposed under the Project) (see Figure 8-2). A proportional reduction in the amount of loading docks, surface parking area and commensurate number of parking spaces for vehicles and trucks also would occur in the Reduced Project Alternative. This alternative would implement all offsite improvements proposed under the Project, including the construction of "A" Street along the west side of the Project site and proposed utility improvements. The remaining 23.29 acres (79 percent) of the Project site would remain undeveloped and in its existing condition.

#### Finding

The City finds that the Reduced Intensity Alternative is infeasible because it would require a similar level of mitigation as the proposed Project. Additionally, although the Reduced Project Alternative would meet the Project objectives, they would not be met to the extent as would be achieved by the Project.

In making this determination, the City finds that when compared to the alternatives described and evaluated in the Draft EIR, the proposed Project, as mitigated, provides a reasonable balance between satisfying the Project objectives and reducing potential environmental impacts to an acceptable level.

#### Aesthetics

Under the Reduced Project Alternative, the same type of light industrial warehouse development would occur on the Project site. However, the development would be limited to the northern 6.32-acre portion of the site and the aesthetics of the remaining 23.29 acres (79 percent) of the Project site would remain undeveloped and in its existing condition. The Reduced Project Alternative would be visually less dense than the proposed Project. The Reduced Project Alternative would include construction of a building with a smaller footprint, but of the same height and the same architectural character as the Project. Thus, impacts to visual character and quality would be less than significant. Thus, aesthetic impacts from the Reduced Project Alternative would be slightly less proposed Project.

#### Air Quality

The Reduced Project Alternative would reduce the proposed industrial development on the Project site by 79 percent. Therefore, a reduced volume of construction activities and related emissions would occur. In addition, the reduced amount of square footage that would be developed by this alternative would result in less stationary source emissions from equipment on-site, substantially less vehicular trips, and associated emissions than the Project. Therefore, overall air quality impacts would be reduced in comparison to the less than significant impacts of the Project. Thus, this alternative and cumulative impacts under this alternative would be less than the Project.

## Biological Resources

The Reduced Project Alternative would reduce the amount of building area and associated parking stalls proposed for the Project site. This alternative would largely reduce the impacts to Joshua Trees. As detailed in Section 5.3, *Biological Resources*, 248 Joshua trees within the Project boundaries (Project site and offsite improvement areas) have the potential to be impacted. The development area of the Reduced Project Alternative would avoid approximately 168 onsite Joshua trees. Therefore, under the Reduced Project Alternative, the project would result in an impact of 80 Joshua trees. Thus, this alternative would avoid impacts to 68 percent of the Joshua trees within the Project area. However, because some Joshua trees would still be impacted by this alternative, MMs would continue to be required to reduce impacts to Joshua trees to a less than significant level. Similarly, the area of potential impacts to other sensitive wildlife species would be reduced; however, MMs BIO-1 through BIO-13 would continue to be required to be implemented. Thus, this alternative would result in fewer impacts to biological resources compared to the proposed Project.

## Cultural and Paleontological Resources

The Reduced Project Alternative would result in similar impacts to potential undiscovered subsurface archaeological resources within the reduced construction area. Grading and excavation would still be required as part of the construction process; therefore, the same mitigation would be required to reduce potential impacts to less than significant. Therefore, impacts to cultural and paleontological resources from the Reduced Project Alternative would be similar to those associated with the proposed Project.

## Energy

Under the Reduced Project Alternative, approximately 79 percent less building area would be developed within the Project site. This would result in an approximately 79 percent decrease in the demand for energy in comparison to the proposed Project, which was determined to be less than significant. Although the Project demands for energy were determined to be less than significant, the amount of energy used by the Reduced Project Alternative would be 79 percent less and would comply with the same regulations/incorporate the same measures to ensure no wasteful or inefficient use of energy. Therefore, impacts to energy would be less under this alternative than the less than significant impacts that would occur from implementation of the Project.

## Geology and Soils

Under this alternative, approximately 79 percent less area would be developed within the Project site. Potential impacts related to the potential for additional workers, building, and structures to experience seismic ground shaking, liquefaction, lateral spreading, subsidence, or collapse within the Project site would be similar to the Project. Soil erosion impacts would also be less than significant due to compliance with water quality standards, and new development would be required to comply with regulatory requirements regarding geologic considerations such as seismic hazards from ground shaking. The same MMs regarding paleontological resources would be required for this alternative. This alternative would result in less than significant impacts with mitigation to geology and soils, and therefore, would be consistent with the Project's impact.

## Greenhouse Gas Emissions

The Reduced Project Alternative would develop the Project site with the same type of industrial warehouse use, but with a 79 percent reduction in square footage. Therefore, a reduction of construction and related production of GHG emissions would occur, compared to the proposed Project. In addition, the reduced amount of square footage that would be developed by this alternative would result in less stationary source emissions from equipment on-site, and less vehicular trip associated GHG emissions than the Project. The increase in GHG emissions that would be generated from operation of this alternative would be

approximately 79 percent less than the proposed Project; therefore, GHG would result in approximately 2,222.5 MT CO<sub>2</sub>e per year, which would be below the SCAQMD threshold of 3,000 MT CO<sub>2</sub>e per year. However, proportionally, the Project would still be anticipated to result in similar MT CO<sub>2</sub>e per year per service population as the Project (19.2 MT CO<sub>2</sub>e) since service population demand would proportionally decrease with building/operation scale. Therefore, the alternative would result in a significant and unavoidable impact, but less of an impact compared to the Project.

### **Hazards and Hazardous Materials**

Under this alternative, approximately 79 percent less area would be developed within the Project site. Like the proposed Project, construction of this alternative would be required to comply with existing regulations regarding the transport, use, and disposal of hazardous materials. In addition, this alternative would likely require the same utilization of hazardous materials during operation, including diesel particulate matter, as the proposed Project. Overall, this alternative would result in less than significant impacts with mitigation on hazards and hazardous materials, and therefore, would be consistent with the Project's impact.

### **Hydrology and Water Quality**

The Reduced Project Alternative would result in a reduced area of impervious surfaces compared to the Project. However, like the proposed Project, this alternative would introduce new sources of water pollutants from warehouse development and operation activities. Additionally, this alternative would be required to include storm drain facility improvements, LID, source control, site design, and treatment control BMPs that are similar to those that are included in the Project. Therefore, the Reduced Project Alternative would result in less than significant impacts to hydrology and water quality that are similar to those that would occur from the Project. Overall, hydrology and water quality impacts would be less than significant, and neutral in comparison to the Project.

### **Land Use and Planning**

Under this alternative, approximately 79 percent less area would be developed within the Project site. Like the proposed Project, the Reduced Project alternative would develop the northern parcels zoned as CIBP with a 140,000 SF warehouse and the southern portion of the site designated as NC would remain vacant. Under this alternative an SPA to the MSFC-SP would not be required. With implementation of measures to address other environmental issues (e.g., biological resources, etc.), potential impacts due to land use compatibility under both the Project and this alternative would remain less than significant. This alternative would also not physically disrupt or divide the arrangement of an established community. Overall, impacts related to land use and planning from the Reduced Project Alternative would be less than significant; and therefore, would be consistent with the Project's impacts.

### **Noise**

Noise impacts would be reduced from the noise impacts of the Project because a smaller building would be constructed, and the construction timeline would be shorter. Project operational noise impacts would be reduced because this alternative would result in fewer truck trips as the Project, and the stationary noise sources would be reduced in relation to the reduction in warehouse/logistics building square footage. Overall, noise impacts from the Reduced Project Alternative would be less than the Project's less than significant impacts.

### **Transportation**

Construction and operation-related traffic and truck trips would be reduced under the Reduced Project Alternative because this alternative would decrease the Project by 79 percent. Daily vehicular trips would be reduced in relation to the reduction of the building area. Therefore, the Reduced Project Alternative

would result in 274 daily trips (see Draft EIR Table 8-2), whereas the Project would result in 1,357 daily trips. Although the project would be reduced by 79 percent, the project would contribute more than 110 daily trips and would require VMT analysis per the City of Hesperia Traffic Impact Analysis Guidelines. VMT is measured by employee, therefore, a reduction in project size under this alternative would not be anticipated to substantially reduce VMT impacts. Therefore, the alternative would be anticipated to result in similar impacts as the proposed Project, and would result in a significant and unavoidable impact.

### **Tribal Cultural Resources**

Under this alternative, the Project would be reduced by approximately 79 percent. Grading and excavation would still occur under this alternative, therefore, there could be similar impacts to tribal cultural resources and the same MMs would be required for the reduced construction area. Therefore, impacts that could occur by the Reduced Project Alternative would be similar to those associated with the Project.

### **Utilities and Service Systems**

The Reduced Project Alternative would reduce the size of the Project by approximately 79 percent. This would reduce the number of employees on the Project site in relation to the reduction of building square footage; and would also reduce demand for utilities from the proposed building.

Under this alternative, demand for regional water supplies would be less than that of the Project. Thus, impacts related to water supplies would be less than the less than significant impacts that would occur from implementation of the Project. Similarly, solid waste generation would be less than the amount of solid waste generated by the Project and require less landfill capacity. Therefore, impacts to utilities and service systems under this alternative would result in similar less than significant impacts as the proposed Project.

### **Conclusion**

#### *Ability to Reduce Impacts*

The Reduced Project Alternative would reduce the total graded and developed area which would decrease the impacts related to biological, cultural, paleontological, transportation, and tribal cultural resources. However, similar to the Project, this alternative would require MMs to ensure impacts are less than significant. The Reduced Project Alternative would avoid the Project's significant and unavoidable GHG impact related to the SCAQMD 3,000 MT CO<sub>2</sub>e threshold (but would still be over SCAQMD's per service population threshold). Overall, the volume of impacts would be less with the Reduced Project Alternative in comparison to the Project. However, mitigation for biological resources, cultural resources, geological resources, paleontological resources, traffic, and tribal cultural resources would still be required to reduce the identified potentially significant impacts to less than significant levels. This alternative would further reduce the less than impacts related to air quality, energy, and noise. However, similar to the Project, no mitigation related to these environmental topics are required.

#### *Ability to Achieve Project Objectives*

Implementation of the Reduced Project Alternative would meet the Project objectives, but some of them would not be met to the extent as would be achieved by the Project, as listed in Draft EIR Table 8-3. The Reduced Project Alternative would provide for development of a warehouse use on the site; however, the alternative provides approximately 79 percent less of warehouse space than the Project, and it would have the ability to attract less business activity, less economic growth, and fewer local employment opportunities to area residents, and less development of an underutilized site that is designated for development.

## 8.4 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

Section 15126.6(e)(2) of the CEQA Guidelines indicates that an analysis of alternatives to a proposed project shall identify an environmentally superior alternative among the alternatives evaluated in an EIR. The CEQA Guidelines also state that should it be determined that the No Project Alternative is the environmentally superior alternative, the EIR shall identify another environmentally superior alternative among the remaining alternatives.

The Environmentally Superior Alternative (other than the No Project/No Build Alternative) is the No Project/Existing Land Use Alternative, which would reduce the building size by approximately 79 percent, to an approximate sized of 140,000 SF, with a reduction in parking area and parking spaces. Although some of the less than significant impacts would be reduced under the No Project/Existing Land Use in comparison to the proposed Project, all MMs would be applied. Additionally, under this alternative, the Project's significant and unavoidable impacts related to greenhouse gas emissions and vehicle miles traveled would be reduced but not eliminated.

Regarding Project Objectives, the No Project/Existing Land Use would result in less economic gain and fewer employment opportunities than the Project. This alternative would have the ability to attract less business activity and fewer employment opportunities to area residents. In addition, the smaller development would not fully develop an underutilized property. Fewer members of the local workforce would be able to obtain local employment.

CEQA does not require the Lead Agency (the City of Hesperia) to choose the environmentally superior alternative. Instead, CEQA requires the City to consider environmentally superior alternatives, weigh those considerations against the environmental impacts of the Project, and make findings that the benefits of those considerations outweigh the harm.

## 9.0 STATEMENT OF OVERRIDING CONSIDERATIONS

The City of Hesperia is the Lead Agency under CEQA for preparation, review, and certification of the EIR for the KISS Logistics Center Project. As the Lead Agency, the City is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant, and which can be mitigated through imposition of mitigation measures to avoid or minimize those impacts to a level of less than significant. CEQA then requires the Lead Agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed Project. In making this determination the County is guided by CEQA Guidelines Section 15093 which states:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposal (sic) project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

In addition, CEQA Section 21081(b) requires that where a public agency finds that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in an EIR and thereby leave significant unavoidable effects, the public agency must also find that overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects of the project.

Pursuant to CEQA Section 21081(b) and the State CEQA Guidelines Section 15093, the City has balanced the benefits of the proposed Project against the unavoidable adverse impacts associated with the Project and has adopted all feasible mitigation measures with respect to these impacts. The City has also examined alternatives to the proposed Project, none of which meet the Project objectives and are environmentally preferable to the proposed Project for the reasons discussed in the Findings and Facts in Support of Findings.

The City of Hesperia, as the Lead Agency for this Project, and having reviewed the EIR for the KISS Logistics Center Project and reviewed all written materials within the City's public record and heard all oral testimony presented at public hearings, adopts this Statement of Overriding Considerations, which has balanced the benefits of the Project against its significant unavoidable adverse environmental impacts in reaching its decision to approve the Project.

## 9.1 PURPOSE AND NEED

Jobs and housing are in balance when an area has enough employment opportunities for most of the people who live there and enough housing opportunities for most of the people who work there. The region as a whole is, by definition, balanced. Job-rich subregions have ratios greater than the regional average; housing-rich subregions have ratios lower than the regional average. Ideally, job-housing balance would assure not only a numerical match of jobs and housing but also an economic match in type of jobs and housing.

SCAG considers an area balanced when the jobs-housing ratio is 1.36; communities with more than 1.36 jobs per dwelling unit are considered jobs-rich; those with fewer than 1.36 are "housing rich," meaning that more housing is provided than employment opportunities in the area (SCAG 2004). A job-housing imbalance can indicate potential air quality and traffic problems associated with commuting. The projected jobs-to-housing ratios, based on SCAG's 2020-2045 RTP/SCS, for the City of Hesperia and San Bernardino County in 2045 are 1.15 and 1.22, respectively; that is, both the City of Hesperia and San Bernardino County are housing-rich.

Therefore, there is a demand for the creation of additional employment opportunities within the region. Development within the High Desert region and City of Hesperia provides residents with local employment opportunities. As such, the Project would help meet the needs of the growing logistics sector while producing new jobs in a region that is typically viewed as housing rich and jobs poor for a more balanced economy.

## 9.2 OVERRIDING BENEFITS RESULTING FROM THE PROJECT

The City, after balancing the specific economic, legal, social, technological, and other benefits of the Project, has determined that the unavoidable adverse environmental impacts identified above may be considered acceptable due to the following specific considerations, which outweigh the unavoidable, adverse

environmental impacts of the Project, each of which standing alone is sufficient to support approval of the Project, in accordance with CEQA Section 21081(b) and CEQA Guideline Section 15093.

- **The Project enhances the local economy.** The Project enhances the local economy by providing additional jobs, and business development opportunities commensurate with forecasted growth.
- **Project facilitates economic development.** The Project is intended to facilitate the economic development of the City by creating an expanded employment base, providing new employment opportunities, and attracting new businesses.
- **The Project provides both traditional and alternative transportation mode benefits.** The Project would implement roadway, pedestrian, and infrastructure improvements that would provide social and other benefits to the City's residents.
- **The Project creates a high-quality development.** The Project proposes a high-quality warehouse building within the Main Street Corridor Freeway Specific Plan that will attract businesses and provide a variety of employment opportunities in the community of Hesperia, thereby reducing the need for members of the local workforce to commute outside the area for employment.
- **The Project would be developed in line with the City General Plan.** The Project would result in development pursuant to the site's General Plan land use designation and zoning, as well as the Main Street Freeway Corridor Specific Plan.
- **The Project would implement employment generating uses along the I-15 corridor.** The Project would result in development of industrial warehouse uses along the I-15 corridor, which would facilitate goods movement in Southern California.

## 9.2.1 CONCLUSION

The Planning Commission finds that it has been presented with the EIR, which it has reviewed and considered, and further finds that the EIR is an accurate and objective statement that has been completed in full compliance with CEQA, the State CEQA Guidelines and that the EIR reflects the independent judgment and analysis of the City. The Planning Commission declares that no evidence of new significant impacts as defined by the State CEQA Guidelines Section 15088.5 has been received by the City after circulation of the Draft EIR which would require recirculation. Therefore, the Planning Commission hereby certifies the EIR based on the entirety of the record of proceedings, including but not limited to the findings and conclusions reached herein.

# 10.0 CONCLUSION

Implemented through the MMRP, the mitigation measures previously listed, in conjunction with the above findings, will eliminate or reduce Project related environmental impacts to a less-than-significant level. The Project's significant and unavoidable impacts would be rendered acceptable by the specific economic and social benefits previously identified in Section 9, Statement of Overriding Considerations.

Collectively, the Final EIR, the PPP's, the mitigation measures, and the MMRP provide an acceptable rationale for approval of the proposed Project.

# Mitigation Monitoring and Reporting Program

## 4.1 Introduction

The California Environmental Quality Act (CEQA) requires a lead or public agency that approves or carries out a project for which an Environmental Impact Report has been certified which identifies one or more significant adverse environmental effects and where findings with respect to changes or alterations in the project have been made, to adopt a "...reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment" (CEQA, Public Resources Code Sections 21081, 21081.6).

A Mitigation Monitoring and Reporting Program (MMRP) is required to ensure that adopted mitigation measures are successfully implemented for the Mesa Linda Street Development Project (Project). The City of Hesperia is the Lead Agency for the Project and is responsible for implementation of the MMRP. This report describes the MMRP for the Project and identifies the parties that will be responsible for monitoring implementation of the individual mitigation measures in the MMRP.

## 4.2 Mitigation Monitoring and Reporting Program

The MMRP for the Project will be active through all phases of the Project, including design, construction, and operation. The attached table identifies the mitigation program required to be implemented by the City for the KISS Logistics Project. The table identifies the Project Design Features (PDFs) and mitigation measures required by the City to mitigate or avoid significant adverse impacts associated with the implementation of the Project, the timing of implementation, and the responsible party or parties for monitoring compliance.

The MMRP also includes a column that will be used by the compliance monitor (individual responsible for monitoring compliance) to document when implementation of the measure is completed. As individual Plan, Program, Policies; and mitigation measures are completed, the compliance monitor will sign and date the MMRP, indicating that the required actions have been completed.

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TABLE 4-1: MITIGATION MONITORING AND REPORTING PROGRAM  
KISS LOGISTICS CENTER PROJECT EIR

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
<b>BIOLOGICAL RESOURCES</b>			
<p><del><b>Mitigation Measure BIO-1: Relocation of Desert Native Plants (Hesperia Municipal Code Chapter 16.24).</b></del></p> <p><del>Prior to the issuance of grading permits, the Project Applicant shall submit an application and applicable fee paid to the City of Hesperia for removal or relocation of protected native desert plants under Hesperia Municipal Code Chapter 16.24 as required and schedule a preconstruction site inspection with the Planning Division and the Building Division. The application shall include certification from a qualified Joshua tree and native desert plant expert(s) to determine that proposed removal or relocation of protected native desert plants are appropriate, supportive of a healthy environment, and in compliance with the City of Hesperia Municipal Code. Protected plants subject to Hesperia Municipal Code Chapter 16.24 may be relocated on-site, or within an area designated as an area for species to be adopted later. The application shall include a detailed plan for the removal of all protected plants on the Project site. The plan shall be prepared by a qualified Joshua tree and native desert plant expert(s). The plan shall include, but not be limited to, the following measures:</del></p> <p><del>Salvaged plants shall be transplanted expeditiously to either their final on-site location, or to an approved off-site area. If the plants cannot be expeditiously taken to their permanent relocation area at the time of excavation, they may be transplanted in a temporary area (stockpiled) prior to being moved to their permanent relocation site(s).</del></p> <p><del>Western Joshua trees shall be marked on their north facing side prior to excavation. Transplanted western Joshua trees shall be planted in the same orientation as they currently occur on the Project site, with the marking on the north side of the trees facing north at the relocation site(s).</del></p> <p><del>Transplanted plants shall be watered prior to and at the time of transplantation. The schedule of watering shall be determined by the qualified tree expert and desert native plant expert(s) to maintain plant health. Watering of the transplanted plants shall continue under the guidance of qualified tree expert and desert native plant expert(s) until it has been</del></p>	<p>Prior to grading permit</p> <p><b>No longer required by the Native Plant Species Act pursuant to the Western Joshua Tree Conservation Act. Locally, the City has determined that Mitigation Measure BIO-2 fulfills the requirements of this measure. Therefore, this action is no longer required.</b></p>	<p>City of Hesperia Planning Department.</p>	

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
<del>determined that the transplants have become established in the permanent relocation site(s) and no longer require supplemental watering.</del>			
<p><b>Mitigation Measure BIO-2: Conservation of Western Joshua Tree Lands (CESA)</b></p> <p>In the case that the California Fish and Game Commission lists western Joshua trees as threatened under the California Endangered Species Act, the following measure will be implemented:</p> <p>Prior to the initiation of Joshua tree removal, obtain California Endangered Species Act (CESA) ITP under Section 2081 of the Fish and Game Code. The Project Applicant will adhere to measures and conditions set forth within the ITP.</p> <p>Mitigation for direct impacts to western Joshua trees shall be fulfilled through conservation of western Joshua trees at a 1:1 habitat replacement ratio, of equal or better functions and values to those impacted by the Project. Mitigation can be through purchases of credits at a California Department of Fish and Wildlife (CDFW)-approved mitigation bank for western Joshua tree. Additionally, no take of western Joshua tree will occur without authorization from CDFW in the form of an ITP pursuant to Fish and Game Code 2081.</p> <p>Name, qualifications, business address, and contact information of a biological monitor (designated botanist) shall be submitted to CDFW at least 30 days prior to Project activities. The designated botanist shall be responsible for monitoring Project activities to help minimize and fully mitigate or avoid incidental take of Joshua trees.</p> <p>The designated botanist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid unauthorized take of an individual Joshua tree.</p> <p>The Project analyzed impacts to western Joshua trees, <b>which by applying the 186-foot buffer zone</b> overlap with the adjacent proposed developments. Any impacts to overlapping Joshua trees will be analyzed by CDFW to ensure no Joshua trees are mitigated twice.</p> <p>The Western Joshua Tree Conservation Act <del>is currently under consideration</del> <b>has been approved</b> by the California Fish and Game Commission. <del>In the event that the</del> <b>The Western Joshua Tree Conservation Act is now in effect,</b> implemented, effectively replacing the function of species protection under <b>which provides an alternative mitigation option to traditional CESA mitigation.</b> <del>a</del> <b>Alternative Western Joshua Tree Conservation Act</b> habitat replacement <b>mitigation</b> mechanisms, providing equal or better function and</p>	<p>Proof of approval from CDFW regarding compliance with mitigation and/or payment of in-lieu fees per the Western Joshua Tree Conservation Act. Prior to grading permit.</p>	<p>City of Hesperia Planning Department/CDFW/ Qualified Biologist</p>	

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
value to existing mechanisms under CESA, will be implemented <b>in combination with traditional mitigation banking or in lieu of mitigation banking</b> as <del>required</del> <b>allowed</b> under state law.			
<b>MM BIO-3 Compliance Monitoring.</b> The Designated Biologist shall be on site daily when impacts occur. The Designated Biologist shall conduct compliance inspections to minimize incidental take of western Joshua trees and impacts to other sensitive biological resources; prevent unlawful take of western Joshua trees; and ensure that signs, stakes, and fencing are intact, and that impacts are only occurring outside the permitted impact footprint. Weekly written observation and inspection records that summarize oversight activities and compliance inspections and monitoring activities required by the ITP shall be prepared.	Weekly submittal of Joshua tree compliance monitoring log. During site clearing.	City of Hesperia Planning Department/Qualified Biologist	
<b>MM BIO-4 Education Program.</b> An education program (Worker Environmental Awareness Program [WEAP]) for all persons employed or otherwise working in the Project area shall be administered before performing impacts. The WEAP shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and status of western Joshua tree, burrowing owl, and loggerhead shrike; and other biological resources mitigation measures described in the California Environmental Quality Act document. Interpretation for non-English-speaking workers will be provided, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project area. Upon completion of the WEAP, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees who will be conducting work in the Project area.	During construction.	City of Hesperia.	
<b>MM BIO-5 Construction Monitoring Notebook.</b> The Designated Biologist shall maintain a construction monitoring notebook on site throughout the construction period, which shall include a copy of the biological resources mitigation measures with attachments and a list of signatures of all personnel who have successfully completed the education program. The permittee shall ensure that a copy of the construction monitoring notebook is available for review at the Project site upon request by the California Department of Fish and Wildlife.	During construction.	City of Hesperia.	
<b>MM BIO-6 Delineation of Property Boundaries.</b> Before beginning activities that would cause impacts, the contractor shall, in consultation with the Designated Biologist, clearly delineate the boundaries with fencing, stakes, or flags, consistent with the grading plan, within which	Prior to commencement of ground disturbing activities	City of Hesperia	

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
the impacts will take place. All impacts outside the fenced, staked, or flagged areas shall be avoided, and all fencing, stakes, and flags shall be maintained until the completion of impacts in that area.			
<b>MM BIO-7 Hazardous Waste.</b> The Applicant shall immediately stop work and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so.	During construction.	City of Hesperia.	
<b>MM BIO-8 Herbicides.</b> The Applicant shall limit herbicide use for invasive plant species and shall use herbicides only if it has been determined that hand or mechanical efforts are infeasible. To prevent drift, the permittee shall apply herbicides only when wind speeds are less than 7 miles per hour. All herbicide application shall be performed by a licensed applicator and in accordance with all applicable federal, state, and local laws and regulations.	During construction.	City of Hesperia.	
<b>MM BIO-9: Pre-construction Nesting Bird Survey.</b> Pre-construction Nesting Bird Surveys and Avoidance. Project construction would be avoided during bird nesting season (typically February 1 through August 31). In the event construction is required to occur during bird nesting season, construction activities shall avoid the migratory bird nesting season, to reduce any potential significant impact to birds that may be nesting on the survey area. If construction activities must occur during the migratory bird nesting season, an avian nesting survey of the Project site and within 500 feet of all impact areas must be conducted to determine the presence/absence of protected migratory birds and active nests. The avian nesting survey shall be performed by a qualified wildlife biologist within 72 hours prior to the start of construction in accordance with the Migratory Bird Treaty Act and California Fish and Game Code Sections 3503, 3503.5, and 3513. If an active bird nest is found, the nest shall be flagged and mapped on the construction plans along with an appropriate buffer established around the nest, which will be determined by the biologist based on the species' sensitivity to disturbance (typically 300 feet for passerines and 500 feet for raptors and special-status species). The nest area shall be avoided until the nest is vacated and the juveniles have fledged. The nest area shall be demarcated in the field with flagging and stakes or construction fencing. On-site construction monitoring shall also be conducted when construction occurs in close proximity to an active nest buffer. No Project activities may encroach into established buffers without the consent of a monitoring biologist. The	Within 72 hours prior to the start of construction (if between February 1 through August 31).	City of Hesperia Planning Department/Qualified Biologist	

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
buffer shall remain in place until is determined the nestlings have fledged and the nest is no longer considered active.			
<p><b>MM BIO-10: Pre-construction Surveys for Burrowing Owl.</b>  One pre-construction burrowing owl survey shall be completed no more than 14 days before initiation of site preparation or grading activities. If ground-disturbing activities are delayed or suspended for more than 30 days after the pre-construction surveys, the Project site shall be resurveyed. Surveys for burrowing owl shall be conducted in accordance with protocols established in the Staff Report on Burrowing Owl Mitigation (prepared by the California Department of Fish and Game [now California Department of Fish and Wildlife] in 2012) or current version.</p> <p>If burrowing owls are detected, the Burrowing Owl Relocation Plan shall be implemented in consultation with the California Department of Fish and Wildlife (CDFW). As required by the Burrowing Owl Relocation Plan, disturbance to burrows shall be avoided during the nesting season (February 1 through August 31). Buffers will be established around occupied burrows in accordance with guidance provided in the Staff Report on Burrowing Owl Mitigation or current version. No Project activities shall be allowed to encroach into established buffers without the consent of a monitoring biologist. The buffer shall remain in place until it is determined that occupied burrows have been vacated or the nesting season has completed.</p> <p>Outside of the nesting season, passive owl relocation techniques approved by CDFW shall be implemented. Owls shall be excluded from burrows in the immediate Project area and within a buffer zone by installing one-way doors in burrow entrances. These doors will be placed at least 48 hours prior to ground-disturbing activities. The Project area shall be monitored daily for one week to confirm owl departure from burrows prior to any ground-disturbing activities. Compensatory mitigation for permanent loss of owl habitat will be provided following the guidance in the Staff Report on Burrowing Owl Mitigation or current version.</p> <p>Where possible, burrows will be excavated using hand tools and refilled to prevent reoccupation. Sections of flexible plastic pipe shall be inserted into the tunnels during excavation to maintain an escape route for any wildlife inside the burrow.</p>	<p>First survey no more than 14 days before initiation of site preparation or grading activities.</p> <p>Second Survey within 24 hours of the start of site preparation or grading activities.</p>	City of Hesperia Planning Department/Qualified Biologist	

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
<p><b>MM BIO-11: Pre-construction Surveys for Crotch Bumble Bee.</b> In the event that grading starts between April and August, a pre-construction survey for Crotch bumble bee shall be conducted by a qualified biologist within the construction area during the primary flight period (April through August) prior to the start of construction activities. The survey shall ensure that no nests for Crotch bumble bee are located within the construction area. Crotch bumble bee is a habitat generalist, ground-nesting bee. For the purposes of this mitigation measure, nest resources are defined as small mammal burrows, bunch grasses with a duff layer, thatch, hollow trees, rock walls, and brush piles.</p> <p>On June 6, 2023, the California Department of Fish and Wildlife (CDFW) released the “Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species”. The pre-construction survey shall follow the guidance included within “Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species”.</p> <p>If nest resources occupied by Crotch bumble bee are detected within the construction area, no construction activities shall occur within 100 feet of the construction zone, or as determined by a qualified biologist through evaluation of topographic features or distribution of floral resources. The nest resources will be avoided for the duration of the Crotch bumble bee nesting period (February 1 through October 31).</p> <p>If the above measures are followed, it is assumed that the Project shall not need to obtain authorization from CDFW through the California Endangered Species Act ITP process.</p> <p>If the nest resources cannot be avoided, as outlined in this measure, the project applicant will consult with CDFW regarding the need to obtain an ITP. Any measures determined to be necessary through the ITP process to offset impacts to Crotch bumble bee may supersede measures provided in this CEQA document and shall be incorporated into the habitat mitigation and monitoring plan. In the event an ITP is needed, mitigation for direct impacts to Crotch bumble bee will be fulfilled through compensatory mitigation at a minimum 1:1 nesting habitat replacement of equal or better functions and values to those impacted by the Project, or as otherwise determined through the ITP process. Mitigation will be accomplished either through off-site conservation or through a CDFW-approved mitigation bank.</p>	Prior to the start of construction (if between April and August).	City of Hesperia Planning Department/Qualified Biologist	

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
<b>MM BIO-12: Lighting.</b> Lighting for construction activities and operations within 50 feet of the outside edge of the impact footprint containing habitat for special-status wildlife will be directed away from natural areas.	During construction.	City of Hesperia.	
<b>MM BIO-13: Invasive Plant Management.</b> To reduce the spread of invasive plant species, landscape plants within 200 feet of native vegetation communities shall not be on the most recent version of the California Invasive Plant Council's Inventory of Invasive Plants ( <a href="http://www.cal-ipc.org/ip/inventory/index.php">http://www.cal-ipc.org/ip/inventory/index.php</a> ). Post-construction, the Project applicant shall continually remove invasive plant species on site by hand or mechanical methods, as feasible.	During construction.	City of Hesperia.	
<b>CULTURAL RESOURCES</b>			
<p><b>Mitigation Measure CUL-1: Archaeological Monitoring.</b> Prior to the issuance of the first grading permit, the applicant shall provide a letter to the City Planning Division, or designee, from a qualified professional archeologist meeting the Secretary of Interior's Professional Qualifications for Archaeology as defined at 36 CFR Part 61, Appendix A, stating that qualified archeologists have been retained and will be present at pre-grade meetings and for all initial ground disturbing activities, up to five feet in depth.</p> <p>In the event that a resource is inadvertently discovered during ground-disturbing activities, work must be halted within 60 feet of the find until it can be evaluated by the qualified archaeologist. Construction activities could continue in other areas. If the find is considered a "resource" the archaeologist shall pursue either protection in place or recovery, salvage and treatment of the deposits. Recovery, salvage and treatment protocols shall be developed in accordance with applicable provisions of Public Resource Code Section 21083.2 and State CEQA Guidelines 15064.5 and 15126.4 in consultation with the City. Per CEQA Guidelines Section 15126.4(b)(3), preservation in place shall be the preferred means to avoid impacts to archaeological resources qualifying as historical resources. Consistent with CEQA Guidelines Section 15126.4(b)(3)(C), if unique archaeological resources cannot be preserved in place or left in an undisturbed state, recovery, salvage, and treatment shall be required at the developer/applicant's expense. If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to Yuhaaviatam of San Manuel Nation</p>	Retain archaeological monitor and submit letter. Prior to grading permit.	City of Hesperia Planning Department/Qualified Archaeologist	

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
(YSMN) for review and comment, as detailed within TCR-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.			
<b>GEOLOGY &amp; SOILS</b>			
<b>Mitigation Measure GEO-1: Incorporation of and Compliance with the Recommendations in the Geotechnical Investigation.</b> Prior to issuance of grading and building permits, the Hesperia Building Department shall verify all recommendations included in the Geotechnical Investigation prepared for the project by Advanced Geotechnical Solutions, Inc., in March 2022 are incorporated into all design and engineering plans including, but not limited to site preparation, grading, fill placement, foundations, pavement design, seismic design, etc.	Verify completion of recommendations prior to grading.	City of Hesperia	
<p><b>Mitigation Measure PAL-1: Paleontological Resource Management Plan.</b> Prior to the start of construction, a Paleontological Resources Management Plan (PRMP) shall be prepared by a qualified Paleontologist and include the following procedures:</p> <p>Monitoring of mass grading and excavation activities in areas identified as likely to contain paleontological resources shall be performed by a qualified paleontologist or paleontological monitor. Starting at the surface, monitoring will be conducted fulltime in areas of grading or excavation in undisturbed alluvial deposits.</p> <p>Development of an inadvertent discovery plan to expediently address treatment of paleontological resources should any be encountered during development associated with the Project. If these resources are inadvertently discovered during ground-disturbing activities, work must be halted within 50 feet of the find until it can be evaluated by a qualified paleontologist. Construction activities could continue in other areas. If the discovery proves to be significant, additional work, such as fossil collection and curation, may be warranted and would be discussed in consultation with the appropriate regulatory agency(ies).</p>	Prepare a PRMP. Prior to grading permit.	City of Hesperia Planning Department/Qualified Paleontologist	
<b>GREENHOUSE GAS EMISSIONS</b>			
<b>Mitigation Measure GHG-1:</b> Prior to issuance of a building permit, the City of Hesperia shall identify project design details and specifications to document implementation and compliance with the following emission	Prior to building permit (construction-related measures will be	City of Hesperia Planning Department	

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
<p>reduction measures. Implementation of the following measures will be required prior to building permits and is considered to be applicable, feasible, and effective in reducing greenhouse gas emissions generated by the project:</p> <p><del>Use the cleanest technologies available and</del> provide the necessary infrastructure to support zero-emission vehicles and equipment that will be operating on site, <b>including but not limited to running conduit to dock doors to allow for future plug-in of TRUs or truck charging.</b></p> <p>All loading/unloading docks and trailer spaces shall be equipped with electrical hookups for trucks with transport refrigeration units (TRU) or auxiliary power units. This requirement will substantially decrease the amount of time that a TRU powered by a fossil-fueled internal combustion engine can operate at the project site. <del>Use of zero-emission all-electric plug-in TRUs, hydrogen fuel cell transport refrigeration, and cryogenic transport refrigeration shall be encouraged for operational fleets.</del></p> <p>All TRUs <b>operated by the owner/applicant</b> entering the Project site be shall plug-in capable.</p> <p><del>Operational fleets shall exclusively use zero-emission light and medium-duty delivery trucks and vans when feasible.</del></p> <p>All heavy-duty trucks <del>entering or</del> <b>operated by the owner/applicant</b> on the Project site shall be model year 2014 or later.</p> <p>The Project Applicant shall be in, and monitor compliance with, all current air quality regulations for on-road trucks including CARB's Heavy-Duty (Tractor-Trailer) Greenhouse Gas Regulation, Periodic Smoke Inspection Program (PSIP), and the Statewide Truck and Bus Regulation.</p> <p>Trucks and support equipment shall be prohibited from idling longer than <del>five</del><b>three</b> minutes while on site.</p> <p>On-site TRU diesel engine runtime shall be limited to no longer than 15 minutes.</p> <p>Include rooftop solar panels <del>that</del> <b>and</b> supply 100 percent of <b>Project</b> electricity from renewable energy resources.</p> <p>Implement a transportation demand program. Program measures may include free transit passes for employees, electric rideshare vehicles for employees, and construction of additional transit infrastructure at the Project site (<b>see Mitigation Measure T-1 of Section 5.12, Transportation</b>).</p>	<p>confirmed prior to grading permit)</p>		

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
<p><del>Implement a zero-waste program or other feasible waste reduction measures such as composting waste food scraps from employee activities and food waste processing.</del></p> <p>Install water-efficient fixtures (toilets, faucets, showers), water efficient landscape irrigation systems (drip irrigation with control panel and soil moisture sensors), and water efficient landscaping.</p> <p><b>Keep onsite and furnishing to the lead agency of other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classification.</b></p> <p><b>Provide information on transit and ridesharing programs and services to construction employees.</b></p> <p><b>Provide information on nearby meal/dining destinations for construction workers.</b></p> <p><b>Run conduit to designated locations for future vehicle electric charging stations.</b></p> <p><b>Expand the electrical room by 10 percent to (25 percent total) to accommodate future expansion of electric vehicle charging capability.</b></p> <p><b>Run conduit to an additional proportion of employee parking spaces for a future increase in the number of electric light-duty charging stations.</b></p> <p><b>The building shall have breakroom with food storage capabilities.</b></p> <p><b>Signs shall be posted at every truck exist driveway to provide directional information to the truck route.</b></p> <p><b>The owner shall provide any future tenants with information on incentive programs, such as Carl Moyer program and Voucher Incentive Program, to upgrade their fleets.</b></p>			
<b>TRANSPORTATION</b>			
<p><b>Mitigation Measure T-1:</b> The Project applicant shall implement Commute Trip Reduction Marketing (CAPCOA Measure T-7), provide a Ridesharing Program (CAPCOA Measure T-8), and provide end of trip bicycle facilities (CAPCOA Measure T-10) to encourage employees carpooling, taking transit, and biking to work. 100 percent of employees would be eligible to</p>	Prior to occupancy	City of Hesperia Planning Department	

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
<p>participate in all identified measures. Each measure is discussed further below:</p> <p>Implement Commute Trip Reduction Marketing (CAPCOA Measure T-7). A CTR Marketing strategy includes information sharing and marketing to promote and educate employees about their travel choices to the employment location. This measure would require an on-site employee transportation coordinator and commuter information services, and on-site or online transit pass sales.</p> <p>Provide Ridesharing Program (CAPCOA Measure T-8). Incentives for carpooling or vanpooling such as priority parking spaces and/or a daily or monthly stipend for participants. Additional incentives for carpool and/or vanpool drivers could also be provided. Preferred parking for carpool or vanpool vehicles.</p> <p>Provide End-of-Trip Bicycle Facilities (CAPCOA Measure T-10). This measure includes installation and maintenance of end-of-trip facilities for employee use that facilitate bicycling to work. Facilities could include bike parking, bike lockers, personal lockers and shower facilities. Initially, the project shall provide secure bicycle parking (bicycle racks or lockers) for at least 9 bicycles (consistent with San Bernardino County Code Section 83.14.030 which requires secure bicycle parking at a rate of one per 30 parking spaces).</p> <p>To comply with components 1 and 2 of MM T-1, tenants of the Project could participate in the IE Commuter program (iecommuter.org) or alternative program. Monitoring of the program shall be conducted by the onsite transportation coordinator and an annual report shall be provided to the City. The report shall include a summary of the current CTR program, the number of employees participating in the program, summary of any partnerships with outside agencies such as IE Commuter, and total amount of subsidies provided by type (if any). If project tenants choose to comply with MM T-1 via participation in the IE Commuter program, then the Commute Activity Report provided by IE Commuter shall be sufficient for annual reporting.</p>			
<b>TRIBAL CULTURAL</b>			
<p><b>Mitigation Measure TCR-1:</b> The Yuhaaviatam of San Manuel Nation Cultural Resources Department (YSMN) shall be contacted, as detailed in Mitigation Measure CUL-1, of any pre-contact and/or historic-era cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards</p>	During construction.	City of Hesperia.	

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
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 archaeologist, in coordination with YSMN, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site.			
<b>Mitigation Measure TCR-2:</b> Any and all archaeological/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 YSMN. The Lead Agency and/or applicant shall, in good faith, consult with YSMN throughout the life of the project.	During construction.	City of Hesperia.	
Main Street and Freeway Corridor Specific Plan Final Environmental Impact Report Mitigation included the following applicable mitigation measure: <b>Mitigation Measure 6</b> (from Main Street and Freeway Corridor Specific Plan): The landowner will relinquish ownership of all cultural resources, including sacred items, burial goods and all archaeological artifacts that are found on the project area to the appropriate Tribe for proper treatment and disposition.	During construction.	City of Hesperia.	

## Plans Programs and Policies

The following Plans Programs and Policies (PPPs) that are listed below would reduce impacts related to hydrology and water quality. These actions will be included in the project's mitigation monitoring and reporting program:

**TABLE 4-2: PLANS PROGRAMS AND POLICIES  
KISS LOGISTICS CENTER PROJECT EIR**

Regulatory Requirement /Project Design Feature/ Mitigation Measure	Timing	Responsible for Ensuring Compliance / Verification	Date Completed and Initials
<b>PPP WQ-1: NPDES/SWPPP.</b> Prior to issuance of any grading permits, the applicant shall provide the City Building and Safety Department evidence of compliance with the NPDES (National Pollutant Discharge Elimination System) requirement to obtain a construction permit from the State Water Resource	Prior to grading permit	City of Hesperia	

Control Board (SWRCB). The permit requirement applies to grading and construction sites of one acre or larger. The Project applicant/proponent shall comply by submitting a Notice of Intent (NOI) and by developing and implementing a Stormwater Pollution Prevention Plan (SWPPP) and a monitoring program and reporting plan for the construction site.			
<b>PPP WQ-2: WQMP.</b> Prior to the approval of the Grading Plan and issuance of Grading Permits a completed Water Quality Management Plan (WQMP) shall be submitted to and approved by the Public Works Department. The WQMP shall be submitted using the Mojave River Watershed Technical Guidance Document for Water Quality Management Plans and shall identify all Post-Construction, Site Design, Source Control, and Treatment Control Best Management Practices (BMPs) that will be incorporated into the development project in order to minimize the adverse effects on receiving waters.	Prior to construction permit	City of Hesperia	

**PROJECT DESIGN FEATURES**

The following design features would be implemented as part of the Project and would reduce Project GHG emissions:

**PDF-1** Renewable energy system/solar electricity generation and battery system – 90 kilowatt hours (kWh) generation and 38 kwh battery to allow for peak energy usage offset;

**PDF-2** Automatic Light Switches;

**PDF-3** Control receptacles (shut off after certain durations);

**PDF-4** The proposed building would be designed to Leadership in Energy and Environmental Design (LEED) certification standards;

**PDF-5** EV chargers would be installed per Title 24 requirements day one;

**PDF-6** Low volatile organic compound (VOC) coatings and paint (less than 10 grams per liter);

**PDF-7** Vistacool layer and Solarban layer on exterior glazing which reduces energy consumption due to solar heat gain.

**BEST PRACTICES**

The Project would implement voluntary best practices which would include the following:

- “Use the cleanest technologies available”...
- Operational fleets shall exclusively use zero-emission light and medium-duty delivery trucks and vans when feasible.

## **ORDINANCE NO. 2024-05**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA AMENDING THE OFFICIAL GENERAL PLAN AND ZONING MAP BY RECLASSIFYING CERTAIN REAL PROPERTY HEREIN DESCRIBED WITHIN THE MAIN STREET AND FREEWAY CORRIDOR SPECIFIC PLAN FROM NEIGHBORHOOD COMMERCIAL (NC) TO COMMERCIAL INDUSTRIAL BUSINESS PARK (CIBP) ON APPROXIMATELY NINE GROSS ACRES LOCATED WEST OF US HIGHWAY 395, APPROXIMATELY 600 FEET NORTH OF PHELAN ROAD (SPLA24-00002)**

**WHEREAS**, On January 5, 1998, the City Council of the City of Hesperia adopted Resolution No. 250, thereby adopting the Hesperia Municipal Code; and

**WHEREAS**, On September 2, 2008, the City Council of the City of Hesperia adopted Resolution No. 2008-12, thereby adopting the Main Street and Freeway Corridor Specific Plan; and

**WHEREAS**, Kiss Logistics Center (Applicant) has filed an application requesting approval of Specific Plan Amendment SPLA24-00002 described herein (hereinafter referred to as Application); and

**WHEREAS**, approximately 22.1 acres of the site is within the Commercial Industrial Business Park (CIBP) zone of the Specific Plan and approximately nine acres is within the Neighborhood Commercial (NC) zone of the Specific Plan; and

**WHEREAS**, the project is located west of US Highway 395, approximately 600 feet north of Phelan Road and consists of Assessor's Parcel Number 3064-401-03, 04, and 05; and

**WHEREAS**, the Application, as contemplated, proposes to change the zoning of approximately nine gross acres (APN 3064-401-05) within the Main Street and Freeway Corridor Specific Plan from Neighborhood Commercial (NC) to Commercial Industrial Business Park (CIBP); and

**WHEREAS**, the Applicant has also filed an application requesting approval of CUP22-00017, to construct an approximately 655,468 square foot warehouse building on approximately 31.1 gross acres of vacant land. In conjunction with CUP22-00017 a Specific Plan Amendment has also been filed to change approximately nine acres of the project site from Neighborhood Commercial NC) to Commercial Industrial Business Park (CIBP); and

**WHEREAS**, the subject site is vacant. Surrounding land uses primarily consist of vacant land; and

**WHEREAS**, the approximately nine acre parcel (APN 3064-401-05) is currently within the Neighborhood Commercial (NC) zone of the Specific Plan. The land to the north, east and west are within the Commercial Industrial Business Park (CIBP) zone of the Specific Plan. The land to the south is within the Neighborhood Commercial zone of the Specific Plan; and

**WHEREAS**, on April 16, 2024, the City Council adopted Resolution No. 2024-11, adopting the environmental findings pursuant to California Environmental Quality Act (CEQA), adopting a Statement of Overriding Considerations, certifying the Final Environmental Impact Report (SCH #2022110097), and adopting a Mitigation Monitoring and Reporting Plan; and

**WHEREAS**, on March 28, 2024, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

**WHEREAS**, on April 16, 2024, the City Council of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

**WHEREAS**, all legal prerequisites to the adoption of this Ordinance have occurred.

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY OF HESPERIA CITY COUNCIL AS FOLLOWS:

Section 1. The City Council hereby specifically finds that all the facts set forth in this Ordinance are true and correct.

Section 2. Based upon substantial evidence presented to the City Council during the above-referenced April 16, 2024, hearing, including public testimony and written and oral staff reports, the City Council specifically finds as follows:

- (a) Based on adoption of Resolution No. 2024-11, the Environmental Findings, Statement of Overriding Considerations, Mitigation Monitoring and Reporting have been adopted and the Final Environmental Impact Report (SCH # 2022110097) has been certified pursuant to the California Environmental Quality Act (CEQA) for this project.
- (b) The nine gross acres that are proposed to be changed from Neighborhood Commercial (NC) to Commercial Industrial business Park (CIBP) are suitable for the land uses allowed in the CIBP zoning classification, and adequate space exists which can meet the standards for setbacks, height, lot coverage, parking, and circulation within the proposed Specific Plan designation.
- (c) The proposed development will not have a substantial adverse effect on abutting properties, or the permitted use thereof because the proposed project is consistent with the City's General Plan and the Main Street and Freeway Corridor Specific Plan. In addition, each of the uses envisioned under the proposed project is permitted or conditionally permitted in the Commercial Industrial Business Park (CIBP) Zone of the Specific Plan. The project is within an area that is surrounded by properties that are also zoned CIBP and that contain truck-related uses. A Traffic Impact Analysis (TIA) was submitted as part of the land use application, which identifies improvements needed to mitigate the additional traffic from this project. Further, the developer shall participate in the City-wide industrial community facilities district (CFD) to pay for the ongoing maintenance of public infrastructure and services. The developer is also required to pay City Development Impact Fees.

- (d) The proposed project is consistent with the adopted General Plan of the City of Hesperia because an objective in the City's General Plan seeks to "...Promote industrial development within the City which will expand its tax base and provide a range of employment activities, while not adversely impacting the community or environment." The proposed project will expand employment opportunities for City residents and is estimated to provide 549 jobs.
- (e) Based upon substantial evidence presented to the City Council, including written and oral staff reports, the City Council specifically finds that the proposed Ordinance is consistent with the goals and objectives of the adopted General Plan. The subject parcel can utilize existing supporting infrastructure and municipal services, as directed by the City's adopted General Plan.

Section 3. Based on the findings and conclusions set forth in this Ordinance, the City Council hereby adopts Specific Plan Amendment SPLA24-00002, to change approximately nine gross acres of a 31.1 gross acre site within the Main Street and Freeway Corridor Specific Plan from Neighborhood Commercial (NC) to Commercial Industrial Business Park (CIBP) as shown on in Attachment 2 and 3 of the staff report.

Section 4. This Ordinance shall take effect thirty (30) days from the date of adoption.

Section 5. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution No. 2007-101.

**ADOPTED AND APPROVED** this 16<sup>th</sup> day of April 2024.

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Larry Bird, Mayor

ATTEST:

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Erin Baum, Assistant City Clerk

## **RESOLUTION NO. 2024-12**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT CUP22-00017 TO CONSTRUCT AN APPROXIMATELY 655,468 SQUARE FOOT INDUSTRIAL WAREHOUSE ON APPROXIMATELY 31.1 GROSS ACRES (CUP22-00017)**

**WHEREAS**, Kiss Logistics Center. (Applicant) has filed an application requesting approval of Conditional Use Permit CUP22-00017 and Specific Plan Amendment SPLA24-00002 described herein (hereinafter referred to as "Application"); and

**WHEREAS**, the applicant has also filed an application requesting approval of CUP22-00017, to construct an approximately 655,468 square foot warehouse building on approximately 31.1 gross acres of vacant land. In conjunction with CUP22-00017 a Specific Plan Amendment has also been filed to change approximately 9 acres of the project site from Neighborhood Commercial (NC) to Commercial Industrial Business Park (CIBP); and

**WHEREAS**, the proposed project consists of Assessor's Parcel Numbers 3064-401-03, 04, and 05; and

**WHEREAS**, the Application, as contemplated, proposes to construct an approximately 655,468 square foot warehouse building on approximately 31.1 gross acres of vacant land. The proposed use is consistent with the Specific Plan, upon approval of Specific Plan Amendment SPLA24-00002 to change approximately 9 acres of the site from Neighborhood Commercial (NC) to Commercial Industrial Business Park (CIBP). Furthermore, approval of a CUP is required to approve a distribution warehouse in excess of 200,000 square feet; and

**WHEREAS**, approximately 22.1 acres of the site is within the Commercial Industrial Business Park (CIBP) zone of the Specific Plan and approximately 9 acres is within the Neighborhood Commercial (NC) zone of the Specific Plan. Properties to the north, east and west are zoned Commercial Industrial Business Park (CIBP) in the Specific Plan and the properties to the south are zoned Neighborhood Commercial (NC) within the Specific Plan; and

**WHEREAS**, the site is currently vacant. Land uses to the north, south and west also consist of vacant land. Highway 395 is located immediately to the east of the site followed by vacant land. In 2022 entitlement applications were approved for three warehouse buildings totaling approximately 3,745,429 square feet immediately to the west of the site; and

**WHEREAS**, on April 16, 2024, the City Council adopted Resolution No. 2024-11, making the environmental findings pursuant to California Environmental Quality Act (CEQA), adopting a Statement of Overriding Considerations, certifying the Final Environmental Impact Report (SCH #2022110097), and approving a Mitigation Monitoring and Reporting Plan; and

**WHEREAS**, on April 16, 2024, the City Council adopted Ordinance No. 2024-05, approving Specific Plan Amendment SPLA24-00002 to change approximately 9 acres of the 31.1-acre site from Neighborhood Commercial (NC) to Commercial Industrial Business Park (CIBP); and

**WHEREAS**, on March 28, 2024, the Planning Commission of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

**WHEREAS**, on April 16, 2024, the City Council conducted a duly noticed public hearing pertaining to the proposed Application, and concluded said hearing on that date; and

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY OF HESPERIA CITY COUNCIL AS FOLLOWS:

Section 1. The City Council hereby specifically finds that all of the facts set forth in this Resolution are true and correct.

Section 2. Based upon substantial evidence presented to the City Council during the above-referenced April 16, 2024, hearing, including public testimony and written and oral staff reports, the City Council specifically finds as follows:

- (a) Based on adoption of Resolution No. 2024-11, the Environmental Findings, Statement of Overriding Considerations, Mitigation Monitoring and Reporting have been adopted and the Final Environmental Impact Report (SCH #2022110097) has been certified pursuant to the California Environmental Quality Act (CEQA) for this project.
- (b) The sites for the proposed uses are adequate in size and shape to accommodate the proposed uses. The proposed project consists of the development of a 655,468 square foot warehouse building on approximately 31.1 gross acres. On-site improvements required by the Development Code can be constructed on the properties including the 377 conventional parking spaces and 74 truck/trailer spaces. The site can accommodate 40-foot-wide drive aisles, landscaping, trash enclosures, building setbacks, and maximum floor area ratio. The development also meets all of the San Bernardino County Fire Department standards including fire lanes, two-points of access, fire truck turn-around, fire department connection / post indicator valve (FDC/PIV), and fire hydrant requirements. The project is also designed with on-site retention facilities to retain the additional stormwater created by the development in a 100-year storm event.
- (c) The proposed development will not have a substantial adverse effect on abutting properties, or the permitted use thereof because the proposed project is consistent with the City's General Plan and the Main Street and Freeway Corridor Specific Plan upon approval of Specific Plan Amendment SPLA24-00002 to change approximately 9 gross acres from Neighborhood Commercial (NC) to Commercial Industrial Business Park (CIBP). In addition, each of the uses envisioned under the proposed project is permitted or conditionally permitted in the Commercial Industrial Business Park (CIBP) Zone of the Specific Plan. The project is within an area that is zoned CIBP and contains truck-related uses. A Traffic Impact Analysis (TIA) was submitted as part of the land use application, which identifies

improvements needed to mitigate the additional traffic from this project. Further, the developer shall participate in the City-wide industrial community facilities district (CFD) to pay for the ongoing maintenance of public infrastructure and services. The developer is also required to pay City Development Impact Fees.

- (d) Upon approval of Specific Plan Amendment SPLA24-00002 to change approximately 9 gross acres from Neighborhood Commercial (NC) to Commercial Industrial Business Park (CIBP) the proposed project will be consistent with the goals, policies, standards and maps of the adopted Zoning, Development Code, Main Street and Freeway Corridor Specific Plan and all applicable codes and ordinances adopted by the City of Hesperia because each of the uses envisioned under the proposed project is permitted within the CIBP Zone. The development shall be constructed pursuant to the California Building and Fire Codes as well as adopted amendments. Further, the project shall comply with the conditions of approval for both off-site and on-site improvements. The conditions of approval shall be met based upon specific milestones. Some conditions shall be met prior to grading, some prior to building construction and prior to issuance of a Certificate of Occupancy.
- (e) The site will have adequate access. Primary access to the site will be provided from a new public roadway (Caliente Road) that will be constructed by the project. Caliente Road is planned as a 70-foot-wide Industrial Collector that will provide public two-way access with a turn pocket and will form the connection between Yucca Terrace Drive to the north and Phelan Road to the south. The intersection of Caliente Road and Phelan Road will be fully signalized. A secondary access will be provided at the intersection of Yucca Terrace Drive and Highway 395. This intersection will be fully signalized and will allow full turning movements and controlled access to and from Highway 395. Two 40-foot-wide driveway approaches will be provided off of Caliente Road to provide full access for trucks, passenger vehicles, and emergency vehicles into the site.
- (f) The proposed project is consistent with the adopted General Plan of the City of Hesperia because an objective in the City's General Plan seeks to "...Promote industrial development within the City which will expand its tax base and provide a range of employment activities, while not adversely impacting the community or environment." The proposed project will expand employment opportunities for City residents and is estimated to provide 549 jobs.

Section 3. Based on the findings and conclusions set forth in this Resolution, the City Council hereby approves Conditional Use Permit CUP22-00017 subject to the Conditions of Approval as set forth in ATTACHMENT "A."

Section 4. That the City Clerk shall certify to the adoption of this Resolution.

**ADOPTED AND APPROVED** this 16<sup>th</sup> day of April 2024.

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Larry Bird, Mayor

ATTEST:

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Erin Baum, Assistant City Clerk

**ATTACHMENT "A"**  
**List of Conditions for CUP22-00017**

Approval Date:

Effective Date: **DRAFT-PENDING APPROVAL**

Expiration Date:

This list of conditions applies to: Consideration of Conditional Use Permit CUP22-00017 to construct a 655,468 square foot warehouse distribution building on 31.1 gross acres within the Commercial Industrial Business Park (CIBP) and the Neighborhood Commercial (NC) zone of the Main Street and Freeway Corridor Specific Plan located west of Highway 395, approximately 600 feet north of Phelan Road, in conjunction with Specific Plan Amendment SPLA24-00001 to change the zone for parcel 3064-401-05 from NC to CIBP and the adoption of an Environmental Impact Report pursuant to the provisions of CEQA (Applicant: KISS Logistics Center; APNs: 3064-401-03, -04, & -05)

The use shall not be established until all conditions of this land use approval application have been met. This approved land use shall become null and void if all conditions have not been completed by the expiration date noted above. Extensions of time may be granted upon submittal of the required application and fee prior to the expiration date.

(Note: the "COMPLETED" and "COMPLIED BY" spaces are for internal City use only).

**CONDITIONS REQUIRED AS PART OF SUBMITTAL OF PUBLIC IMPROVEMENT PLANS**

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

CONSTRUCTION PLANS. Five complete sets of construction plans prepared and wet stamped by a California licensed Civil or Structural Engineer or Architect shall be submitted to the Building Division with the required application fees for review.  
(B)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

DRAINAGE STUDY. The Developer shall submit three (3) copies of a Final Drainage Study which analyzes the pre-project and proposed project hydrology, including flows from offsite, flows generated onsite, hydraulic properties of flows entering or exiting the project to and from natural or constructed conveyances, and capacity and function of any runoff management structures such as catch basins, inlets, outlets and detention or retention structures. The study must include all information specified in the City's hydrology study outline

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

DRYWELLS. The Project may be permitted to install drywells to ensure the required drawdown time will be achieved.

A. Drywells shall have a City-approved pretreatment component equivalent to a 2-phase system with debris shield and filter element.

B. Drywells shall be constructed by a contractor qualified in the construction of drywells.

C. Drywells in retention basins shall include a secured grate to prevent unauthorized removal.

D. The excavation for the drywell shall penetrate a minimum of 10 continuous feet into a suitable permeable layer or when a depth of 60 feet has been reached, unless otherwise approved by the City Engineer.

E. Drywells that cease to drain a basin or underground system within 48 hours of the end of a storm event shall be replaced or refurbished by the owner. This requirement shall be written in the CC&Rs for all subdivisions where drywells are installed.

F. Drywell usage shall comply with all prevailing City, State, and Federal requirements, including the Underground Injection Control Regulations for Class V Injection Wells.

G. A Drywell Maintenance Plan shall be submitted to the City for review and approval prior to the approval of a drywell installation at a project site.

H. The Drywell Maintenance Plan shall include the following:

1. Drywell(s) location, depth, type, installing contractor, date of installation, owner, maintenance contractor, and emergency contact.

2. Settling chambers and interceptors to be inspected annually;

3. Removal of sediment and debris when:

a. Sediment/debris level fills = 25% of the capacity;

b. Drywell ownership or maintenance responsibility changes;

c. Material not resulting from stormwater/urban runoff enters the settling chamber or interceptor

I. Submit inspection/maintenance reports to the City (Building and Safety within 10 days of inspection).(E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FINAL WQMP SUBMITTAL. Submit a final WQMP, prepared using the applicable Mojave River Watershed Group Regulated WQMP Template, which includes all required or proposed revisions, addresses any comments provided on the draft WQMP, provides final designs for best management practices (BMP's), and includes calculations for BMP sizing.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

OFFSITE DRAINAGE IMPACT PREVENTION. The Project shall provide safe conveyance for offsite runoff either routed through the project or around the project site. The Project shall ensure that the proposed conveyance of offsite flows will not increase adverse impacts to downstream properties and/or drainage facilities for the 1-hour design storm for the 100-year return frequency rainfall events.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

The Project shall be designed to prevent adverse impacts to downstream properties and/or drainage facilities caused or exacerbated by the project. The project shall demonstrate that runoff from the completed project site will not exceed 90% of the pre-project runoff discharge rates for the 24-hour design storm for the 100-year return frequency rainfall events.

A. Drawdown Time. All drainage facilities which are designed to percolate/infiltrate surface runoff (including basins, drywells, or infiltration-based low impact development features) shall not accumulate standing water for more than 48 hours. All drainage facilities designed to provide detention storage shall recover 100 percent of their design detention volume within 48 hours.

B. Groundwater Protection. The Project shall ensure any

retention/infiltration or detention facilities will not adversely impact groundwater.

C. Underground Retention/Detention Systems. The Project shall demonstrate a minimum functional life span of 50 years for materials (e.g., polymer, metal, mineral-based, or other) used in underground retention/detention systems.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

STORM WATER POLLUTION PREVENTION PLAN. The Project shall submit to the City for approval two (2) copies of a Storm Water Pollution Prevention Plan (SWPPP) as specified in the prevailing National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities issued by the California State Water Resources Control Board.

Prepare the SWPPP using or following the format of the most recent SWPPP Template in the Construction BMP Handbook prepared by the California Stormwater Quality Association (requires subscription); see:

<https://www.casqa.org/resources/bmp-handbooks>

NPDES: The Project shall enroll under the prevailing National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities issued by the California State Water Resources Control Board and pay applicable fees. The Project shall provide proof of such permit coverage including a copy of the Notice Of Intent Receipt Letter and the project WDID No. to the City.

Alternatively, projects from 1 to 5 acres with an approved Rainfall Erosivity Waiver authorized by U.S. EPA Phase II regulations certifying to the State Water Resources Control Board that construction activity will occur only when the Rainfall Erosivity Factor is less than 5 (R in the Revised Universal Soil Loss Equation), shall provide a copy of the projects Erosivity Waiver Certification and Waiver ID to the City.

NPDES-PERMIT TERMINATION: Upon completion of construction, the Project shall ensure that all disturbed areas are stabilized and all construction waste, equipment, and unnecessary temporary BMPs are removed from the site. In addition, the Project shall file a Notice of Termination (NOT) with the Lahontan Regional Water Board as required by the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

IRREVOCABLE OFFERS OF DEDICATION. The Developer shall submit an Offer of Dedication to the City's Engineering Department for review and approval. At time of submittal the developer shall complete the City's application for document review and pay all applicable fees. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

UTILITY NON INTERFERE/QUITCLAIM DOCS. The Developer shall provide non interference and or quitclaim letter(s) from any applicable utility agencies for any utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. The

improvement plans will not be accepted without the required documents and approval from the affected agencies. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

GEOTECHNICAL REPORT. The Developer shall provide two copies of the soils report to substantiate all grading building and public improvement plans. Include R value testing and pavement recommendations for public streets. (E B)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

PLAN CHECK FEES. Plan checking fees must be paid in conjunction with the improvement plan submittal. All required plans, maps, requested studies, CFD annexations, etc. must be submitted as a package. The Developer shall coordinate with the City's Engineering Analyst, Dena Alcaayaga at (760) 947-1438 or dlalcayaga@cityofhesperia.us, to obtain the fee calculation form which shall be completed and submitted, along with fee payment, at time of plan submittal. Any outstanding fees must be paid before final inspection and the release of bonds.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

TITLE REPORT. The Developer shall provide a complete title report 90-days or newer from the date of submittal. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

EXPIRATION OF ENTITLEMENT. Unless the applicant has obtained a grading permit and/or building permit and commenced construction, this approval shall expire three (3) years from the date of action of the reviewing authority. Where no grading or building permit is required, the allowed use on the site shall have commenced prior to the expiration date in compliance with the approval and any applicable conditions of approval. An extension of time may be granted pursuant to Municipal Code Section 16.12.060 if the applicant files an application and written request for an extension prior to the expiration of the permit.(P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

INDEMNIFICATION(1). To the furthest extent allowed by law, Applicant shall indemnify, hold harmless and defend City and each of its officers, officials, employees, consultants, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, damages and costs (including attorney's fees, litigation expenses and administrative record preparation costs) arising from, resulting from, or in connection with any Third-Party Action (as hereinafter defined). The term "Third Party Action" collectively means any legal action or other proceeding instituted by (i) a third party or parties, or (ii) a governmental body, agency or official other than the City, that: (a) challenges or contests any or all of these Conditions of Approval or any approval associated with entitlements associated with the project to which these conditions of approval apply (collectively "Approvals"); or (b) claims or alleges a violation of CEQA or another law in connection with the Approvals by the City, or the grant, issuance or approval by the City of any or all Approvals. Applicant's obligations under this paragraph shall apply regardless of whether City or any of its officers, officials, employees, consultants, agents or volunteers are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties forfeitures, costs or damages caused solely by the active negligence or willful

misconduct of the City or any of its officers, officials, employees, agents or volunteers. The provisions of this section shall survive any termination, revocation, overturn, or expiration of an approval. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

INDEMNIFICATION(2). Nothing in this condition shall obligate the City to defend any claim and the City shall not be required to pay or perform any settlement arising from any such claim unless the City approves the settlement in writing. Additionally, the City shall not be prohibited from independently defending any claim, and whether or not the City does decide to independently defend a claim, the applicant shall be responsible for City's attorneys' fees, expenses of litigation, and costs for that independent defense, including the costs of preparing any required administrative record. Unless the City independently chooses to defend any Third Party Action on its behalf, Applicant shall control the conduct of the defense of any claim or action provided that: (1) the City shall have the right, prior to filing, to review and approve any and all pleadings or related documents filed with the court in connection with such defense and Applicant shall reimburse the City for review time for each draft brief or pleading to be filed on behalf of the City; and (2) the City shall review and reasonably approve any proposed settlement. The Applicant acknowledges that the City is not obligated to approve a proposed settlement requiring the City to pay or incur any monetary amount, take a future legislative action, render a future quasi judicial decision, or otherwise take a future discretionary government action. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

INDEMNIFICATION(3). The City may, at any time, require the applicant to reimburse the City for costs that have been, or which the City reasonably anticipates will be, incurred by the City during the course of processing or defending any Third-Party Actions. The City shall provide Applicant with an invoice detailing all reasonable costs incurred. Applicant shall tender to the City payment in full of all reasonable and necessary costs within thirty (30) days from the date upon the invoice. Applicant further acknowledges and agrees that failure to timely tender payment in full to the City shall be considered a breach and non compliance with the conditions of approval for the project. Applicant shall also be required, upon request of the City, to deposit two month's estimated costs anticipated by the City to be incurred, which may be used by the City as a draw down account to maintain a positive balance pending tender of payment by Applicant as noted herein . (P)

#### **CONDITIONS REQUIRED PRIOR TO GROUND DISTURBING ACTIVITY**

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

PRE-CONSTRUCTION MEETING. Pre-construction meetings shall be held between the City the Developer grading contractors and special inspectors to discuss permit requirements monitoring and other applicable environmental mitigation measures required prior to ground disturbance and prior to development of improvements within the public right-of-way. (B)

<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	SURVEY. The Developer shall provide a legal survey of the property. All property corners shall be staked and the property address posted. (B)
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	CFD ANNEXATION. The applicant shall annex the property into Community Facilities District CFD 94-01. (F)
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	PRE-CONSTRUCTION SURVEY. A pre-construction survey for the burrowing owl shall be conducted by a City approved and licensed biologist, no more than 30 days prior to ground disturbance. (P)
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	PROTECTED PLANTS. Three copies of a protected plant plan shall be submitted to the Building Division showing the present location and proposed treatment of all smoke tree, species in the Agavacea family, mesquite, large creosote bushes, Joshua Trees, and other plants protected by the State Desert Native Plant Act. The grading plan shall be consistent with the approved protected plant plan. No clearing or grading shall commence until the protected plant plan is approved and the site is inspected and approved for clearing. (P)
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	CFD ANNEXATION. The applicant shall annex into the site into the Community Facilities District CFD-2022-1 (Non Residential Maintenance and Services).(P)
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	<p>PERCOLATION TEST. The applicant shall provide percolation test data which are adequate to substantiate the hydrologic performance of all proposed basins, underground retention systems, drywells, or other features requiring percolation of surface water:</p> <ul style="list-style-type: none"> <li>A. Projects shall provide site-specific percolation test data to substantiate the performance and effective drawdown time of all proposed surface retention basins.</li> <li>B. Projects shall provide site-specific, depth-appropriate percolation test data for the proposed subsurface infiltration/retention system; and/or for any proposed drywells.</li> <li>C. Percolations tests shall be performed in accordance with the procedures in Appendix A of the Riverside County Design Handbook for Low Impact Development Best Management Practices; available online at:</li> </ul> <p><a href="http://www.floodcontrol.co.riverside.ca.us/NPDES/LIDBMP.aspx">http://www.floodcontrol.co.riverside.ca.us/NPDES/LIDBMP.aspx</a></p>
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	SWPPP IMPLEMENTATION. All of the requirements of the City-approved Storm Water Pollution Prevention Plan shall be implemented prior to the City's issuance of a grading permit, and shall be maintained until construction is complete and all disturbed areas are fully stabilized. (E)
<b><u>COMPLETED</u></b> NOT IN COMPLIANCE	<b><u>COMPLIED BY</u></b>	APPROVAL OF IMPROVEMENT PLANS. All required improvement plans shall be prepared by a registered Civil Engineer per City standards and per the City's improvement plan checklist to the satisfaction of the City Engineer. Five sets

of improvement plans shall be submitted to the Development Services Department and Engineering Department for plan review with the required plan checking fees. All Public Works plans shall be submitted as a complete set. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

DEDICATION(S). The Developer shall grant to the City an Irrevocable Offer of Dedication for Caliente Road, Yucca Terrace Street and Highway 395. The right of way full width for Caliente Road and Yucca Street shall be seventy (70') feet. The right of way half width for Highway 395 shall be sixty-five (65') feet. It is the Developer's responsibility to obtain any additional right of way dedication needed to satisfy the 26' minimum paving requirement at no cost to the City. Corner cut off right of way dedication per City standards is required at all intersections, including interior roadways. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

TRAFFIC SIGNAL(S). The Developer shall design to construct traffic signal at the intersection of Phelan Road and the new proposed Industrial Collector (Caliente Road) and at the intersection of Highway 395 and Yucca Terrace Drive. As part of traffic signal improvements at the intersection of Highway 395 and Yucca Terrace Drive additional right of way may be required to satisfy dedicated turning movements and transition tapers to the satisfaction of City Engineer and Caltrans. Traffic signal preemption device for emergency vehicle operation shall be included. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

UTILITY NON INTERFERENCE/QUITCLAIM. The Developer shall provide non interference and or quitclaim letter(s) from any applicable utility agencies for any utility easements that affect the proposed project. All documents shall be subject to review and approval by the Engineering Department and the affected utility agencies. Grading permits will not be issued until the required documents are reviewed and approved by all applicable agencies. Any fees associated with the required documents are the Developers responsibility. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

PROPOSED INDUSTRIAL / COLLECTOR (CALIENTE ROAD): Developer shall design to construct an Industrial / Collector roadway as shown on the approved site plan per City standards. These improvements shall consist of (E)

- A. 8 Curb and Gutter per City standards.
- B. Sidewalk (width = 6 feet) per City standards.
- C. Roadway drainage device(s).
- D. Streetlights per City standards.
- E. Commercial drive approach per City standards.
- F. Pavement transitions per City Standards.
- G. Design roadway sections per existing approved street sections and per R value testing with a traffic index of 10 and per the soils report.
- H. Cross sections every 50-feet per City standards.
- I. Traffic control signs and devices as required by the traffic study and or the City Engineer.
- J. Provide a signage and striping plan per City standards.
- K. It is the Developers responsibility to obtain any off-site dedications for transition tapers including acceleration

deceleration tapers and to satisfy the 26' minimum paving requirement per City standards.

L. Relocate existing utilities. The Developer shall coordinate with affected utility companies.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

GRADING PLAN. The Developer shall submit a Grading Plan with existing contours tied to an acceptable City of Hesperia benchmark. The grading plan shall indicate building footprints and proposed development of the retention basin(s) as a minimum. Site grading and building pad preparation shall include recommendations provided per the Preliminary Soils Investigation. All proposed walls shall be indicated on the grading plans showing top of wall (tw) and top of footing (tf) elevations along with finish grade (fg) elevations. Wall height from finish grade (fg) to top of wall (tw) shall not exceed 6.0 feet in height. Grading Plans are subject to a full review by the City of Hesperia and the City Engineer upon submittal of the Improvement Plans. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

OFF-SITE GRADING LETTER(S). It is the Developers responsibility to obtain signed Off-Site Grading Letters from any adjacent property owner(s) who are affected by any Off-Site Grading that is needed to make site work. The Off-Site Grading letter(s) along with the latest grant deed(s) must be submitted and appropriate fees paid to the City's Engineering Department for plan check approval. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

STREET IMPROVEMENTS. The Developer shall design street improvements in accordance with City standards and these conditions. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

PROPOSED INDUSTRIAL / COLLECTOR (CALIENTE ROAD AND YUCCA TERRACE) OFF-SITE: Developer shall design to construct 26' min. paving on proposed Caliente Road from south project boundary to Phelan Road and from the northerly project boundary to Yucca Terrace Drive and from Yucca Terrace Drive to Highway 395. Tie-in to Highway 395 will need to be reviewed and approved by CalTrans and a CalTrans encroachment permit will be required. These improvements shall consist of:

A. Pavement transitions per City Standards.

B. Design roadway sections per approved street sections and per "R" value testing presented in the project soil report with a traffic index of 10.

C. Traffic control signs and devices as required by the City Engineer.

D. Provide a signage and striping plan per City and CalTrans standards.

E. It is the Developers responsibility to obtain any off-site dedications for transition tapers including acceleration deceleration tapers and to satisfy the 26' minimum paving requirement per City standards.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

UTILITY PLAN. The Developer shall design a Utility Plan for service connections and / or private hydrant and sewer connections. Any existing water, sewer, or storm drain infrastructures that are affected by the proposed development

shall be removed / replaced or relocated and shall be constructed per City standards at the Developers expense. (E)

A. A remote read automatic meter reader shall be added on all meter connections as approved by the City Engineer.

B. The Developer shall design a Utility Plan for service connections and / or private water and sewer connections. Domestic and fire connections shall be made from the proposed 16" PVC water line per City Standards.

C. It is the Developers responsibility to connect to sewer and pay the appropriate fees. The Developer will be required to connect to the proposed sewer main per City standards.

D. Complete V.V.W.R.A.s Wastewater Questionnaire for Commercial / Industrial Establishments and submit to the Engineering Department. Complete the Certification Statement for Photographic and X ray Processing Facilities as required.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

WATER/SEWER IMPR. PLAN. The Developer shall design water and sewer improvements in accordance with City standards, and as indicated below. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

SEWER IMPROVEMENT PLAN: The Developer shall design to construct a sewer system that includes a force main, lift station, and gravity sewer. Alignment to be approved by the City Engineer. Design shall consist of plan and profile per City standards. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

WATER IMPR. PLAN. The Developer shall design to construct a 16" PVC water main extension. Alignment to be approved by City Engineer. Design shall consist of plan and profile per City standards. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

HIGHWAY 395. Saw-cut (2-foot min.) and match-up asphalt pavement on Highway 395 across the project frontage, based on City's 130-foot Special Street Section for U.S. Highway 395. The curb face is to be located at 53' from the approved centerline unless otherwise noted in approved Traffic Analysis. The design shall be based upon an acceptable centerline profile extending a minimum of three hundred (300) feet beyond the project boundaries where applicable and the design shall be submitted to Caltrans for review and approval, as well as the City of Hesperia, before the City will approve street plan. These improvements shall consist of:

A. 8" Curb and Gutter per City standards.

B. Curb adjacent sidewalk (width = 6 feet) per City standards.

C. Roadway drainage device(s) and relocation of existing storm drain structures.

D. Streetlights per City standards.

E. Intersection improvements including handicapped ramps per City standards.

F. Commercial driveway approaches per City standards.

G. Pavement transitions per City Standards.

H. Design roadway sections per existing, approved street sections and per "R" value testing with a traffic index to be determined by Caltrans.

I. Cross sections every 50-feet per City standards.

J. Traffic control signs and devices as required by the traffic

study and / or the City Engineer.

K. Provide a signage and striping plan per City standards.

L. It is the Developer's responsibility to obtain any off-site dedications for transition tapers including acceleration / deceleration tapers per City standards.

M. Relocate existing utilities as required. The Developer shall coordinate with affected utility companies.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

LOT MERGER. A lot merger shall be submitted, approved, and recorded. The lot merger and the required application and fees shall be submitted to the Planning Division prior to review and approval by the City for recordation. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

CULTURAL RESOURCES. If cultural resources are found during grading then grading activities shall cease and the applicant shall contract with a City approved archaeologist or paleontologist to monitor grading prior to resuming grading. All cultural resources discovered shall be handled in accordance with state and federal law. A report of all resources discovered as well as the actions taken shall be provided to the City prior to issuance of a Certificate of Occupancy. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FISH AND GAME FEE. Within five days from approval of the entitlement, the applicant shall file a Notice of Determination with the San Bernardino County Clerk of the Board and pay the filing fee of \$4,101.25 payable to the Clerk of the Board of Supervisors of San Bernardino County. A copy of the stamped NOD from the County shall be provided to the Planning Division when completed. Additionally, an electronic copy of the stamped NOD shall be filed with the Governor's Office of Planning and Research and posted on the CEQAnet Web Portal. (P)

#### **CONDITIONS REQUIRED PRIOR TO BUILDING PERMIT ISSUANCE**

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

AQMD APPROVAL. The Developer shall provide evidence of acceptance by the Mojave Desert Air Quality Management District. (B)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

CONSTRUCTION WASTE. The developer or builder shall contract with the City's franchised solid waste hauler to provide bins and haul waste from the proposed development. At any time during construction, should services be discontinued, the franchise will notify the City and all building permits will be suspended until service is reestablished. The construction site shall be maintained and all trash and debris contained in a method consistent with the requirements specified in Hesperia Municipal Code Chapter 15.12. All construction debris, including green waste, shall be recycled at Advance Disposal and receipts for solid waste disposal shall be provided prior to final approval of any permit. (B)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

DEVELOPMENT FEES. The Developer shall pay required development fees as follows:

A. School Fees (B)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

ROOFTOP EQUIPMENT. All rooftop equipment shall be screened from view from the right-of-way and architecturally integrated into the design of the building. All roof-mounted mechanical equipment proposed on the roof shall be shown on a cross-section of the building, as well as a line of site study, evidencing that the equipment will be screened from view and will not be visible from the right-of-way. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

LANDSCAPE PLANS. The Developer shall submit three sets of landscape and irrigation plans including water budget calculations, required application fees, and completed landscape packet to the Building Division. Plans shall utilize xeriscape landscaping techniques in conformance with the Landscaping Ordinance. The number, size, type and configuration of plants approved by the City shall be maintained in accordance with the Development Code. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

SOLID MASONRY WALLS AND FENCES. The Developer shall submit four sets of masonry wall/wrought iron fencing plans to the Building Division with the required application fees for all proposed walls. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

FENCING PLANS. A combination four-foot high wrought iron fence and two- foot high split-face masonry wall shall be constructed on private property along the boundary of the retention basin in accordance with City standards. In addition, the 8-foot heigh concrete screenwalls across the east and west sides of the property shall incorporate the use of pilasters spaced at 50-foot intervals and include a minimum 2-foot change in horizontal plane for at least 10-feet. Two complete sets of engineered construction plans for the required fencing shall be submitted to the Building and Safety counter. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

TRASH ENCLOSURE. All trash enclosures shall be in conformance with Municipal Code Section 16.16.360 and City approved construction details. The enclosure shall be enclosed on three sides by a minimum six-foot tall decorative masonry wall with split face block on the viewable side and a decorative cap. The masonry wall shall be earth tone in color; solid grey block is not allowed. The enclosure shall have non-transparent metal gates and a solid roof-cover that is architecturally compatible with the primary building onsite and that serves to protect the refuse area from inclement weather, as well as prevents unauthorized entry into the enclosure. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

OFFICE AREAS: As shown on the approved site plan, the office area shall not exceed 16,000 square feet. The office areas can be distributed among the four corners of the building, however regardless of how the office spaces are distributed, a maximum of 16,000 square feet of office area may be allowed. Approval of a revised site plan shall be required if the office area exceeds 16,000 square feet to ensure that sufficient parking is available. (P)

#### **CONDITIONS REQUIRED PRIOR TO CERTIFICATE OF OCCUPANCY**

**COMPLETED**

**COMPLIED BY**

DEVELOPMENT FEES. The Developer shall pay required

NOT IN COMPLIANCE

development fees as follows:

- A. Development Impact Fees (B)
- B. Utility Fees (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

UTILITY CLEARANCE AND C OF O. The Building Division will provide utility clearances on individual buildings after required permits and inspections and after the issuance of a Certificate of Occupancy on each building. Utility meters shall be permanently labeled. Uses in existing buildings currently served by utilities shall require issuance of a Certificate of Occupancy prior to establishment of the use. (B)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

EXECUTED AND RECORDED WQMP MAINTENANCE AGREEMENT. The WQMP Maintenance Agreement: Covenant and Agreement Regarding Water Quality Management Plan and Stormwater Best Management Practices Transfer, Access, and Maintenance, must be (1) prepared using the WQMP Maintenance Agreement Template provided as Attachment A to the City of Hesperia WQMP Templates, and (2) the complete WQMP Maintenance Agreement, with the Property Owners notarized signature(s) and suitable for recordation by the City, must be received before the City will authorize the final inspection or issue a Certificate of Occupancy.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

WQMP PERMIT. The Property Owner shall apply for a City WQMP Permit with the Building and Safety Department and pay the applicable permit fees. The WQMP Permit shall be renewed annually. To comply with the WQMP Permit, the Property Owner shall certify on an annual basis that all of the post-construction best management practices (BMPs) described in the approved project WQMP have been inspected and maintained as specified and required by the BMP Inspection and Maintenance Form and Operation and Maintenance Plan. The Property Owner shall provide proof of the WQMP Permit before the City will issue a Certificate of Occupancy.

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

AS BUILT PLANS. The Developer shall provide as built plans. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

PUBLIC IMPROVEMENTS. All public improvements shall be completed by the Developer and approved by the Engineering Department. Existing public improvements determined to be unsuitable by the City Engineer shall be removed and replaced. (E)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

LANDSCAPE/IRRIGATION. The Developer shall install the landscaping and irrigation as required by the Planning Division. (P)

**COMPLETED**  
NOT IN COMPLIANCE

**COMPLIED BY**

ON SITE IMPROVEMENTS. All on site improvements as recorded in these conditions, and as shown on the approved site plan shall be completed in accordance with all applicable Title 16 requirements. The building shall be designed consistent with the design shown upon the approved materials

board and color exterior building elevations identified as Exhibit A. Any exceptions shall be approved by the Director of Development Services. (P)

**Others**

**COMPLETED**

**COMPLIED BY**

NOT IN COMPLIANCE

MITIGATION MEASURES: All applicable mitigation measures identified in the Final EIR shall be met prior to the required milestones identified in the MMRP. (P)

**NOTICE TO DEVELOPER: IF YOU NEED ADDITIONAL INFORMATION OR ASSISTANCE REGARDING THESE CONDITIONS, PLEASE CONTACT THE APPROPRIATE DIVISION LISTED BELOW:**

(B) Building Division	947-1300
(E) Engineering Division	947-1476
(F) Fire Prevention Division	947-1603
(P) Planning Division	947-1200
(RPD) Hesperia Recreation and Park District	244-5488

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# City of Hesperia

## STAFF REPORT



**DATE:** April 16, 2024

**TO:** Mayor and Council Members  
Chair and Board Members, Hesperia Water District  
Chair and Board Members, Hesperia Housing Authority  
Chair and Board Members, Hesperia Community Development Commission

**FROM:** Rachel Molina, City Manager

**BY:** Melinda Sayre, Deputy City Manager/City Clerk  
Jacquelyn Castillo, Management Analyst

**SUBJECT:** AB1684 Impact on Commercial Cannabis Enforcement

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### RECOMMENDED ACTION

It is recommended that the City Council introduce and place on first reading Ordinance No. 2024-04 amending Title 1 – General Enforcement Procedures, Title 8 – Public Nuisances, and Title 16 – Land Uses, of the Hesperia Municipal Code related to illegal commercial cannabis activities.

Adopt Resolution No. 2024-09 amending the City-Wide bail schedule related to administrative enforcement of cannabis activities.

### BACKGROUND

In October 2023, California Governor Newsom signed Assembly Bill 1684. The bill enacts the following:

- Expands authorization for ordinances providing for immediate imposition of administrative fines or penalties to include all illegal commercial cannabis activity (including cultivation, manufacturing, processing, distribution, or retail sale of cannabis).
- Authorizes ordinances to declare illegal commercial cannabis activity a public nuisance.
- Prohibits ordinances from imposing immediate administrative fines or penalties exceeding \$1,000 per violation and \$10,000 per day.
- Authorizes ordinances to impose administrative fines or penalties on property owners and each owner of occupant business entities engaging in illegal commercial cannabis activity, and to hold them jointly and severally liable.
- Authorizes local agencies adopting ordinances authorized by this law to refer a case involving illegal commercial cannabis activity to the Attorney General.

### ISSUES/ANALYSIS

California Government Code, Section 53069.4 is now amended to limit fines to **\$1,000 per violation** and \$10,000 per day. Hesperia currently imposes a **\$15,000 per violation fine** (for illegal commercial cannabis) which will no longer comply with the state's law. Staff is recommending an amendment to the City's bail schedule to comply with the state law.

There is also new language that appears to limit who can be cited. Currently, the City can cite any person that fits the City's definition for "responsible person" which is a broad definition. This means that the City will cite anyone located on the property that appears to be allowing the cultivation (e.g., gardener, roommates, etc.). Staff recommends amending the City's enforcement laws to declare all illegal commercial cannabis activity a public nuisance, and to more specifically define "responsible person" as the property owner and each owner of the occupant business entity engaging in illegal commercial cannabis activity.

## **FISCAL IMPACT**

Adoption of this resolution will allow the City to continue to collect fees that adequately recover costs based on services provided and align with State requirements.

## **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

## **ATTACHMENT(S)**

## **ATTACHMENT(S)**

1. Ordinance No. 2024-04
2. Exhibit "A" Title 1 - Chapter 1.04, Section 1.04.050 – Definitions
3. Exhibit "B" Title 8 – Chapter 8.32 Public Nuisances
4. Exhibit "C" Title 16 – Article XIV – Cannabis Related Uses and Prohibited Activities
5. Resolution No. 2024-09
6. Bail Schedule with Exhibit "A" attached

**ORDINANCE NO. 2024-04**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, AMENDING TITLE 1 – GENERAL ENFORCEMENT PROCEDURES, TITLE 8 – PUBLIC NUISANCES, AND TITLE 16 – LAND USES OF THE HESPERIA MUNICIPAL CODE, RELATED TO ILLEGAL COMMERCIAL CANNABIS ACTIVITIES**

**WHEREAS**, in October 2023, California Governor Newsom signed Assembly Bill 1684 “AB 1684”; and

**WHEREAS**, AB 1684 expands authorization for ordinances providing for immediate imposition of administrative fines or penalties to include all unlicensed commercial cannabis activity (including cultivation, manufacturing, processing, distribution, or retail sale of cannabis); and

**WHEREAS**, AB 1684 authorizes ordinances to declare illegal commercial cannabis activity a public nuisance; and

**WHEREAS**, AB 1684 authorizes ordinances to impose administrative fines or penalties on the property owner and each owner of occupant business entity engaging in unlicensed commercial cannabis activity; and

**WHEREAS**, AB 1684 authorizes the City to refer a case involving unlicensed commercial cannabis activity to the Attorney General; and

**WHEREAS**, Title 1 of the Hesperia Municipal Code contains regulations related to enforcement procedures; and

**WHEREAS**, Title 8 of the Hesperia Municipal Code contains regulations related to public nuisances; and

**WHEREAS**, Title 16 of the Hesperia Municipal Code contains regulations related to the prohibition of illegal commercial cannabis activities; and

**WHEREAS**, modifications to these sections of the Hesperia Municipal Code are necessary to declare all illegal commercial cannabis activity a public nuisance, and to more specifically define “responsible person” in relation to illegal commercial cannabis activity in order to align with Assembly Bill 1684; and

**WHEREAS**, all legal prerequisites to the adoption of this Ordinance have occurred.

**NOW THEREFORE, THE HESPERIA CITY COUNCIL DOES ORDAIN AS FOLLOWS:**

Section 1. All of the facts set forth in the forgoing recitals are true, correct and are adopted as findings.

Section 2. Title 1, Chapter 1.04 of the Hesperia Municipal Code is hereby amended as set forth in Exhibit “A”, attached hereto.

Section 3. Title 8, Chapter 8.32 of the Hesperia Municipal Code is hereby amended as set forth in Exhibit “B”, attached hereto.

Section 4. Title 16, Article XIV of the Hesperia Municipal Code is hereby amended as set forth in Exhibit "C", attached hereto.

Section 5. This Ordinance shall take effect on May 16<sup>th</sup>, 2024.

Section 6. The City Council of the City of Hesperia hereby declares that should any provision, section, paragraph, sentence, or word of this Ordinance hereby adopted be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by any reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words shall remain in full force and effect.

Section 7. The City Clerk shall certify to the adoption of the Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution 93-78.

**ADOPTED AND APPROVED** this 16<sup>th</sup> day of April, 2024

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Larry Bird, Mayor

ATTEST

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Erin Baum  
Assistant City Clerk

Exhibit A: Title 1 - Chapter 1.04, Section 1.04.050 - Definitions

**1.04.050 - Definitions.**

"Responsible person" means the person, who a city official believes, is causing, performing, permitting to exist or otherwise maintaining, a public nuisance and includes the owner of the real property involved and tenant, occupant or user thereof, or any other person in real or apparent charge or control of said real property.

"Responsible person is it relates to commercial cannabis activity" – means the property owner and each owner of the occupant business entity engaging in unlicensed commercial cannabis activity.

## Exhibit B: Title 8 - Chapter 8.32 Public Nuisances

**8.32.100 – Illegal Commercial Cannabis Activities**

All illegal commercial cannabis activities (including cultivation, manufacturing, processing, distribution, or retail sale of cannabis) conducted in violation of Article XIV of Chapter 16.16 as provided in Title 16, shall be declared a public nuisance and the City may commence an action or actions or proceedings, for the abatement, removal, and enjoinder thereof, in any manner provided by the law. An enforcement officer may issue an administrative citation and fine to the responsible person(s) for said violation(s) as provided in Title 1 of the Hesperia Municipal Code and in accordance with Government Code Section 53069.4(a)(2)(C). The City is authorized to refer a case involving illegal commercial cannabis activity to the Attorney General.

Exhibit C: Title 16 – Article XIV – Cannabis Related Uses and Prohibited Activities

**16.16.445 - Definitions.**

**“Responsible Person”** – means the property owner and each owner of the occupant business entity engaging in illegal commercial cannabis activity.

**16.16.440 - Purpose and Intent**

C. All illegal commercial cannabis activities (including cultivation, manufacturing, processing, distribution, or retail sale of cannabis) shall be declared a public nuisance.

D. Any violation of this section is declared to be a public nuisance and the City may commence an action or actions or proceedings, for the abatement, removal, and enjoinder thereof, in any manner provided by the law.

E. An enforcement officer may issue an administrative citation and fine to the responsible person(s) for said violation(s) as provided in Title 1 of the Hesperia Municipal Code and in accordance with Government Code Section 53069.4(a)(2)(C).

F. The City is authorized to refer a case involving illegal commercial cannabis activity to the Attorney General.

## **RESOLUTION NO. 2024-09**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, ADOPTING RESOLUTION NO. 2024-09, AMENDING THE CITY-WIDE ADMINISTRATIVE BAIL SCHEDULE**

**WHEREAS**, the administrative bail schedule was originally adopted via Resolution No. 2002-42; and

**WHEREAS**, the City of Hesperia is responsible for enforcement of the Hesperia Municipal Code in its entirety; and

**WHEREAS**, on April 16, 2024, the City Council heard and took action on Ordinance No. 2024-04, which amends Title 1, Title 8, and Title 16 of the Hesperia Municipal Code related to commercial cannabis enforcement; and

**WHEREAS**, Assembly Bill No. 1684 ("AB 1684") was signed by Governor Newsom in October 2023 and approved an act to amend Section 53069.4 of the Government Code that expands authorization for immediate imposition of administrative fines or penalties for all unlicensed commercial cannabis activity, including cultivation, manufacturing, processing, distribution, or retail sale of cannabis; and

**WHEREAS**, unlicensed commercial cannabis activity is declared a public nuisance in Ordinance No. 2024-04; and

**WHEREAS**, AB 1684 prohibits administrative fines or penalties exceeding \$1,000 per violation and \$10,000 per day; and

**WHEREAS**, the Council wishes to amend the City-Wide Administrative Bail Schedule to comply with the new state law; and

**NOW THEREFORE**, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HESPERIA, AS FOLLOWS:

- Section 1. In all respects, the facts as set forth in this resolution are true and correct.
- Section 2. The fines for violations set forth in Exhibit "A" are hereby adopted and shall be applied to the specified services. The effective date of this resolution shall be June 16, 2024.
- Section 3. Interpretation of this resolution may be made by the City Manager or designee. When there are conflicts between fees, the lower fee shall be applied.
- Section 4. If any section, sub-section, sentence, clause, or word in the resolution is held to be invalid by decision of any court of competent jurisdiction or action of State legislation, such decision or legislation shall not affect the validity of the remaining portions of this resolution.

Section 5. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

**ADOPTED AND APPROVED** this 16<sup>th</sup> day of April, 2024

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Larry Bird, Mayor

ATTEST:

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Erin Baum  
Assistant City Clerk

### Exhibit A – City-Wide Bail Schedule

SECTION	DESCRIPTION	1st	2nd	3rd
16.16.450	Prohibition of Non-Medical Commercial Cannabis Activities	\$1,000.00	\$1,000.00	\$1,000.00
16.16.455A	Outdoor Cultivation prohibited	\$1,000.00	\$1,000.00	\$1,000.00
16.16.455B	Living Plants within private residence	\$1,000.00	\$1,000.00	\$1,000.00
16.16.455C	Enclosed Locked Structure Required	\$1,000.00	\$1,000.00	\$1,000.00
16.16.455E	Registration Req. – Personal Cannabis Cultivation	\$1,000.00	\$1,000.00	\$1,000.00
16.16.455F	Owner Permission Required	\$1,000.00	\$1,000.00	\$1,000.00
16.16.460	Prohibition of Medical Commercial Cannabis Activities	\$1,000.00	\$1,000.00	\$1,000.00

# City of Hesperia STAFF REPORT



**Green Sheet Item # 10 information updated after posting the agenda.**

**DATE:** April 16, 2024  
**TO:** Mayor and Council Members  
**FROM:** Rachel Molina, City Manager  
**BY:** Pam K. Lee, City Attorney  
**SUBJECT:** Amendment to Title 16 [Development Code], Chapter 20 [General Regulations], Article V [General Performance Standards] by adding a new Section 16.20.161 related to completion and maintenance of public improvements prior to issuance of building permits and certificates of occupancy

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## RECOMMENDED ACTION

It is recommended that the City Council introduce and place on first reading Ordinance No. 2024-06 adding a new Section 16.20.161 to Title 16 [Development Code], Chapter 20 [General Regulations], Article V [General Performance Standards] of the Hesperia Municipal Code regarding the completion and maintenance of public improvements prior to issuance of a building permit and certificate of occupancy.

## BACKGROUND

The City's Development Code, as described in Title 16 of the Hesperia Municipal Code, provides for development standards and regulations for all types of development in the City. Typically, when a developer develops a property or constructs a project, they are required to comply with the City's development standards and regulations. Oftentimes, the developer will be required to construct public improvements or pay a fee for construction of said public improvements, to the extent that those improvements are necessary, have a nexus, or are related to the proposed development. The developer will then construct those public improvements and dedicate them to the City upon completion. Thereafter, the public improvements will be accepted and owned by the City.

Oftentimes, the completion of the public improvements may occur before the completion of the development project itself. In these instances, the developer is responsible for maintaining, and repairing, as necessary, the public improvements while the construction of their project is ongoing. Currently, the Development Code, in Chapter 16.20, requires such maintenance and repair work for all streets related to the development project. However, other public improvements, such as water lines and sewer laterals, are not included. The proposed Development Code amendment will rectify this issue by requiring that other public improvements, such as water lines and sewer laterals, be maintained and repaired by the developer prior to the completion of the development project and the issuance of a certificate of occupancy.

## ISSUES/ANALYSIS

The proposed development code amendment is as follows:

### ***16.20.161 Issuance of Building Permits and Certificates of Occupancy***

**A. Building Permit.** *No Building permit shall be issued until: (i) all public improvements have been fully completed, dedicated, and accepted, or if allowed, security has been posted as required herein; (ii) the City has accepted the developer's offer to dedicate the improvements by approval of the final map(s); and (iii) necessary minimum improvements have been completed to provide public services and all weather access to the lot for which the building permit is being requested.*

**B. Damages; Repairs.** *Notwithstanding any acceptance of or notices of completion of public improvements, all public improvements shall be maintained in good working condition prior to the issuance of any building permit or certificate of occupancy. Any damage to improvements associated with the development must be repaired or replaced by the contractor to the satisfaction of the City. Repairs and replacements include, but are not limited to, sidewalks and walkways, curbs, gutters, utilities, water service lines, and sewer laterals. ~~No occupancy permit shall be issued to any owner or tenant until said improvements associated with the property or map have been fully completed.~~*

## **ENVIRONMENTAL REVIEW**

The proposed Development Code Amendment is exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that 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. The Development Code amendment does not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that the proposed Development Code amendment may have a significant adverse effect on the environment, and thus the adoption of the proposed Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

## **FISCAL IMPACT**

There are no fiscal impacts identified with this action.

## **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

## **ATTACHMENT(S)**

1. Proposed Ordinance No. 2024-06

ORDINANCE NO. 2024-06

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
HESPERIA, CALIFORNIA, AMENDING PORTIONS OF  
CHAPTER 16.20 OF THE HESPERIA MUNICIPAL CODE BY  
ADDING SECTION 16.20.161 RELATING TO COMPLETION  
AND MAINTENANCE OF PUBLIC IMPROVEMENTS PRIOR TO  
ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF  
OCCUPANCY**

WHEREAS, pursuant to Article XI, Section 7 of the California Constitution, a city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws of the State; and

WHEREAS, the provisions of this title are intended to elaborate upon, and otherwise augment standards, specifications and regulations relating to the maintenance of public improvements prior to the issuance of building permits and certificates of occupancy; and

WHEREAS, the City Council wishes to amend the Hesperia Municipal Code to clarify that the maintenance of public improvements prior to the issuance of building permits and certificates of occupancy includes all types of public improvements related to the development project, rather than just street improvements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HESPERIA DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1. Recitals.** All of the above recitals are true and correct and incorporated herein by reference as if set forth in full.

**Section 2. Amendment.** A new Section 16.20.161 to Chapter 16.20 of the Hesperia Municipal Code (under Title 16 [Development Code], Chapter 20 [General Regulations], Article V [General Performance Standards]) is hereby added as follows:

**"16.20.161 Issuance of Building Permits and Certificates of Occupancy**

A. **Building Permit.** No Building permit shall be issued until: (i) all public improvements have been fully completed, dedicated, and accepted, or if allowed, security has been posted as required herein; (ii) the City has accepted the developer's offer to dedicate the improvements by approval of the final map(s); and (iii) necessary minimum improvements have been completed to provide public services and all weather access to the lot for which the building permit is being requested.

B. **Damages; Repairs.** Notwithstanding any acceptance of or notices of completion of public improvements, all public improvements shall be maintained in good working condition prior to the issuance of any building permit or certificate of occupancy. Any damage to improvements associated with the development must be repaired or replaced by the developer to the satisfaction of the City. Repairs and replacements include, but are not limited to, sidewalks and walkways, curbs, gutters, utilities,

water service lines, and sewer laterals. ~~No occupancy permit shall be issued to any owner or tenant until said improvements associated with the property or map have been fully completed."~~

Section 3. **Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional by law.

Section 4. **Certification.** The City Clerk shall certify the adoption of this Ordinance and shall cause a copy of the same to be published in a manner prescribed by law.

APPROVED AND ADOPTED by the City Council of the City of Hesperia, California at a regular meeting held this 16<sup>th</sup> day of April, 2024.

\_\_\_\_\_  
Larry Bird, Mayor

ATTEST:

\_\_\_\_\_  
Erin Baum, Assistant City Clerk

# City of Hesperia

## STAFF REPORT



**DATE:** April 16, 2024

**TO:** Mayor and Council Members

**FROM:** Rachel Molina, City Manager

**BY:** Pam K. Lee, City Attorney

**SUBJECT:** Amendment to Title 16 [Development Code], Chapter 20 [General Regulations], Article V [General Performance Standards] by adding a new Section 16.20.161 related to completion and maintenance of public improvements prior to issuance of building permits and certificates of occupancy

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### RECOMMENDED ACTION

It is recommended that the City Council introduce and place on first reading Ordinance No. 2024-06 adding a new Section 16.20.161 to Title 16 [Development Code], Chapter 20 [General Regulations], Article V [General Performance Standards] of the Hesperia Municipal Code regarding the completion and maintenance of public improvements prior to issuance of a building permit and certificate of occupancy.

### BACKGROUND

The City's Development Code, as described in Title 16 of the Hesperia Municipal Code, provides for development standards and regulations for all types of development in the City. Typically, when a developer develops a property or constructs a project, they are required to comply with the City's development standards and regulations. Oftentimes, the developer will be required to construct public improvements or pay a fee for construction of said public improvements, to the extent that those improvements are necessary, have a nexus, or are related to the proposed development. The developer will then construct those public improvements and dedicate them to the City upon completion. Thereafter, the public improvements will be accepted and owned by the City.

Oftentimes, the completion of the public improvements may occur before the completion of the development project itself. In these instances, the developer is responsible for maintaining, and repairing, as necessary, the public improvements while the construction of their project is ongoing. Currently, the Development Code, in Chapter 16.20, requires such maintenance and repair work for all streets related to the development project. However, other public improvements, such as water lines and sewer laterals, are not included. The proposed Development Code amendment will rectify this issue by requiring that other public improvements, such as water lines and sewer laterals, be maintained and repaired by the developer prior to the completion of the development project and the issuance of a certificate of occupancy.

### ISSUES/ANALYSIS

The proposed development code amendment is as follows:

#### ***16.20.161 Issuance of Building Permits and Certificates of Occupancy***

**A. Building Permit. No Building permit shall be issued until: (i) all public improvements have been fully completed, dedicated, and accepted, or if allowed, security has been posted as required herein; (ii) the City has accepted the developer's offer to dedicate the improvements by approval of the final map(s); and (iii) necessary minimum improvements have been completed to provide public services and all weather access to the lot for which the building permit is being requested.**

**B. Damages; Repairs. Notwithstanding any acceptance of or notices of completion of public improvements, all public improvements shall be maintained in good working condition prior to the issuance of any building permit or certificate of occupancy. Any damage to improvements associated with the development must be repaired or replaced by the contractor to the satisfaction of the City. Repairs and replacements include, but are not limited to, sidewalks and walkways, curbs, gutters, utilities, water service lines, and sewer laterals. No occupancy permit shall be issued to any owner or tenant until said improvements associated with the property or map have been fully completed.**

## **ENVIRONMENTAL REVIEW**

The proposed Development Code Amendment is exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA only applies to projects that 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. The Development Code amendment does not relate to any one physical project and will not result in any physical change to the environment. Therefore, it can be seen with certainty that there is no possibility that the proposed Development Code amendment may have a significant adverse effect on the environment, and thus the adoption of the proposed Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

## **FISCAL IMPACT**

There are no fiscal impacts identified with this action.

## **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

## **ATTACHMENT(S)**

1. Proposed Ordinance No. 2024-06

**ORDINANCE NO. 2024-06**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
HESPERIA, CALIFORNIA, AMENDING PORTIONS OF  
CHAPTER 16.20 OF THE HESPERIA MUNICIPAL CODE BY  
ADDING SECTION 16.20.161 RELATING TO COMPLETION  
AND MAINTENANCE OF PUBLIC IMPROVEMENTS PRIOR TO  
ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF  
OCCUPANCY**

WHEREAS, pursuant to Article XI, Section 7 of the California Constitution, a city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws of the State; and

WHEREAS, the provisions of this title are intended to elaborate upon, and otherwise augment standards, specifications and regulations relating to the maintenance of public improvements prior to the issuance of building permits and certificates of occupancy; and

WHEREAS, the City Council wishes to amend the Hesperia Municipal Code to clarify that the maintenance of public improvements prior to the issuance of building permits and certificates of occupancy includes all types of public improvements related to the development project, rather than just street improvements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HESPERIA DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1. Recitals.** All of the above recitals are true and correct and incorporated herein by reference as if set forth in full.

**Section 2. Amendment.** A new Section 16.20.161 to Chapter 16.20 of the Hesperia Municipal Code (under Title 16 [Development Code], Chapter 20 [General Regulations], Article V [General Performance Standards]) is hereby added as follows:

**“16.20.161 Issuance of Building Permits and Certificates of Occupancy**

A. Building Permit. No Building permit shall be issued until: (i) all public improvements have been fully completed, dedicated, and accepted, or if allowed, security has been posted as required herein; (ii) the City has accepted the developer’s offer to dedicate the improvements by approval of the final map(s); and (iii) necessary minimum improvements have been completed to provide public services and all weather access to the lot for which the building permit is being requested.

B. Damages; Repairs. Notwithstanding any acceptance of or notices of completion of public improvements, all public improvements shall be maintained in good working condition prior to the issuance of any building permit or certificate of occupancy. Any damage to improvements associated with the development must be repaired or replaced by the developer to the satisfaction of the City. Repairs and replacements include, but are not limited to, sidewalks and walkways, curbs, gutters, utilities,

water service lines, and sewer laterals. No occupancy permit shall be issued to any owner or tenant until said improvements associated with the property or map have been fully completed.”

Section 3. **Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional by law.

Section 4. **Certification.** The City Clerk shall certify the adoption of this Ordinance and shall cause a copy of the same to be published in a manner prescribed by law.

APPROVED AND ADOPTED by the City Council of the City of Hesperia, California at a regular meeting held this 16<sup>th</sup> day of April, 2024.

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Larry Bird, Mayor

ATTEST:

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Erin Baum, Assistant City Clerk

# City of Hesperia

## STAFF REPORT



**DATE:** April 16, 2024

**TO:** Mayor and Council Members  
Chair and Board Members, Hesperia Water District

**FROM:** Rachel Molina, City Manager

**BY:** Cassandra Sanchez, Director of Public Works/City Engineer

**SUBJECT:** Approval of a Letter of Intent by and between the City of Hesperia and Fenner Gap Mutual Water Company

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### RECOMMENDED ACTION

It is recommended that the City Council authorize the City Manager to approve a Letter of Intent (LOI) by and between the City of Hesperia and Fenner Gap Mutual Water Company.

### BACKGROUND

The City of Hesperia is part of an adjudicated water basin (City of Barstow et al, v. City of Adelanto et al) which is intended to remediate overdraft in the Mojave Basin Area by limiting the amount of water produced in specific subareas. The adjudication determines the Free Production Allowance (FPA), which is the maximum amount of water a producer may pump in one year without incurring a replacement or make-up obligation. As a result of the judgment, Hesperia Water District (District) incurs replacement water obligations in the Alto Subarea when verified production amounts exceed the FPA for the water year.

Historically, the City and District may meet these replacement water obligations by three mechanisms:

- 1) Assignment of carryover right or temporary transfer of unused FPA (i.e. lease) from interested water rights owners in the respective subarea at negotiated rates (this is a cost effective short-term option to meeting the production demands);
- 2) Purchase water from the Mojave Basin Area Watermaster (Watermaster) at the current per acre foot (AF) water rate which is derived from the State Water Project water rates; and/or
- 3) Purchase permanent water rights from interested parties in the Alto Subarea at negotiated rates (purchase provides a long-term solution, but is costly and difficult to acquire).

The Fenner Gap Mutual Water Company (FGMWC) has approached the City with a potential fourth solution for the replacement water obligations by providing water from a currently undedicated water source to use toward groundwater basin replenishment. Using a new water supply from the Cadiz-Fenner Valley Watershed, the Cadiz Water Project has discussed a regional plan with the City, as well as other public agencies in the surrounding areas, and asked that interested parties to sign an LOI to participate in the Mojave-San Bernardino One Water project.

The FGMWC is a non-profit California mutual water company consisting of water providers participating in the Cadiz Water Project. The Cadiz Water Project is a water supply project that aims to transport water from the Cadiz and Fenner Valley, which is located approximately fifteen

miles east of Amboy, California to the Greater Mojave Valley. Importantly, the Cadiz Water Project looks to capture and transport water that would otherwise be lost to evaporation and bring it to this region of San Bernardino County. The Cadiz Water Project will utilize the existing Northern Pipeline, which is a 220 mile pipeline that extends from the Fenner Valley west to Kern County and through Barstow, CA.

The Mojave-San Bernardino One Water project will eventually work together in the design, development, construction and operation of water infrastructure facilities necessary to utilize this water in the Mojave Basin Area.

## **ISSUES/ANALYSIS**

The LOI will initiate Hesperia's participation in the Mojave-San Bernardino One Water Project. This project will be a collaborative effort by participating agencies in the design, development, construction, and operation of water infrastructure facilities necessary to utilize all potential sources of water to create water security, climate resiliency and equitable distribution of water resources in Mojave Basin and other connected regions in San Bernardino County.

By participating in the Mojave-San Bernardino One Water Project, the LOI offers the good faith delivery of up to 75,000 acre-feet of water to the City of Hesperia.

## **FISCAL IMPACT**

There is no fiscal impact at this time for authorizing the approval of a LOI by and between the City of Hesperia and FGMWC agreeing to participate in the Mojave-San Bernardino One Water Project. Should the project proceed, the City will work towards an agreement, and have a share of costs, which will be presented to the City Council/Board of Members of the Hesperia Water District at a future date for consideration.

## **ALTERNATIVES**

1. Provide alternative direction to staff.

## **ATTACHMENTS**

1. Letter of intent by and between the City of Hesperia and Fenner Gap Mutual Water Company
2. Exhibit A - Term Sheet for Purchase, Sale and Exchange of Water By and Between Fenner Gap Mutual Water Company and the City of Hesperia

**Letter of Intent by and between the City of Hesperia  
And Fenner Gap Mutual Water Company**

**RECITALS**

- a) The City of Hesperia is known as the Gateway to the High Desert with a population over 100,000 and one of the most desirable places to live in California's Mojave Desert region.
- b) The City of Hesperia obtains its water supply almost entirely from pumped groundwater from the Mojave River Groundwater Basin and is connected to the Mojave Water Agency's Regional Recharge and Recovery (R3), a conjunctive use project that stores State Water Project (SWP) water underground in the local aquifer and has invested in recycling, storm water capture, water use efficiency and water retention programs to conserve and manage water supplies for the long term needs of its residents.
- c) Fenner Gap Mutual Water Company ("Fenner Gap") is a non-profit mutual benefit corporation formed in 2010 for purposes of managing and distributing 2.5 million acre-feet of groundwater resources from the Cadiz Water Conservation, Storage and Supply Project in the Cadiz Valley region of San Bernardino County ("Cadiz") and is a member of Fenner Valley Water Authority.
- d) Victor Valley Wastewater Reclamation Authority (VWVRA) is a Joint Powers Authority providing wastewater treatment, water recycling, and renewable green energy, and treats about 12 million gallons of wastewater per day, whose members include the City of Victorville, City of Hesperia, Town of Apple Valley, and San Bernardino County Special Districts 42 and 64.
- e) Fenner Valley Water Authority is a Joint Powers Authority whose members include the County of San Bernardino, Fenner Gap and other public water agencies.
- f) Fenner Gap and Cadiz own and manage groundwater resources in Mojave Desert watersheds adjacent to the regions served by VWVRA and 220-miles of buried pipelines that can directly connect new waters supplies to groundwater recharge basins in the Mojave Groundwater Basin.
- g) The Mojave-San Bernardino County One Water Project is collaboration among public water agencies in San Bernardino County to develop a regional, integrated and sustainably-managed water system that considers the current and future needs of all its users, meets human needs with environmental best practices, and makes cost-effective investments in infrastructure to preserve access and affordability for all.

NOW THEREFORE, in consideration of the foregoing recitals, the Parties will exercise good faith and reasonable best efforts to convert this Letter of Intent ("LOI") into a final definitive public, private, partnership agreement ("Agreement") in collaboration with other participating agencies.

The key terms of the Agreement are as follows:

Subject to the approval of and terms and conditions imposed upon the Parties by their respective governing boards, shareholders, member agencies and/or applicable law:

1. The City of Hesperia will participate in the Mojave-San Bernardino One Water Project and collaborate with other participating agencies in the design, development, construction, and operation of water infrastructure facilities necessary to utilize all potential sources of water to create water security, climate resiliency and equitable distribution of water resources in Mojave Basin and other connected regions in San Bernardino County.
2. The City of Hesperia will participate with Fenner Gap, VVWRA and other public agencies in coordinating the financial, technical, and managerial resources of all entities participating in the Mojave-San Bernardino One Water project to optimize and access maximum available financial resources.
3. Fenner Gap will make available groundwater resources from the Cadiz Water Conservation, Supply and Storage Project in Cadiz Valley to entities participating in Mojave-San Bernardino County One Water for purposes of groundwater replenishment, water supply reliability and ecosystem preservation.
4. Fenner Gap and the City of Hesperia will exercise good faith and reasonable efforts to enter into an Agreement for delivery of 75,000 acre-feet of groundwater supply for the benefit of the City of Hesperia on substantially similar terms and conditions as contained in the attached Exhibit A - Non-Binding Term Sheet.

Signatures

\_\_\_\_\_ Date \_\_\_\_\_

City of Hesperia

\_\_\_\_\_  
Date\_\_\_\_\_

Susan P Kennedy, President

Fenner Gap Mutual Water Company

**EXHIBIT A**

**Term Sheet for Purchase, Sale, and Exchange of Water  
By and Between Fenner Gap Mutual Water Company and the City of Hesperia**

This term sheet (“**Term Sheet**”) is intended to be a summary of a proposed transaction and as such does not represent nor constitute a binding commitment by any person or entity named herein.

<b>I. Parties</b>	
<b>FGMWC</b>	Fenner Gap Mutual Water Company is a non-profit mutual benefit corporation established in 2010 pursuant to California Public Utilities Code Sections 2704 and 2705 for purposes of managing and distributing groundwater resources from the Cadiz Water Conservation, Storage and Supply Project in eastern San Bernardino County (“Water Project”).
<b>City of Hesperia</b>	The City of Hesperia obtains its water supply almost entirely from pumped groundwater from the Mojave River Groundwater Basin, is connected to the Mojave Water Agency’s Regional Recharge and Recovery (R3), a conjunctive use project that stores State Water Project (SWP) water underground in the local aquifer to ensure sustainable water supply for the region.
<b>Cadiz</b>	Cadiz, Inc. is the owner of approximately forty-five thousand (45,000) acres of land in eastern Mojave Desert with permits to withdraw an average of 50,000 acre-feet per year (AFY) of conserved groundwater over a 50-year period pursuant to a certified Final Environmental Impact Report (“Project FEIR”) and Groundwater Management, Monitoring and Mitigation Plan (“GMMMP”) approved by San Bernardino County. Cadiz also holds rights-of-way for the construction of up to an eighty-four inch, 43-Mile Pipeline (“Southern Pipeline”) for the conveyance of conserved water to the Colorado River Aqueduct (“CRA”) and owns a thirty-inch, 220-mile, existing buried pipeline originating at Cadiz with a terminus at Wheeler Ridge (“Northern Pipeline”).
<b>San Bernardino County</b>	San Bernardino County is a political subdivision of the State of California (“County”), Responsible Agency under the California Environmental Quality Act (CEQA) pursuant to the Project FEIR with oversight and enforcement responsibilities for the Water Project pursuant Resolution No. 2012-176 adopted by the County approving the GMMMP. The County is also a Project Participant with reserved rights for delivery of 25,000 AF and other specified amounts of Project Water to eligible communities.
<b>FVWA</b>	Fenner Valley Water Authority is a joint powers agency between FGMWC, San Bernardino County (“County”) and Santa Margarita Water District whose purpose is to lease, maintain and own the facilities and associated appurtenances necessary to convey and deliver water from the Water Project (“Capital Facilities”) and provide oversight for operation of the Water Project in accordance with the GMMMP.
<b>SMWD</b>	Santa Margarita Water District (“SMWD”) is a California Water District, a local agency of the State of California with broad powers under the California Water District Act, Cal. Water Code §§ 34000 et seq. and Lead Agency under CEQA pursuant to the Project FEIR. SMWD also serves as the “designated entity” of FVWA under California Government Code Section 6509 and is a Project Participant.

<b>II. Water Project</b>	
<b>Water Project</b>	“Water Project” means the Cadiz Valley Water Conservation, Recovery and Storage Project including all permits and rights pursuant to the Project FEIR and GMMMP approved by the County to deliver conserved groundwater from Cadiz for beneficial uses via the CRA, the Southern Pipeline and/or the Northern Pipeline. “Project Participants” means end users entitled to receive water from the Water Project.
<b>Project Water</b>	“Project Water” means groundwater produced and deliverable to end users from the Water Project, up to an average of fifty thousand (50,000) AFY and aggregating to two million, five hundred thousand (2,500,000) acre-feet cumulatively over the 50-year Water Project term.
<b>Tier 1 Water</b>	“Tier 1 Water” means that amount of Project Water reserved for delivery to end users pursuant to water purchase agreements that include firm capacity rights for the use of Capital Facilities necessary to deliver Project Water to points of delivery designated by Project Participants.
<b>Tier 2 Water</b>	“Tier 2 Water” means that amount of Project Water in excess of the total, aggregated amount of Project Water reserved for delivery to end users pursuant to all water purchase agreements cumulatively over the Water Project term.
<b>Firm Pipeline Capacity</b>	Firm Pipeline Capacity means the right to transport Project Water through the Northern or Southern Pipeline or other facilities in accordance with the terms, conditions and procedures established by FGMWC and FVWA for all shareholders of FGMWC. FGMWC shareholders pay pro-rata fees for capital and operating expenses in accordance with take-or-pay water purchase agreements.
<b>Space Available Pipeline Capacity</b>	Space Available Pipeline Capacity means the right to transport Project Water through the Northern or Southern Pipeline or other facilities on a space available basis. Project water would be delivered to designated points of delivery via Capital Facilities when space is otherwise not required to meet firm commitments for Project Water. Project Participants pay actual incremental cost to convey Tier 2 Water to designated points of delivery upon actual use of pipeline capacity.
<b>Capital Facilities</b>	“Capital Facilities” means any and all facilities deemed necessary, advisable or appropriate to extract, convey or deliver Project Water to Project Participants, including facilities associated with the Southern Pipeline and the Northern Pipeline.
<b>Third-Party Financing</b>	“Third-Party Financing” means financing obtained from private and public sources to fund the design and construction costs of the Capital Facilities. Third-Party Financing arranged by FGMWC, FVWA and/or any joint financing authority formed by Project Participants will be secured and repaid from revenues generated by the Water Project.
<b>III. Proposed Transaction</b>	
<b>Tier 2 Water Supply</b>	Hesperia will purchase up to seventy-five thousand acre-feet (75,000 AF) of Tier 2 Water under terms and conditions to be agreed upon by the parties. Hesperia will assume responsibility and cost for transportation, delivery, storage and exchange of any purchased Tier 2 Water Supply.

<b>Point of Delivery and Exchange</b>	Project Water will made available for conveyance through Capital Facilities, including the Northern or Southern Pipeline, at points of delivery designated by Hesperia, or via exchange, provided that in the event of an exchange, the Parties have identified a willing exchange partner and are in mutual agreement as to the terms of the delivery or exchange.
<b>Price</b>	<p>For Tier 2 Water Supply – Hesperia will be responsible for the actual incremental costs for extraction, conveyance, delivery, and/or exchange of Tier 2 water supply.</p> <p>Hesperia will pay FGMWC for actual incremental costs to extract and convey Tier 2 Water to designated points of delivery upon actual use of Capital Facilities on a space available basis.</p> <p>The parties shall agree to adjust the price of water under this Section in consideration for Hesperia participating in Third Party Financing for Capital Facilities.</p>
<b>Term</b>	The term of the Definitive Agreement will begin on the date of execution and terminate forty (40) years from Cadiz’ issuance of written notice of completion of construction for the segment of the Northern Pipeline necessary to convey Project Water to a point of delivery designated by Hesperia.
<b>Reservation Fee</b>	FGMWC will provide Hesperia with a written invoice for reservation of Project Water upon execution of a Definitive Agreement. Hesperia shall pay Cadiz a reservation fee of twenty-five thousand dollars (\$25,000) fully creditable against the purchase price within thirty (30) days of the receipt of the invoice.
<b>IV. Conditions Precedent</b>	
<b>Regulatory Compliance</b>	FGMWC, FVWA, Hesperia and/or Cadiz obtain all necessary permits for construction of Capital Facilities, conveyance, and delivery of Project Water to points of delivery designated by Hesperia.
<b>Third-Party Financing</b>	FGMWC, FVWA and/or Cadiz obtain Third-Party Financing for construction of Capital Facilities on terms and conditions satisfactory to FGMWC, FVWA, Hesperia and Cadiz.
<b>Exchange Agreements</b>	FGMWC, FVWA, Hesperia and/or Cadiz secure exchange agreements with public water agencies necessary to facilitate conveyance and delivery of Project Water on terms and conditions satisfactory to Hesperia and FGMWC in each party’s sole and complete discretion.