Exhibit A: CEQA FINDINGS OF FACT

I.
INTRODUCTION

These findings, as well as the accompanying statement of overriding considerations, have been prepared in accordance with the California Environmental Quality Act ("CEQA"), the CEQA Guidelines (14 CCR §15000 et seq.), and the local procedures adopted by the Town of Apple Valley ("Town"). The Town is the lead agency for the environmental review of the Cordova Complex and Quarry at Pawnee Warehouse Project ("Project" or "proposed Project") and has the principal responsibility for its approval.

Pursuant to Section 21081 of the Public Resources Code (PRC), a public agency may only approve or carry out a project for which an EIR has been completed that identifies any significant environmental effects if the agency makes one or more of the following written finding(s) for each of those significant effects accompanied by a brief explanation of the rationale for each finding:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
3. 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 the environmental impact report.

As indicated above, Section 21002 requires an agency to "avoid or substantially lessen" significant adverse environmental impacts. Thus, mitigation measures that "substantially lessen" significant environmental impacts, even if not completely avoided, satisfy section 21002's mandate. (*Laurel Hills Homeowners Assn. v. City Council* (1978) 83 Cal.App.3d 515, 521 ["CEQA does not mandate the choice of the environmentally best feasible project if through the imposition of feasible mitigation measures alone the appropriate public agency has reduced environmental damage from a project to an acceptable level"]; *Las Virgenes Homeowners Fed., Inc. v. County of Los Angeles* (1986) 177 Cal. App. 3d 300, 309 ["[t]here is no requirement that adverse impacts of a project be avoided completely or reduced to a level of insignificance . . . if such would render the project unfeasible"].)

II.
STATEMENT OF FINDINGS

The findings and determinations contained herein are based on the competent and substantial evidence, both verbal and written, contained in the entire record relating to the Project and the Environmental Impact Report ("EIR"). The findings and determinations constitute the independent findings and determinations by the Town decisionmakers in all respects and are fully and completely supported by substantial evidence in the record as a whole.

Although the findings below identify specific pages within the Draft EIR ("DEIR") in support of various conclusions reached below, the Town hereby incorporates by reference and adopts as its own, the

reasoning set forth in both environmental documents, and thus relies on that reasoning, even where not specifically mentioned or cited herein, in reaching the conclusions set forth below, except where additional evidence is specifically mentioned. This is especially true with respect to the Planning Commission's approval of mitigation measures recommended in the EIR, and the reasoning set forth in responses to comments in the Final EIR. The Planning Commission further intends that if these findings fail to cross-reference or incorporate by reference any other part of these findings, any finding required or permitted to be made by this Planning Commission with respect to any particular subject matter of the Project must be deemed made if it appears in any portion of these findings or findings elsewhere in the record.

The Town prepared an Initial Study/Notice of Preparation for the Project and circulated it for public review and comment from September 1, 2023 to October 2, 2023. State CEQA Guidelines Section 15091 does not require specific findings to address environmental effects that an EIR identifies as "no impact". The Initial Study prepared for the Project (see DEIR Appendix A) identified no impact in the following environmental topics that were not further evaluated in the EIR: agriculture and forestry resources; geology and soils; mineral resources; population and housing; public services; recreation; and wildfire. For those topic areas included in the EIR where the Initial Study concluded impacts are less than significant and not addressed in the EIR is provided below under Section V. Findings Regarding Environmental Impacts not Requiring Mitigation.

III.
FINDINGS REQUIRED UNDER CEQA

PRC Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." Section 21002 goes on to state that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof."

The mandate and principles set forth in PRC Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See PRC, §21081, subd. (a); CEQA Guidelines, §15091, subd. (a).) For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The first such finding is that "[c]hanges or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR." (CEQA Guidelines, §15091, subd. (a)(1).)

The second permissible finding is that "[s]uch 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 and should be adopted by such other agency." (CEQA Guidelines, §15091, subd. (a)(2).)

The third potential conclusion is that "[s]pecific 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." (CEQA Guidelines, §15091, subd. (a)(3).) PRC Section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors."

The CEQA Guidelines do not define the difference between "avoiding" a significant environmental effect and merely "substantially lessening" such an effect. The City must therefore glean the meaning of these terms from the other contexts in which the terms are used. PRC Section 21081, on which CEQA Guidelines Section 15091 is based, uses the term "mitigate" rather than "substantially lessen." The CEQA Guidelines therefore equate "mitigating" with "substantially lessening." Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." (PRC, §21002.)

For purposes of these findings, the term "avoid" refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less-than-significant level. In contrast, the term "substantially lessen" refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less-than-significant level.

Although CEQA Guidelines Section 15091 requires only that approving agencies specify that a particular significant effect is "avoid[ed] or substantially lessen[ed]," these findings, for purposes of clarity, will specify whether the effect in question has been reduced to a less-than-significant level, or has been substantially lessened but remains significant. Moreover, although Section 15091, read literally, does not require findings to address environmental effects that an EIR identifies as merely "potentially significant," these findings will nevertheless fully account for all such effects identified in the Final EIR.

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility for modifying the project lies with some other agency. (CEQA Guidelines, §15091, subd. (a).) With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§15093, 15043, subd. (b); see also PRC, §21081, subd. (b).)

These findings constitute the Town's best efforts to set forth the evidentiary and policy bases for its decision to approve the Project in a manner consistent with the requirements of CEQA. To the extent that these findings conclude that various proposed mitigation measures outlined in the EIR are feasible and have not been modified, superseded or withdrawn, the Town hereby binds itself to require implementation of these measures. These findings, in other words, are not merely informational, but

rather constitute a binding set of obligations that will come into effect when the Town adopts a resolution approving the Project.

IV.
MITIGATION MONITORING AND REPORTING PROGRAM

A Mitigation Monitoring and Reporting Program ("MMRP") has been prepared for the Project and is being approved by the Town Planning Commission by the same resolution that adopts these findings. The Town will use the MMRP to track compliance with adopted mitigation measures. The MMRP will remain available for public review during the compliance period. The MMRP is a separate document from the EIR.

V.
FINDINGS REGARDING ENVIRONMENTAL IMPACTS NOT REQUIRING MITIGATION

The Town hereby finds that the following potential environmental impacts of the Project are less than significant and therefore do not require the imposition of mitigation measures.

A. AESTHETICS

1. Visual Character/Public Views

Threshold: In non-urbanized areas, would the Project substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points). If the Project is in an urbanized area, would the Project conflict with applicable zoning and other regulations governing scenic quality?

Finding: Less than Significant (DEIR, pp. 4.1-11 – 4.11-16)

Explanation: Project implementation would change the visual character of the Project site from an undeveloped desert landscape to a developed industrial warehouse complex but would be consistent with the pattern of existing development located approximately 0.1 miles (Walmart Distribution Center and Victor Valley College Regional Public Safety Training Center), and 0.6 miles to the south (Fresenius Medical Care Distribution Center and Big Lots Distribution Center), and would not be considered substantial enough to degrade visual quality. Overall viewer sensitivity to changes in visual character or quality would be moderate. Therefore, the Project would have a less-than-significant impact related to visual character or quality. (DEIR, p. 4.11-16.)

To ensure that current and future development within the Town is designed and constructed to conform to existing visual character and quality, the Town of Apple Valley Development Code (Title 9 of the Town's Municipal Code) and the North Apple Valley Industrial Specific Plan (NAVISP) include design standards related to building size, height, floor area ratio, and setbacks, as well as landscaping, signage, and other visual considerations. These design standards promote visual consistency between adjacent land uses and their surroundings and reduce the potential for conflicting visual elements. Town staff has determined that the Project

design conforms to the Development Code, NAVISP, and promotes the visual character and quality of the surrounding area. The Project would not conflict with the development standards of the I-SP Land Use District of the NAVISP, and would not conflict with goals, policies, or programs contained in the Town's General Plan related to scenic quality. Compliance with the Town's Development Code, NAVISP, and General Plan guidelines and implementation of site-specific landscaping would ensure the Project would not conflict with applicable zoning or other regulations governing scenic quality and impacts would be less than significant. (DEIR, pp. 4.1-11- 4.1-12.)

2. Light and Glare

Threshold: Would the Project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

Finding: Less than Significant (DEIR, pp. 4.11-16 - 4.11-19)

Explanation: Lighting associated with streetlights would also be designed consistent with Town standards for safety and proper roadway illumination, consistent with other streetlights throughout the Town. All light fixtures would be required to be consistent with the CALGreen Code for illumination. The CALGreen Code sets forth minimum requirements based on Lighting Zones, as defined in Chapter 10 of the California Administrative Code. The requirements are designed to minimize light pollution in an effort to maintain dark skies and ensure new development reduces backlight, uplight, and glare (BUG) from exterior light sources. The Project would be required to comply with the CALGreen BUG rating for Lighting Zone 3. Furthermore, in accordance with Section 9.47.090 of the Town's Municipal Code and Chapter III of the NAVISP, all outdoor lights would be shielded and directed onto the Project site and away from adjacent properties, and the Project would not include blinking, flashing, or oscillating light sources.

The proposed buildings would be comprised of a variety of materials, including painted concrete, aluminum trim, polymer exterior framing, and blue reflective glazing. Blue reflective glazing and metallic trim is proposed for the entrance fronts of both of the proposed buildings. Although metallic materials and glass have been incorporated into the Project design, Project setbacks and proposed landscaping would provide screening of Project elements from view, and all paint finishes would be flat (not glossy). As such, building materials would not create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. For these reasons, impacts associated with light and glare would be less than significant. (DEIR, p. 4.11-19.)

As analyzed in the Initial Study (DEIR Appendix A), the Project would have no impacts on scenic vistas or scenic resources within a scenic highway. The Project would not have an adverse effect on a scenic vista because it would not block or obstruct views of highly valued landscape features (e.g., mountain range, lake, or coastline) observable from a publicly accessible vantage point, such as public roads near the Project site. Therefore, the Project would have no impact on scenic vistas. No officially designated or eligible state scenic highways or County-designated scenic routes are visible from the Project site, nor is the Project site visible from any highways, thus, there would be no impact to scenic resources visible from a state scenic highway. (DEIR, p. 4.11-19.)

3. Cumulative

Threshold: Would the Project result in cumulatively considerable impacts related to aesthetics?

Finding: Less than Significant (DEIR, pp. 4.11-19 - 4.11-20)

Explanation: The geographic scope of the cumulative aesthetics analysis is the Project's viewshed (i.e., the area that could potentially have views of Project features and the area potentially viewed from the Project site). This is considered the area within view of the Project site, and therefore, the area most likely to experience changes in visual character or experience light and glare impacts from the Project. Cumulative development would introduce additional new sources of light in a setting that includes large areas of undeveloped land. However, like the Project, cumulative development would be required to comply with existing regulations related to lighting (i.e., lighting would be directed downward, shielded, and focused on specific project sites) to ensure lighting would have a minimal effect on the overall night sky and reduce the potential for glare. Therefore, compliance with these regulations would ensure that cumulative impacts related to light and glare would be less than significant. (DEIR, p. 4.1-20.)

B. AIR QUALITY

1. Sensitive Receptors

Threshold: Would the Project expose sensitive receptors to substantial pollutant concentrations?

Finding: Less than Significant (DEIR, p. 4.2-36)

Explanation:

Local Carbon Monoxide Concentrations

Regionally, Project-related travel would add to regional trip generation and increase vehicle miles traveled within the local airshed and the Mojave Desert Air Basin (MDAB). Locally, Project-generated traffic would be added to the roadway system near the Project site. If such traffic occurs during periods of poor atmospheric ventilation, is composed of a large number of vehicles "cold-started" and operating at pollution-inefficient speeds and operates on roadways already crowded with non-Project traffic, there is a potential for the formation of microscale carbon monoxide (CO) hotspots in the area immediately around points of congested traffic. to verify that the Project would not cause or contribute to a violation of the CO standard, a screening evaluation was conducted comparing the highest hourly traffic volumes at any studied intersection in proximity to the Project site to the 100,000 vehicles per day criterion from the South Coast Air Quality Management District (SCAQMD) Air Quality Management Plan. As described in Appendix C, all roads and intersections with Project traffic would be substantially less than the 100,000 vehicles per day screening criterion applied. Therefore, impacts associated with CO hotspots would be less than significant. (DEIR, p. 4.2-36.)

Toxic Air Contaminant Exposure

Construction Health Risk

A construction HRA was performed to estimate the Maximum Individual Cancer Risk and the Chronic Hazard Index for existing residential receptors as a result of Project construction. the diesel particulate matter (DPM) emissions from construction of the Project would result in a Maximum Individual Cancer Risk of about 1.77 in 1 million and a Chronic Hazard Index of 0.0017, which would both be below the respective Mojave Desert Air Quality Management District (MDAQMD) significance threshold and would result in a less-than-significant impact. (DEIR, p. 4.2-36.)

Operational Health Risk

An operational HRA was performed to estimate the Maximum Individual Cancer Risk and the Chronic Hazard Index for existing residential receptors as a result of Project operations. Project operations would result in a Maximum Individual Cancer Risk of about 6.98 in 1 million at the maximally exposed residence, which is less than the significance threshold of 10 in 1 million. Project operations would result in a Chronic Hazard Index of 0.0016, which is below the 1.0 significance threshold. The Project's operational health risk impacts would be less than significant. (DEIR, p. 4.2-37.)

Valley Fever

Valley Fever is not highly endemic to San Bernardino County with an incident rate of 11.4 cases per 100,000 people. In contrast, in 2021 the statewide annual incident rate was 20.1 per 100,000 people. Construction activities may not result in increased incidence of Valley Fever. Propagation of Valley Fever is dependent on climatic conditions, with the potential for growth and surface exposure highest following early seasonal rains and long dry spells. Valley Fever spores can be released when filaments are disturbed by earth-moving activities, although receptors must be exposed to and inhale the spores to be at increased risk of developing Valley Fever. Moreover, exposure to Valley Fever does not guarantee that an individual will become ill—approximately 60% of people exposed to the fungal spores are asymptomatic and show no signs of an infection. to reduce fugitive dust from the Project and minimize adverse air quality impacts, the Project would employ project design features (PDFs) that address dust in accordance with the MDAQMD Rules 401 and 403.2 and PDF-CON-5, which would limit the amount of fugitive dust generated during construction. These requirements are consistent with California Department of Public Health recommendations for the implementation of dust control measures, including regular application of water during soil-disturbance activities, to reduce exposure to Valley Fever by minimizing the potential that the fungal spores become airborne.

The Project would not result in a significant impact attributable to Valley Fever exposure based on its geographic location and compliance with applicable regulatory standards and dust mitigation measures, which will serve to minimize the release of and exposure to fungal spores. Therefore, impacts associated with Valley Fever exposure for sensitive receptors would be less than significant. (DEIR, pp. 4.2-37 – 4.2-18.)

2. Odors

Threshold: Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

Finding: Less than Significant (DEIR, p. 4.2-38)

Explanation: Land uses most commonly associated with odor complaints generally include agricultural uses (livestock and farming), wastewater treatment plants, food-processing plants, chemical plants, composting operations, refineries, landfills, dairies, and fiberglass molding facilities. The Project does not include uses that would be substantive sources of objectionable odors. Potential temporary and intermittent odors may result from construction equipment exhaust, the application of asphalt, and architectural coatings. Temporary and intermittent construction-source emissions are controlled through existing requirements and industry best management practices addressing proper storage of and application of construction materials. The potential for the Project to create objectionable odors affecting a substantial number of people would be less than significant. (DEIR, p. 4.2-38.)

C. BIOLOGICAL RESOURCES

1. Interfere with Movement of Native Species

Threshold: Would the Project 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?

Finding: Less than Significant (DEIR, pp. 4.3-44 – 3.4-45)

Explanation: The Project site is not located within an essential connectivity area, natural landscape block, or linkage for the California Desert Linkage Network. No significant direct permanent impacts would occur on wildlife movement or use of native wildlife nursery sites associated with Project activities. Existing nearby habitat linkages and wildlife corridor functions would remain intact while construction activities are conducted and following Project completion. Wildlife movement may be temporarily disrupted during the construction phase of the Project, although this effect would be both localized and short-term. the Project would comply with the requirements of Section 9.47.090 of the Town's Municipal Code and Chapter III of the North Apple Valley Industrial Specific Plan (NAVISP), which requires that all exterior lights be shielded and directed onto the Project site and away from adjacent properties. All light fixtures would be required to be consistent with the CALGreen Code requirements for illumination, which are designed to minimize light pollution in an effort to maintain dark skies and ensure new development reduces backlight, up light, and glare (BUG) from exterior light sources. The Project would be required to comply with the CALGreen BUG rating for Lighting Zone 3. Furthermore, the Project site is not located within an essential connectivity area, natural landscape block, or linkage for the California Desert Linkage Network. Given that the Project would comply with the above regulatory requirements and development standards related to lighting, Project lighting would not disrupt wildlife movement around the Project site. Therefore, potential long-term (post-construction) indirect impacts on wildlife movement resulting from

operations and maintenance activities due to increased lighting from buildings would be less than significant. (DEIR, p. 4.3-45.)

2. Conflict with a Habitat Conservation Plan or Natural Communities Conservation Plan

Threshold: Would the Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

Finding: Less than Significant (DEIR, p. 4.3-46)

Explanation: The Project site is located within the California Desert Conservation Area Plan (BLM 1980). The Project site is also located within the West Mojave Plan and the Desert Renewable Energy Conservation Plan areas. The West Mojave Plan and Desert Renewable Energy Conservation Plan are amendments to the California Desert Conservation Area Plan. The Project would not conflict with the conservation criteria associated with the California Desert Conservation Area Plan or Desert Renewable Energy Conservation Plan as the Project is not located on BLM lands and is not a renewable energy project. Therefore, impacts associated with an adopted habitat conservation plan would be less than significant.

The Project site also occurs within the Town's Multiple-Species Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP), which is in the early stages of development, and no draft NCCP/HCP document is available for review at this time. However, there is a draft Public Review Planning Agreement document available for review that contains interim guidelines for the Town as it relates to the NCCP/HCP. Based on discussions Dudek has had with Town staff on other projects in the Town, it is understood that the Town is at least 2 to 3 years away from completing this effort. The draft interim guidelines include requirements for mitigating biological resources as outlined under CEQA. In the event that the NCCP/HCP is approved at the time of Project implementation, the Project's biological technical report would be reviewed to ensure consistency with the NCCP/HCP. (DEIR, p. 4.3-46.)

D. CULTURAL AND TRIBAL CULTURAL RESOURCES

1. Human Remains

Threshold: Would the Project disturb any human remains, including those interred outside of formal cemeteries?

Finding: Less than Significant (DEIR, p. 4.4-18)

Explanation: No prehistoric- or historic-period burials, within or outside of formal cemeteries, were identified within the Project site as a result of the CHRIS records search or pedestrian survey, and the results of the NAHC SLF search were negative. Given these findings, the potential to encounter unanticipated human remains on the Project site is low. In the event human remains or funerary objects are inadvertently encountered during ground-disturbing activities, they would be treated consistent with state and local regulations including California Health and Safety Code Section 7050.5, California PRC Section 5097.98, and the California Code of Regulations Section 15064.5(e). In accordance with these regulations, if human

remains are found, the County Coroner must be immediately notified of the discovery. No further excavation or disturbance of the Project site or off-site improvement areas or any nearby (no less than 100 feet) area reasonably suspected to overlie adjacent remains can occur until the County Coroner has determined if the remains are potentially human in origin. If the County Coroner determines that the remains are, or are believed to be, Native American, they are required to notify the NAHC that shall notify those persons believed to be the MLD. The MLD shall determine, in consultation with the property owner, the disposition of the human remains. Compliance with these regulations would ensure that impacts to human remains, if inadvertently encountered during ground-disturbing activities, resulting from the Project would be less than significant. (DEIR, p. 4.4-18.)

As analyzed in the Initial Study (DEIR Appendix A), the Project would have a less-than-significant impact on historical resources because the Project site does not include any historical resources listed or eligible for listing in the CRHR, or included in a local register of historic resources, or identified as significant in a historical resources survey (meeting the requirements of PRC Section 5024.1[q]) that would be considered historically or culturally significant for the purposes of CEQA. The Project site does not include any built environment resources (i.e., buildings, canals) and is unlikely to contain any unknown historical resources. Therefore, impacts are less than significant and not further addressed in the EIR. (Appendix A p. 16.)

E. ENERGY

1. Wasteful Use of Energy Resources

Threshold: Would the Project result in potentially significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation?

Finding: Less than Significant (DEIR, pp. 4.5-9 – 4.5-12)

Explanation: The Project would be required to comply with the applicable Title 24 standards applicable at the time building permits are issued, which would further ensure that the Project's energy demands would not be inefficient, wasteful, or otherwise unnecessary and impacts would be less than significant. In addition, enhanced fuel economies realized pursuant to federal and state regulatory actions, and related transition of vehicles to alternative energy sources (e.g., electricity, natural gas, biofuels, hydrogen cells) would likely decrease future gasoline fuel demands per vehicle mile traveled (VMT). Location of the Project proximate to regional and local roadway systems would also reduce VMT within the region, acting to reduce regional vehicle energy demands. Project operational energy consumption would not be considered inefficient, wasteful, or otherwise unnecessary and impacts would be less than significant. (DEIR, p. 4.5-12.)

2. Conflict with Adopted Plans

Threshold: Would the Project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Finding: Less than Significant (DEIR, pp. 4.5-12 – 4.5-13)

Explanation: The Project would be subject to and would comply with, at a minimum, the California Building Energy Efficiency Standards (24 CCR Part 6 and Part 11). Part 6 of Title 24 establishes energy efficiency standards for non-residential buildings, including warehouses, constructed in California to reduce energy demand and consumption. Part 11 of Title 24 sets forth voluntary and mandatory energy measures that are applicable to the Project under CALGreen. For nonresidential projects, some of the key mandatory CALGreen standards involve requirements related to bicycle parking, designated parking for clean air vehicles, EV charging stations for passenger vehicles, shade trees, water conserving plumbing fixtures and fittings, outdoor potable water use in landscaped areas, and construction waste management (24 CCR, Part 11). The Project would comply with all applicable California code requirements for energy efficiency. (DEIR, p. 4.5-12.)

The Town's 2019 Climate Action Plan (CAP) Update presents a number of strategies that make it possible for the Town to meet the state's recommended GHG emissions targets that are consistent with the reduction targets of the state. These strategies are also in alignment with the Energy and Mineral Resources Element of the Town's General Plan, specifically Policy 1.A through Policy 1.D. The Project's consistency with applicable 2019 CAP Update strategies is therefore based on the overarching categories described within the 2019 CAP Update, rather than the entire menu of policies. The Project would be consistent with GHG reduction categories from the 2019 CAP Update that pertain to energy and would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. This impact would be less than significant. (DEIR p. 4.5-13.)

3. Cumulative

Threshold: Would the Project result in cumulatively considerable impacts related to energy?

Finding: Less than Significant (DEIR, p. 4.5-13)

Explanation: The geographic area considered for the analysis of cumulative energy impacts is the Town of Apple Valley and surrounding areas served by SCE. Potential cumulative impacts on energy would result if the Project, in combination with past, present, and future projects, would result in the wasteful or inefficient use of energy. Significant energy impacts could result from development that would not incorporate sufficient building energy efficiency features, achieve building energy efficiency standards, or if projects result in the unnecessary use of energy during construction or operation.

Cumulative projects would also primarily be industrial, and each would have a construction period during which primarily petroleum would be used; however, it is expected that such usage would be temporary and would not constitute a wasteful, inefficient, or unnecessary consumption of energy. Regarding operations, it is anticipated that these projects would also be designed to be comparable to other similar projects of scale and configuration and would not contribute to any potential cumulative energy impacts. Furthermore, any commercial,

residential, and industrial cumulative projects that may take place in the Town would be required to meet or exceed the Title 24 building standards, as applicable, further reducing the inefficient use of energy. Finally, various federal and state regulations, including the Low Carbon Fuel Standard, Pavley Clean Car Standards, and Low Emission Vehicle Program, would serve to reduce the transportation fuel demand of cumulative projects. The Project, together with the cumulative projects would not result in wasteful, inefficient, or unnecessary use of energy or conflicts with applicable plans. Therefore, the Project would not result in a significant cumulative impact related to energy. (DEIR, p. 4.5-13.)

F. HAZARDS AND HAZARDOUS MATERIALS

1. Hazard due to Transport, Use or Disposal of Hazardous Materials

Threshold: Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Finding: Less than Significant (DEIR, pp. 4.7-8 – 4.7-9)

Explanation: During construction, a variety of hazardous substances and wastes would be stored, used, and generated on the Project site, including fuels for machinery and vehicles, new and used motor oils, cleaning solvents, paints, and storage containers. Accidental spills, leaks, fires, explosions, or pressure releases involving hazardous materials represent a potential threat to human health and the environment if not property treated. Provisions to properly manage hazardous substances and wastes during construction are typically included in construction specifications and are under the responsibility of the construction contractors. construction contractors would be required to comply with Cal/OSHA regulations concerning the use of hazardous materials, including requirements for safety training, exposure warnings, availability of safety equipment, and preparation of emergency action/prevention plans. Adherence to the construction specifications and applicable regulations regarding hazardous materials and hazardous waste, including disposal, would ensure that the Project would not create a significant hazard to the public or the environment during construction. (DEIR, pp., 4.7-8 – 4.7-9.)

Upon completion of Project construction, the Project would involve the operation and maintenance of the industrial/warehouse facilities. Consistent with federal, state, and local requirements, the transport, removal, and disposal of hazardous materials from the Project site would be conducted by a permitted and licensed service provider. Any handling, transport, use, or disposal must comply with all applicable federal, state, and local agencies and regulations. In the event that a future tenant's operations require them to transport, use, or dispose of quantities of hazardous materials identified by the state, pursuant to the Health and Safety Code and in accordance with the County's fire department CUPA requirements, the owner/operator must complete and submit a Hazardous Materials Business Plan (HMBP) to the California Environmental Reporting System. All hazardous materials would be managed in accordance with applicable federal, state, and local laws and regulations, which are intended to minimize health risk to the public associated with hazardous materials. Therefore, the Project would result in a less-than-significant impact with regard to the creation of a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. (DEIR p. 4.7-9.)

2. Create Hazards due to Upset and/or Accident Conditions

Threshold*:* Would the Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Finding: Less than Significant (DEIR, pp. 4.7-10- 4.7-11)

Explanation: Strict federal, state, and local regulations are in place for the transport of hazardous materials and wastes, and for the storage and handling of hazardous materials. Routine transport of hazardous materials to and from the Project site could result in an incremental increase in the potential for accidents; however, the Project would be required to comply with the Caltrans and the CHP regulations for the transport of hazardous materials and wastes, including container types and packaging requirements, as well as licensing and training for truck operators, chemical handlers, and hazardous waste haulers. Incorporation of required best management practices (BMPs) would help control the use of hazardous substances during construction and would minimize the potential for such substances to leave the site. As a result, there would be reduced potential for the public and environment to be exposed to hazardous chemicals and materials as a result of construction activities. Compliance with applicable regulations involving hazardous materials during operation would ensure that such materials are transported, used, stored, and disposed of in a manner that minimizes the potential for upset and accidental conditions resulting in the release of hazardous materials into the environment. Due to the existing regulations that are required, the Project construction and operation would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions and the impact would be less than significant. (DEIR, p. 4.7-11.)

As analyzed in the Initial Study (DEIR Appendix A), the Project would have no impact related to emissions of hazardous emissions or the handling of hazardous materials, substances, or waste within 0.25 miles of an existing or proposed school, because no schools are located within 0.25 miles of the Project site. The Project site is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (i.e., the Cortese List), thus, there would be no impact. The Project site is not located within a runway protection zone or safety zone area for the Apple Valley Airport, which is more than 2 miles away from the Project site; therefore, there would be no impact. The Initial Study also reported that the Project site is not located within a Non-Very High Fire Hazard Severity Zone within a Local Responsibility Area (LRA), and the Project would have no impact related to exposure of people or structures to a significant risk of loss, injury, or death involving wildland fires. Therefore, there would be no impact and these issues are not further analyzed in the EIR. The Initial Study also concluded that the Project would have a less-than-significant impact on the Town's emergency response or evacuation plan because the Town's General Plan designates Central Road, SR-18, and Bear Valley Road as evacuation routes. The Project does not propose any changes to these roadways, and moreover, the Project's truck trips would not be directed towards these roads. As such, it follows that the Project would not affect the ability of these roadways to serve as emergency evacuation routes. (Appendix A, p. 24.)

3. Cumulative

Threshold*:* Would the Project result in cumulatively considerable impacts related to hazards and hazardous materials?

Finding: Less than Significant (DEIR, pp. 4.7-11- 4.7-12)

Explanation: The geographic scope of the cumulative hazards and hazardous material analysis is the immediate Project area, including surrounding land uses and other nearby properties. Adverse effects of hazards and hazardous materials tend to be localized; therefore, impacts from nearby projects would be limited, if any, and the Project site would be primarily affected by Project activities. Generally, these site-specific impacts would not combine with one another to create cumulative impacts with other projects occurring elsewhere in the Town, unless the cumulative development sites overlapped or were immediately adjacent to one another. There are no known cumulative projects planned within the geographic area of analysis for cumulative impacts related to hazards and hazardous materials.

Cumulative development would be required to comply with applicable federal, state, and local laws and regulations regarding the use, transport, handling, storage, disposal, and release of hazardous materials, and include project-specific BMPs or a stormwater pollution prevention program (SWPPP), as applicable. Such compliance would reduce the potential for a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials or reasonably foreseeable upset or accident conditions. Therefore, the Project, in combination with past, present, and reasonably foreseeable future development, would result in a less-than-significant cumulative impact related to hazards and hazardous materials. (DEIR, p. 4.7-12.)

G. HYDROLOGY AND WATER QUALITY

1. Violate Water Quality Standards

Threshold: Would the Project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?

Finding: Less than Significant (DEIR, pp. 4.8-13 – 4.8-15)

Explanation: Compliance with existing regulations would ensure that the Project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface quality from construction activities. Therefore, short-term construction impacts associated with water quality standards and waste discharge requirements would be less than significant.

Project operation could contribute pollutants (e.g., petroleum fuel, oils, and trash) to stormwater runoff due to vehicle use in uncovered parking areas (through small fuel and/or fluid leaks), uncovered refuse storage/management areas, landscape/open space areas (if pesticides/herbicides and fertilizers are improperly applied), and general litter/debris (e.g., generated during facility loading/unloading activities). The NPDES MS4 Phase II Stormwater Permit requires the Town to implement a Post-Construction Stormwater Management Program (SWMP) in accordance with the regional SWMP. This Program sets limits of pollutants being discharged into waterways and requires all new development to incorporate structural and

non-structural BMPs to improve water quality. To meet the requirements of the SWMP, the Town requires the incorporation of low impact design (LID) features and BMPs 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), improper management of hazardous materials, and trash and debris, in accordance with all relevant local and state development standards. Project design, construction, and operation would be completed in accordance with the NPDES MS4 permit and the Mojave River Watershed Technical Guidance Document for Water Quality Management Plans, with the goal of reducing the number of pollutants in stormwater and urban runoff.

With respect to groundwater quality, stormwater to be collected and treated in the infiltration and detention basins would be able to meet retention time requirements for water quality purposes in accordance with San Bernardino County requirements. Therefore, with adherence to the NPDES MS4 Permit and San Bernardino County Hydrology Manual standards, long-term operational impacts associated with water quality standards and waste discharge requirements would be less than significant. (DEIR, p. 4.8-15.)

2. Decrease Groundwater or Impede Groundwater Management

Threshold: Would the Project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin?

Finding: Less than Significant (DEIR, p. 4.8-16)

Explanation: Construction activities would incorporate BMPs which would limit the amount of off-site discharge, and once constructed, the Project would incorporate low impact design (LID) features, including retention/detention systems designed to retain 100% of the stormwater volume generated from up to a 10-year storm event and at least 90% of a 100-year storm event. Detained stormwater would infiltrate through the bottom of the infiltration basins and into the underlying soils. Because the Project would meet and exceed infiltration requirements, stormwater would continue to be able to infiltrate soils and recharge the underlying Mojave Basin. Therefore, impacts associated with groundwater recharge attributed to development of the site would be less than significant.

Development of the two sites would result in an average water demand of 92 acre-feet per year. In the 2020 Urban Water Management Plan (UWMP) developed by Liberty Utilities, the water system reliability assessment factored in increased development within its jurisdiction and concluded that the future demands out to 2045 can be met under normal, single-dry-year, and multiple-dry-year scenarios. Therefore, the Project would not substantially decrease groundwater supplies and would not impede sustainable groundwater management of the Basin and impacts associated with groundwater supplies would be less than significant. (DEIR, p. 4.8-16.)

3. Alter Existing Drainage Patterns

Threshold: Would the Project 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:

Finding: Less than Significant (DEIR, p. 4.8-17 – 4.8-18)

(i) Result in substantial erosion or siltation on or off site?

Explanation: Project construction would result in a substantial increase in new impervious surfaces. Construction activities would be required to implement BMPs as part of a SWPPP that would include erosion control measures for all exposed soils. Once developed, the buildings, paved surfaces, other on-site improvements, and drainage control features would stabilize and help retain on-site soils. The Project's drainage system would include catch basins and retention/detention basins to retain and infiltrate water on site and address the Hydromodification Performance Criteria required for the proposed Project in accordance with MS4 Phase II Stormwater Permit requirements. The stormwater drainage systems would be based on preliminary engineering considerations, including the minimum setback from structures as recommended by the geotechnical engineer. The adherence to water quality control requirements consistent with MS4 Phase II Stormwater Permit requirements would ensure that the proposed changes to drainage patterns would result in less-than-significant impacts related to erosion or siltation in runoff on or off site. (DEIR, p. 4.8-17.)

(ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site?

Explanation: Project construction would alter the existing drainage patterns through the introduction of new impervious surfaces. The Project would maintain adequate stormwater conveyance through compliance with existing drainage control standards for volume control consistent with the Mojave Watershed Technical Guidance Document and required LID and Hydromodification Performance Criteria in accordance with the Phase II Small MS4 Permit. Project improvements would be designed to convey runoff as sheet flows away from buildings and allow on-site infiltration through the remaining landscaped pervious areas as well as the on-site detention basins. Project improvements would be required to be included in the Project's design plans for stormwater drainage system basins that are sized and designed to prevent flooding from a 10-year or 100-year storm event with a design retention/detention volume consistent with the Hydromodification Performance Criteria pursuant to the San Bernardino County Hydrology Manual. Therefore, because Project improvements would be designed to meet and exceed the stormwater requirements set forth in the San Bernardino County Hydrology Manual, the Project would not substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site. As a result, impacts associated with flooding on- or off-site would be less than significant. (DEIR, p. 4.8-17.)

(iii) 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?

Explanation: The Project's proposed drainage system would be designed to convey runoff in compliance with Apple Valley and the County of San Bernardino WQMP and SWMP requirements which include storm volume thresholds. With implementation of the

retention/detention basins, infiltration on site, and stormwater storage, peak flows with the Project would be less than under the existing conditions (Appendix I). In addition, the Project would incorporate LID features, including on-site detention basins and ongoing maintenance requirements to ensure a continued successful operation. Collectively, these LID features would lower the potential for off-site transport of contaminants such as oil, grease, nutrients, heavy metals, and certain pesticides, including legacy pesticides. No other discharges would be associated with the proposed improvements. As a result, the Project would not create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. Therefore, impacts associated with stormwater drainage systems capacity and polluted runoff sources would be less than significant. (DEIR, p. 4.8-18.)

(iv) Impede or redirect flood flows?

Explanation: The FEMA Flood Map Service Center identifies the Project site as being within Zone D, which is classified as an area of undetermined flood hazard but still an area where flooding is possible (Appendix I). However, as previously discussed, although on-site drainage patterns would be altered as a result of Project development, the Project would maintain adequate stormwater conveyance and storage on each site in the retention/detention basins effectively not creating an increase in surface runoff that would result in flooding on or off site associated with a 10-year or 100-year storm event with volumes either fully captured within retention basins or resulting in discharges reduced to very low flows. Therefore, impacts associated with impeding or redirecting flood flows would be less than significant. (DEIR, p. 4.8-18.)

4. **Conflict with a Water Quality Control Plan or Groundwater Management Plan**

Threshold: Would the Project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Finding: Less than Significant (DEIR, pp. 4.8-18 – 4.8-19)

Explanation: Liberty Utilities would be supplying water for the Project and sources its water from groundwater in the Alto Subarea of the Upper Mojave River Valley Groundwater Basin. Historical practices lead to declining water levels in the Basin which resulted in the adjudication of the Basin in 1996 in order to manage groundwater supplies and regulate extraction. Since adjudication, the Mojave Basin area has been well-managed as evidenced by stabilized water levels and reliable supply. According to the 2020 UWMP, Liberty Utilities has been able to meet its demands even with decreasing supply and increasing population and need for water supply including during recent severe drought occurrences. In addition, Victor Valley Wastewater Reclamation Authority has constructed facilities to increase recycled water supply facilities to increase water supply in the future. Therefore, based on past history and current planning efforts, the 2020 UWMP for Apple Valley determined that water demands for the Town including projected future growth such as the Project can be met in normal, single-dry-year, and multiple-dry-year scenarios. Further, the Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge and would not conflict with or obstruct a water quality control plan or sustainable groundwater management plan. Therefore, impacts

associated with water quality control plans and sustainable groundwater management plans would be less than significant. (DEIR, p. 4.8-19.)

As analyzed in the Initial Study for the Project (DEIR Appendix A), the Project would not result in flood hazards, tsunami, or seiche zones, risk release of pollutants due to project inundation. Largely based on Project location and FEMA flood mapping, there would be no impacts associated with seiche, tsunami, or flooding and this is not further addressed in the EIR. (Appendix A p. 26.)

5. **Cumulative**

Threshold: Would the Project result in cumulatively considerable impacts related to hydrology and water quality?

Finding: Less than Significant (DEIR, pp. 4.8-19 – 4.8-20)

Explanation:

Hydrology, Water Quality, and Stormwater Runoff

The geographic context for the analysis of cumulative impacts associated with hydrology and water quality encompasses the Mojave River Watershed for surface water and the Upper Mojave River Valley Groundwater Basin for groundwater. Past, present, and reasonably foreseeable cumulative development in the watershed and groundwater basin would result in an increase in impervious surface area and add new sources of stormwater runoff that could adversely affect surface water or groundwater quality. Potential soil erosion from all cumulative project sites could combine to cause potentially significant cumulative water quality impacts due to sedimentation of downstream water bodies. Cumulative development could potentially result in short-term erosion related impacts during construction and long-term erosion related to denuded soil, improper drainage, and lack of erosion control features at each cumulative project site. Similarly, incidental spills of petroleum products and hazardous materials during construction at each cumulative project site could occur during construction, resulting in potentially significant cumulative water quality impacts.

Short-term and long-term erosion BMPs and spill control BMPs would be employed at each site consistent with NPDES stormwater quality regulations, including the Construction General Permit and MS4 permits, as applicable. All cumulative development in the region would be subject to the existing regulatory requirements to protect water quality and minimize increases in stormwater runoff as has been described for the Project. All developments within the Mojave River Watershed are subject to the water quality standards outlined in the Mojave River Basin Plan and must comply with any established TMDLs. The continuing review process would ensure that cumulative development within the watershed would not substantially degrade water quality. The Project's contribution to potentially significant cumulative impacts associated with water quality and stormwater runoff would be less than cumulatively considerable. (DEIR, p. 4.8-19.)

Groundwater Supplies

The geographic context for the analysis of cumulative impacts associated with groundwater resources encompasses the Upper Mojave River Valley Groundwater Basin. Cumulative development would result in an increase in water demand, which could have potentially significant cumulative impacts on groundwater resources in the Basin, including a reduction in the amount of potable groundwater in storage. Cumulative projects would be required to comply with regulations regarding water supply, including preparation of water supply assessment (WSAs) pursuant to SB 610 as applicable, prior to being approved by the Town. Regarding groundwater supplies, the above analysis for the Project considers the basin as a whole and Liberty Utilities is managing the basin based on cumulative growth projections. Therefore, since the 2020 UWMP for Apple Valley determined that water demands for the Town can be met in normal, single-dry-year, and multiple-dry-year scenarios combined with the adjudicated management of the basin as a whole. Therefore, the Project's contribution to potentially significant cumulative groundwater impacts would be less than cumulatively considerable. (DEIR, p. 4.8-20.)

H. Land USE

1. Conflict with a Plan or Policy Adopted to Avoid or Mitigate an Impact

Threshold: Would the Project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

Finding: Less than Significant (DEIR, pp. 4.9-7 – 4.9-25)

Explanation:

Regional Transportation Plan/Sustainable Communities Strategy

The 2020-2045 RTP/SCS was adopted on September 3, 2020, and presents the land use and transportation vision for the region through the year 2045, providing a long-term investment framework for addressing the region's challenges. The RTP/SCS establishes goals for the region and identifies transportation investments that address the region's growing population, as well as strategies to reduce traffic congestion and GHG emissions. In addition, the RTP/SCS is supported by a combination of transportation and land use strategies that help the region achieve state GHG emission reduction goals and federal Clean Air Act requirements, preserve open space areas, improve public health and roadway safety, support the region's vital goods movement industry, and utilize resources more efficiently. The Project would not conflict with the 10 overarching goals of the RTP/SCS and the impact is less than significant. (DEIR, pp. 4.9-7 – 4.9-9.)

Town of Apple Valley General Plan

The Apple Valley General Plan includes goals and policies relevant to the Project. The Project's potential to conflict with specific policies and programs of the General Plan was evaluated and determined the Project would be generally consistent with the goals and policies set forth in the General Plan adopted for the purpose of avoiding or mitigating an environmental effect and the impact is less than significant. (DEIR, pp. 4.9-9 - 4.9-24.)

North Apple Valley Industrial Specific Plan

Jurisdictions may adopt specific plans to focus more specifically on the unique characteristics of a certain area. As previously mentioned, the Project is located within the area of the Town covered under the NAVISP. The NAVISP governs land use for 6,221 acres in the northern portion of the Town and it seeks to promote industrial land use within its area. According to the NAVISP, the Project site is zoned as I-SP. This zoning designation allows for a broad range of clean manufacturing and warehousing uses, including warehouse distribution facilities. As such, the Project is an allowed use under the current zoning designation and would not introduce an incompatible land use in the Town. Additionally, Project plans would be reviewed by Town staff to ensure consistency with all applicable development standards and regulations. The Project would have no conflicts with the NAVISP development standards. Therefore, impacts related to conflicts with the NAVISP would be less than significant. (DEIR, p. 4.8-25.)

As analyzed in the Initial Study (DEIR Appendix A), the Project would have no impact on the physical division of an established community. The Project site consists of land that is undeveloped and is surrounded by undeveloped land; therefore, there is no connection between any established communities. Thus, there would be no impact and this issue is not further analyzed in the EIR. (Appendix A p. 27.)

2. **Cumulative**

Threshold: Would the Project result in cumulatively considerable impacts related to land use and planning?

Finding: Less than Significant (DEIR, p. 4.9-25)

Explanation: The geographic area considered for the analysis of cumulative impacts related to land use and planning is the County of San Bernardino and jurisdictions therein. Proposed and pending development projects listed in Table 4-1 at the beginning of Chapter 4, Environmental Analysis (DEIR, p. 4-4), include projects that are under the jurisdiction of, and subject to approval by, the Town and the City of Victorville. Although cumulative projects could have conflicts with established land use and planning documents and land use policies, they would be subject to review and approval by the applicable jurisdictions. During the review and approval process, each of these projects would be required to be designed or otherwise conditioned to avoid conflicts with adopted land use plans and ordinances. Should potential impacts be identified, appropriate mitigation would be prescribed that would likely reduce potential impacts to less-than-significant levels. Furthermore, land use consistency is site-specific and would not combine to create a cumulative impact. Therefore, the Project, in combination with past, present, and reasonably foreseeable future development, would result in less-than-significant cumulative impacts related to conflicts with land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect. (DEIR, p. 4.9-25.)

I NOISE

1. Threshold: Would the Project 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?

Finding: Less than Significant (DEIR, pp. 4.10-12 – 4.10-16.)

Explanation:

Construction Noise

Noise impacts associated with short-term Project construction activities, include on-site construction noise from construction of the warehouse buildings and associated on-site improvements, off-site construction noise from construction of roadway and utility improvements, and noise from construction vehicle traffic traveling on local roadways. Construction activities would take place during permitted hours (between 7:00 a.m. and 7:00 p.m., Monday through Saturday) and would not occur on Sundays or federal holidays as specified in the Apple Valley Municipal Code. Construction of the Project would generate noise that could expose nearby receptors to elevated noise levels that may disrupt communication and routine activities. The magnitude of the impact would depend on the type of construction activity, equipment, duration of the construction, distance between the noise source and receiver, and intervening structures. These noise levels would be lower than the Town's construction noise standards. Therefore, noise from Project site construction would be less than significant. This includes off-site construction noise which would take place farther away (an average distance of approximately 900 to 1,000 feet from the residences to the south and east respectively) and thus construction noise levels would be substantially lower at approximately 59 dBA $L_{eq\ 8\text{-}hr}$. These noise levels would be lower than the Town's construction noise standards. Therefore, noise impacts from off-site construction activities would be less than significant. Traffic noise associated with construction vehicles would result in an increase of less than 1 dB, and thus would not result in an audible change on an hourly or daily basis. Therefore, noise related to Project-related construction vehicles on local roadways would be less than significant.

Operation Noise

During Project operation noise includes new stationary sources of noise, including outdoor HVAC equipment, and vehicle parking lot and truck loading dock activities. The resulting noise levels from truck loading dock/truck yard activity noise, would not exceed the Town's applicable noise standards for daytime or nighttime noise. Additionally, the estimated noise levels from the Project would be below the existing measured daytime ambient noise levels in the Project vicinity, which ranged from approximately 46 to 64 dBA L_{eq}. Therefore, impacts related to on-site operational noise from mechanical equipment and truck loading dock/truck yard activity would be less than significant. The employee parking lot adjacent to the nearest noise-sensitive receiver (residence to the southwest of the Cordova Complex site) is proposed to be situated on the south side of the warehouse building, no closer than 1,300 feet from the residential property. At a distance of 1,300 feet, parking lot noise levels would be approximately 21 dBA L_{eq}, which would be well below the Town's daytime (7 a.m. to 10 p.m.) exterior residential noise standard of 50 dBA L_{eq} and the nighttime (10 p.m. to 7 a.m.) noise standard of 40 dBA L_{eq}.

Therefore, impacts related to on-site operational noise from parking lot activity would be less than significant. (DEIR, pp. 4.10-12 - 4.10-16.)

2. Threshold: Would the Project result in generation of excessive groundborne vibration or groundborne noise levels?

Finding: Less than Significant (DEIR, pp. 4.10-18 – 4.10-19)

Explanation*:* Groundborne noise and vibration sources during Project construction would include heavy equipment such as excavators, tractors, vibratory rollers, etc. Groundborne vibration is typically attenuated over short distances. At the distance from the nearest vibration-sensitive receivers (residences located to the southwest of the Cordova Complex site) to where construction activity would be occurring on the Project site (approximately 190 feet), and with the anticipated type of construction equipment, the PPV vibration level would be approximately 0.005 ips. As such, vibration levels would be less than the Caltrans thresholds of 0.2 ips PPV for human annoyance, 0.3 ips PPV for the prevention of structural damage to typical residential buildings, and 0.5 ips PPV for damage to buildings of reinforced-concrete, steel, or timber construction. Because groundborne vibration from Project construction would not exceed recognized standards, and would be temporary and intermittent in nature, impacts related to generation of groundborne vibration or groundborne noise during construction would be less than significant. (DEIR, p. 4.10-18.)

During Project operation, no major sources of groundborne vibration are anticipated because the Project would not include any heavy machinery or manufacturing processes that would generate vibration. Project-related trucks and automobiles typically do not produce substantial levels of groundborne vibrations because roadgoing vehicles are supported by pneumatic tires and flexible suspensions (Caltrans 2020a). Thus, groundborne vibration during Project operation would be less than significant. (DEIR, p. 4.10-19.)

The Project's Initial Study (see Appendix A) determined that the Project would have no impact related to the potential for people residing or working in the Project area to be exposed to excessive noise levels from nearby airports or airstrips, because the Project site is not located within a runway protection zone or safety zone area, which would have potential safety and noise impacts. Therefore, this issue is not discussed further in the EIR. (Appendix A p. 29.)

J TRANSPORTATION

1. Conflict with a Program, Plan or Policy Addressing the Circulation System

Threshold: Would the Project conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?

Finding: Less than Significant (DEIR, pp. 4.11-18 – 4.11-23 and pp. 4.9-7 – 4.9-9)

Explanation:

Southern California Association of Governments Regional Transportation Plan/Sustainable Communities Strategy

The 2020-2045 RTP/SCS was adopted on September 3, 2020, and presents the land use and transportation vision for the region through the year 2045, providing a long-term investment framework for addressing the region's challenges. The RTP/SCS establishes goals for the region and identifies transportation investments that address the region's growing population, as well as strategies to reduce traffic congestion and GHG emissions. In addition, the RTP/SCS is supported by a combination of transportation and land use strategies that help the region achieve state GHG emission reduction goals and federal Clean Air Act requirements, preserve open space areas, improve public health and roadway safety, support the region's vital goods movement industry, and utilize resources more efficiently. The Project would not conflict with the 10 overarching goals of the RTP/SCS and the impact is less than significant. (DEIR, pp. 4.9-7 – 4.9-9.)

San Bernardino County Congestion Management Plan

The Project would not conflict with the applicable goals and elements of the San Bernardino County CMP. The Project would not impede the ability to maintain or enhance the performance of the multimodal transportation system. The Project would include on- and off-site roadway improvements to minimize impacts to travel delay and improve connections to the local street network. The Project would also participate in the Town's Development Impact Fee program, which is coordinated with and provides funding for regional planning efforts in Victor Valley as part of the CMP. The CMP System LOS Element and Performance Measures Element also contain LOS standards for CMP-designated highways and roadways. There are no designated CMP roadways in the Project study area, therefore the Project would have no impact on these roadways. (DEIR, p. 4.11-18.)

Town of Apple Valley General Plan Circulation Element

The Project would be consistent with the applicable goals and policies of the Town's General Plan Circulation Element including policies related to maintaining and expanding a safe and efficient circulation and transportation system. The Project is located in an area with existing warehouse and distribution facilities and takes advantage of the proximity to the I-15 corridor to minimize truck travel through the Town, thereby discouraging traffic to use local residential streets for access or parking needs. The Project would also not hinder the Town's ability to provide for a comprehensive, interconnected recreational trails system suitable for bicycles, equestrians and/or pedestrians, nor hinder the Town's ability to expand the public transit system. The are no future multimodal facilities planned near the Project site. The Project would include on- and off-site roadway improvements to serve internal circulation needs, as well as to minimize impacts of increased traffic on the existing road system. The Project would also participate in the Town's Development Impact Fee program, which helps fund transportation-related improvement projects that meet the goals of the General Plan Circulation Element. Therefore, the Project would not conflict with the Town's General Plan Circulation Element. (DEIR, pp. 4.11-18 – 4.11-19.)

North Apple Valley Industrial Specific Plan

The Project would be consistent with the applicable goals and policies of the NAVISP, which as noted previously is also required to be consistent with the General Plan. The Project is

consistent with the primary land uses envisioned in the Specific Plan, including industrial and commercial land uses, which would provide the Town with long-term economic growth, job growth, and revenue. The Project would not conflict the NAVISP's goals and policies related to developing a circulation plan and programs which are financially, technically, and legally implementable, developing a circulation system which supports the comprehensive goals of the Town, and designing and constructing transportation corridors that are easy to follow and meet traffic safety standards. As noted above, the Project includes off-site roadway improvements to minimize impacts to travel delay and improve connections to the local street network. All roadway improvements required as part of the Project, whether located on or off site, would be designed and constructed in accordance with all applicable local, state, and federal roadway standards and practices. Therefore, the Project would not conflict with the NAVISP. (DEIR, p. 4.11-19.)

Pedestrian and Bicycle Access

The Project site is located in a rural area of the Town, with limited pedestrian and bicycle facilities provided. No pedestrian facilities, including curbs and sidewalks, are present along the existing roads in the immediate vicinity of the Project site, including Quarry Road, Dale Evans Parkway, Johnson Road, or Central Road. The Project would include construction of pedestrian facilities (e.g., curb and gutter) along all Project frontages, including Cordova Road, Dachshund Avenue, and Navajo Road. Additionally, as the adjacent areas surrounding the Project site continue to be developed, connectivity to other areas of the Town would be realized. Therefore, the Project would have a less-than-significant impact on pedestrian and bicycle access. (DEIR, p. 4.11-19.)

2. Conflict with CEQA Guidelines Section 15064.3

Threshold: Would the Project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

Finding: Less than Significant (DEIR, pp. 4.11-19 - 4.11-22)

Explanation: The Project's VMT)per service population would be less than the VMT per service population representing buildout of Apple Valley's General Plan and, thus, the Project would not cause a significant impact based on the Town's adopted significance thresholds for Project-generated VMT. Town-wide VMT per service population would not increase with implementation of the Project and, thus, the Project would not cause a significant impact based on the Town's adopted significance thresholds for a project's effect on Town-wide VMT. Therefore, the Project would have a less-than-significant impact related to conflicts or inconsistency with CEQA Guidelines Section 15064.3(b). (DEIR, p. 4.11-19 – 4.11-22.)

3. Increase Hazards or Create Incompatible Uses

Threshold: Would the Project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

Finding: Less than Significant (DEIR, pp. 4.11-22 – 4.11-23)

Explanation: All roadway improvements required as part of the Project, whether located on or off site, would be designed and constructed in accordance with all applicable local, state, and federal roadway standards and practices. As conditions of approval, the Town requires off-site intersection improvements at Dale Evans Parkway/Johnson Road, Stoddard Wells Road/Johnson Road, and Stoddard Wells Road/I-15 Northbound Ramps. All of these improvements would be within existing rights-of-way. As the Project continues through design review, detailed roadway improvements would continue to be developed in coordination with the Town. These improvements would be overseen by Town and their qualified traffic engineers. This approach would ensure compliance with all applicable roadway design requirements. As such, no hazardous design features would be part of the Project's roadway improvements or site access. The Project would implement all recommended roadway improvements which would be made conditions of Project approval. This includes payment of a fair share contribution for off-street-network improvements and traffic impact fees for impacts on the Town's Development Impact Fee Program. Impacts would be less than significant. (DEIR, p. 4.11-22 - 4.11-23.)

4. Inadequate Emergency Access

Threshold: Would the Project result in inadequate emergency access?

Finding: Less than Significant (DEIR, p. 4.11-23)

Explanation: The Project would be required to maintain emergency access to the site at all times during construction. This may include temporary access roads/and or driveways that meet all applicable standards of the Fire Department. During Project construction, all staging areas would be located within the Project site boundaries and would be located to not block any egress or ingress points. Construction of some of the Project's roadway and utility improvements within the public right-of-way may require partial road closures or access limitations on a temporary and periodic basis during the construction period. Encroachment permits would need to be obtained from the Town for construction and/or excavation done within the public right-of-way. The issuance of encroachment permits by the Town requires that a traffic control plan be submitted for work on any major road or near any school or business, which includes provisions for emergency access. Implementation of these plans and requirements would ensure that access for emergency vehicles would be maintained during construction. Given the above, the Project would have a less-than-significant impact on emergency access during construction and operation. (DEIR, p. 4.11-23.)

5. Cumulative

Threshold: Would the Project result in cumulatively considerable impacts related to transportation?

Finding: Less than Significant (DEIR, pp. 4.11-23 – 4.11-24)

Explanation: The geographic scope of the cumulative transportation analysis consists of the Town, including the Project site and areas along various public roadways that would support Project traffic and access to the Project site. Growth in traffic is from forecasts prepared by the SBTAM. As examined in Section 4.6, Greenhouse Gas Emissions, and Section 4.9, Land Use and Planning, the Project would not conflict with plans addressing the Town's circulation system and would not conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities: Therefore, cumulative impacts related to conflicts with a program, plan, ordinance, or policy addressing the circulation system would be less than significant.

The horizon-year scenario (which accounts for future cumulative growth in the area), the VMT per service population for the Project is less than the Town's General Plan buildout significance threshold. Therefore, the Project would have a less-than-significant cumulative impact on VMT. Likewise, the Project's effect on town-wide VMT shows that the VMT per service population under the "with Project" conditions compared to the metric under the "without Project" conditions in the horizon-year scenario would not increase and therefore would not meet the Town's threshold for a significant impact. Thus, the Project would result in less-than-significant cumulative impact on VMT.

Impacts related to hazardous design features and modifications to emergency access are largely confined to a specific project site, thus the Project's site-specific design hazard and emergency access impacts would not combine with other cumulative projects and there would be no cumulative impact. (DEIR, pp. 4.11-23 - 4.11-24.)

K. UTILITIES AND SERVICE SYSTEMS

1. New Infrastructure

Threshold: Would the Project require or result in the relocation or construction of new or expanded water, wastewater treatment, or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

Finding: Less than Significant (DEIR, pp. 4.12-13 – 4.12-18)

Explanation:

Water and Wastewater Facilities

The Project would involve the construction of on-site water distribution infrastructure (i.e., pipes, valves, meters, etc.) to provide domestic water, firewater, and irrigation to the Project site in addition to wastewater infrastructure. Construction of the Project's proposed water and wastewater improvements has the potential to cause environmental effects associated with buildout of the Project as a whole. However, construction of the Project's backbone infrastructure, including water and wastewater improvements have been considered as part of the Project, and has been accounted for in the other technical sections of this EIR. There are no unique impacts associated with the installation of water or wastewater infrastructure

to serve the Project that have not been discussed and accounted for in this EIR and the Project would not require the relocation of any existing water lines. Therefore, impacts associated with water and wastewater facilities would be less than significant. (DEIR, pp. 4.12-13 – 4.12-14.)

Water and Wastewater Treatment Facilities

Development of the Project would result in an increased water demand and as a result there would be a need for an incremental increase in water treatment. However, the Project's water demand would not result in or require new or expanded water treatment facilities beyond those facilities that are already planned as part of Liberty Utilities' 2020 Urban Water Management Plan (UWMP) based on the fact that the Project is consistent with the underlying land use and zoning designations for the Project site included in the North Apple Valley Industrial Specific Plan and Apple Valley General Plan. In addition, the reliability assessment included as part of the 2020 UWMP indicates that water supply to serve the Liberty Utilities service area meets all regulatory requirements without treatment. Thus, implementation of the Project would not result in the need to expand existing water treatment facilities. Therefore, impacts associated with water treatment facilities would be less than significant. (DEIR, p. 4.12-14.)

Upon build-out of the Project, the Project's wastewater would be conveyed to the Regional WWTP, which has a treatment capacity of 18.0 mgd and currently produces an average flow of 10.7 mgd, or approximately 60% of its total capacity. Projected wastewater from the Project would represent approximately 0.77% of the remaining capacity of the treatment facility. Given the remaining capacity of the Regional WWTP, adequate capacity is available to accommodate the Project's contribution of wastewater. As such, no improvements would be required, and impacts associated with new wastewater treatment facilities would be less than significant. (DEIR, p. 4.12-14.)

Stormwater Drainage Facilities

The Project would be required to adhere to local drainage control requirements in accordance with the San Bernardino County Hydrology Manual. The proposed stormwater drainage system includes on-site retention/detention basins that would be sized and designed to prevent flooding from a 10-year or 100-year storm while also accommodating the required retention/detention volumes for water quality purposes. The basins would be designed to capture the entire volume generated from a 10-year storm and at least 90% of the 100-year storm, with only very low flows allowed to be discharged off site.

Construction of the proposed storm drainage improvements described above has the potential to cause environmental effects associated with buildout of the Project as a whole. The storm drainage improvements, however, have been considered as part of the Project, and have been accounted for in the other technical sections of this EIR. There are no unique impacts associated with the installation of storm drain improvements to serve the Project that have not been discussed and accounted for in this document. Therefore, impacts associated with stormwater drainage facilities would be less than significant. (DEIR, p. 4.12-14 – 4.12-15.)

Electric Power and Telecommunications

Electricity would be provided to the Project site by Southern California Edison (SCE). SCE conducts ongoing monitoring and electrical project development to ensure that it can provide

adequate electrical service to the Town, which includes the Project area. There are a number of private telecommunications service providers that provide connections to their communication systems on an as-needed basis and maintain existing infrastructure in the vicinity of the Project site. Project demand for electricity and telecommunications would be adequately served by existing infrastructure and capacity. Therefore, impacts associated with electric and telecommunication connections would be less than significant. (DEIR, p. 4.12-15.)

2. Water Supplies

Threshold: Would the Project have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years?

Finding: Less than Significant (DEIR, pp. 4.12-15 – 4.12-16)

Explanation: The Project site is undeveloped and thus has no existing water demand, so the net increase in water demand would be equivalent to the Project's estimated water demand of approximately 92 AFY. Liberty Utilities' UWMP has planned for growth within its service area over the next 20 years and has made an allowance for future demand estimates. Future demand services are based on historical growth rates in the service area. According to the Liberty Utilities 2020 UWMP, Liberty Utilities projects a water demand increase of 2,692 AFY from 2025 (15,846 AFY) to 2045 (18,538 AFY) during normal years. The net water demand of the Project would be accounted for within this growth, as the Project is consistent with the underlying land use and zoning designations for the Project site included in the North Apple Valley Industrial Specific Plan and Apple Valley General Plan.

The UWMP and Project-specific Water Supply Assessment identifies a sufficient and reliable water supply for Liberty Utilities-Apple Valley's service area with a history of meeting demands and acknowledgement of future projects that should increase recycled water supply going forward. As a result, it was determined that there is sufficient water supply for the Project. Therefore, impacts associated with water supply would be less than significant. (DEIR, p. 4.12-16.)

3. Wastewater Treatment Capacity

Threshold: Would the Project result in a determination by the wastewater treatment provider, which serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?

Finding: Less than Significant (DEIR, p. 4.12-16)

Explanation: Upon buildout of the Project, wastewater generated would be conveyed to the Regional WWTP, which has a treatment capacity of 18.0 mgd and currently produces an average flow of 10.7 mgd, or approximately 60% of its total capacity. Assuming a conservative wastewater generation rate that is equal to the total water demand as estimated in the WSA, the Project would generate approximately 0.082 mgd of wastewater. Projected wastewater from the Project would represent approximately 0.77% of the remaining capacity of the treatment facility. Given the remaining capacity of the Regional WWTP, adequate capacity would be

available to accommodate the Project's incremental contribution of wastewater. Therefore, impacts associated with wastewater treatment capacity would be less than significant. (DEIR, p. 4.12-16.)

4. Increase in Solid Waste

Threshold: Would the Project 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?

Finding: Less than Significant (DEIR, pp. 4.12-16 – 4.12-17)

Explanation: Project construction or operation 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 (e.g., CALGreen standards). Construction activities would result in generation of solid waste that would likely include scrap lumber, concrete, residual wastes, packing materials, plastics, and soils. Per CALGreen, at least 65% of all construction and demolition waste is required to be diverted from landfills. In addition, the Town also requires construction and demolition debris diversion. Solid waste collected from the Town is directed to the Victor Valley Materials Recovery Facility, where waste is sorted for recyclable materials. Non-recyclable materials are then taken to the Victorville Sanitary Landfill. Once operational, the Project would produce solid waste on a regular basis in association with operation and maintenance activities. Project operation would result in the generation of an estimated 1,420.5 tons per year of solid waste. Landfills within San Bernardino County include the Barstow Sanitary Landfill, which is expected to remain open another 51 years, until 2071, and the Landers Sanitary Landfill, which is expected to remain to open another 52 years, until 2072 in addition to the Victor Valley Materials Recovery Facility. Therefore, impacts associated with solid waste disposal would be less than significant. (DEIR, p. 4.12-17.)

5. Consistent with Solid Waste Regulations

Threshold: Would the Project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Finding: Less than Significant (DEIR, p. 4.12- 18)

Explanation: Solid waste collected from the Town is directed to facilities regulated under federal, state, and local laws. Additionally, the Town is required to comply with the solid waste reduction and diversion requirements set forth in AB 939, AB 341, AB 132, and AB 1826. Solid waste diversion and reduction during Project construction and operation would be completed in accordance with CALGreen standards and Town diversion standards. As a result, the Project would comply with federal, state, and local management and reduction statutes and regulations related to solid waste. Therefore, impacts associated with compliance with solid waste statutes and regulations would be less than significant. (DEIR, p. 4.12-18.)

6. Cumulative

Threshold: Would the Project result in cumulatively considerable impacts related to utilities and service systems?

Finding: Less than Significant (DEIR, pp. 4.12-18 – 4.12-20)

Explanation:

Water Supply

The Town, including the Project site, is within the water service Liberty Utilities would provide water service for the Project. The geographic context considered for cumulative impacts related to water supply is the Liberty Utilities service area, encompassing an area of approximately 50 square miles which includes the Town and portions of unincorporated San Bernardino County and is generally bordered by the City of Victorville to the east and the City of Hesperia to the southeast. The water demand projections in the UWMP account for cumulative growth over the planning period. As the Project would be consistent with the Project site's zoning and land use designations in the Town's General Plan and North Apple Valley Industrial Specific Plan, potential growth resulting from the Project is within the projections included in the UWMP. The UWMP indicates that Liberty Utilities can meet water demands during normal years, single-dry years, and a 5-consecutive-year drought period over the next 25 years. Therefore, because Liberty Utilities has historically been able to meet demands during historical 5-year droughts, has a water shortage contingency plan, and planned demand/supply management measures in place, it is projected to meet all demands projected out to 2045. The Project, in combination with past, present, and reasonably foreseeable future development, would not be expected to result in water demand that exceeds available supplies causing the need for new entitlements, resources, and/or treatment facilities that are not already being planned to accommodate regional growth forecasts and would result in a less-than-significant cumulative impact with regard to water supply. (DEIR, pp. 4.12-18 – 4.12-19.)

Wastewater

The geographic context considered for cumulative impacts related to wastewater treatment includes the Town's wastewater collection system, as well as the service area of the VVWRA, which includes 279 square miles encompassing Apple Valley, Hesperia, Victorville, Spring Valley Lake, and Oro Grande. The Project, in combination with past, present, and reasonably foreseeable future development, would result in an increase in the amount of wastewater that is being generated in the area and, hence, demand for wastewater treatment. As indicated, the VVWRA Regional WWTP has a treatment capacity of 18.0 mgd and currently produces an average flow of 10.7 mgd, and therefore has approximately 40% of remaining capacity. The Town addresses its long-term planning efforts through the development of a long-term capital improvements program, which serves as a fundamental roadmap of required water, recycled water, and water reclamation facilities needed to support the buildout of existing jurisdictional general plans throughout its service area. The Town's Capital Improvements Program relies on its Sewer System Master Plan to identify the wastewater and recycled water infrastructure projects that will be necessary to accommodate future buildout in its service area. As cumulative increases in wastewater treatment demand within the service area require facility

upgrades, the Town would charge service connection fees. Such fees would ensure that capital improvements are completed sufficiently to accommodate increased wastewater inflows associated with the Project area. As such, due to the Town's long-term planning efforts, the Town would have adequate capacity to serve the Project and cumulative projects' projected demand in addition to the provider's existing commitments using existing entitlements and infrastructure. Therefore, the Project, in combination with past, present, and reasonably foreseeable future development, would result in a less-than-significant cumulative impact related to wastewater treatment capacity. (DEIR, p. 4.12-19.)

Solid Waste

The geographic area considered for the analysis of cumulative impacts related to solid waste generation and landfill capacity is the areas served by the Victorville Sanitary Landfill. Construction and operation of the Project and other cumulative development would result in increased solid waste generation that would require disposal in the Victorville Sanitary Landfill. The Project and other cumulative projects would be required to adhere to applicable solid waste regulations, including the CIWM Act and related regulations, which would serve to continue to require reduction, recycling, and reuse to reduce the amount of solid waste sent to landfills. Per CALGreen, 65% of construction and debris waste must be diverted from landfills. Once operational, AB 939 mandates that cities divert from landfills, at a minimum, 50% of the total solid waste generated to recycling facilities. In addition, as described above, the Victorville Sanitary Landfill has approximately 85% remaining capacity and is expected to operate until 2047. Therefore, given regulatory requirements related to reuse and recycling, as well as remaining landfill capacity, the Victorville Sanitary Landfill would be expected to have adequate capacity to serve the Project and cumulative development, and cumulative impacts on landfill capacity would be less than significant. (DEIR, p. 4.12-19.)

Electric Power and Telecommunications

The geographic study area for analysis of cumulative impacts related to electric power infrastructure is SCE's service area, and related to telecommunications infrastructure is the Town. Development of the Project, as well as other cumulative projects, would increase demands for energy and would increase requirements for telecommunications infrastructure. Upgrades to utility networks fall under the jurisdiction of the California Public Utilities Commission and would be subject to environmental review as electrical projects are proposed. As a result of this process, which involves ongoing monitoring and electrical project development, SCE ensures that it can provide adequate electrical service to the Project area.

As part of the Project, telecommunication lines would be extended onto the Project site from nearby existing locations within the vicinity of the Project site. Given the nature of telecommunication lines (which are not typically subject to the constraints of existing facilities), once telecommunication lines are extended to the Project site, no additional telecommunication line construction is anticipated to be required. Additionally, cumulative development would be subject to review on a case-by-case basis. Should the applicable service provider determine that upgrades or extensions of infrastructure be required, any such upgrades would be included within each project's environmental review. As a result,

cumulative impacts associated with upgrades of electric and telecommunication facilities would be less than significant. (DEIR, p. 4.12-20.)

VI.
FINDINGS REGARDING ENVIRONMENTAL EFFECTS AND MITIGATION MEASURES

The Draft EIR identified a number of significant and potentially significant environmental effects (or impacts) that the Project may cause. Some of these significant impacts can be reduced to a level of less than significant through the adoption of feasible mitigation measures. Others cannot be reduced to a less-than-significant level and will be significant and unavoidable. For the reasons set forth in Section IX; however, the Town has determined that overriding economic, social or other considerations outweigh the significant, unavoidable effects of implementation of the Project (see Statement of Overriding Considerations).

The Town hereby finds that Mitigation Measures have been identified in the EIR and these Findings that will avoid or substantially lessen the following potentially significant environmental impacts to a less-than-significant level. The potentially significant impacts, and the Mitigation Measures that will reduce them to a less-than-significant level, are as follows:

A. BIOLOGICAL RESOURCES

1. Impacts to Sensitive Species

Threshold: Would the Project 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 Game or U.S. Fish and Wildlife Service?

Finding: Less-than-Significant with Mitigation (DEIR, pp. 4.3-26 – 4.3-29)

Explanation:

Special-Status Plant Species Direct and Indirect Impacts

Non-Listed Special-Status Plant Species and Western Joshua Tree

No non-listed special-status plant species were observed during the focused surveys; therefore, the Project would have no direct impacts to non-listed special-status plant species within the Project site. The Project site does not occur within federally designated critical habitat for special-status plant species, and there would be no direct impacts to critical habitat.

Western Joshua Tree

Western Joshua tree, a candidate for state listing under CESA, was observed and would be directly impacted by the Project. In total, 14 western Joshua tree individuals were observed within the Joshua tree inventory survey areas (Project site plus associated 50-foot buffer). Specifically, two western Joshua trees were observed at the Cordova Complex site and 12 western Joshua trees at the Quarry at Pawnee site. Removal of trees as well as any construction-related impacts including inadvertent spillover impacts outside of the construction footprint, chemical spills, stormwater erosion and sedimentation, dust pollution, and increased

wildfire risk would be a significant impact. Indirect impacts from long-term operation and maintenance activities may include changes in water quality, increased wildfire risk, induced demand of the surrounding area, increased traffic and vehicle emissions, and accidental chemical spills. Indirect long-term impacts to western Joshua tree are considered significant. As required by mitigation measure (MM) BIO-1 (Conservation of Western Joshua Trees), mitigation for direct impacts to 14 individuals would be fulfilled through payment through the WJTCA. Additionally, as required by MM BIO-2 (Conservation of Desert Native Plants) and in accordance with Chapter 9.76 of the Apple Valley Municipal Code, the preparation of a western Joshua tree and desert native plants relocation plan is required to mitigate impacts to western Joshua trees as a result of the Project. As such, a Joshua Tree Preservation, Protection, and Relocation Plan, and California Desert Native Plant Relocation Plan will be prepared to provide detailed specifications for the Project Applicant to meet the requirements of Chapter 9.76 (Plant Protection and Management Policy) of the Apple Valley Municipal Code to protect, preserve, and mitigate impacts to western Joshua trees. Additionally, provisions of The Western Joshua Tree Conservation Act ITP include the following mitigation measures: MM BIO-3 (Designated Biologist Authority), MM BIO-4 (Compliance Monitoring), MM BIO-5 (Education Program), MM BIO-6 (Construction Monitoring Notebook), MM BIO-7 (Delineation of Property Boundaries), and MM BIO-8 (Mitigation for Indirect Impacts) in addition to compliance with PDF-CON-5 (Dust Control Measures) and PDF-OP-7 (Yard Sweeping to Reduce Fugitive Dust) would reduce potential direct and indirect impacts to a less-than-significant level. (DEIR, pp. 4.3-27 – 4.3-29.)

Special-Status Wildlife Direct and Indirect Impacts

The Project could result in significant, direct impacts to six special-status wildlife species that have a potential to occur within the Project site (burrowing owl, Mojave desert tortoise, Le Conte's thrasher, Bendire's thrasher, loggerhead shrike, American badger), nesting birds and one special status-species that was observed within the Project site: desert kit fox.

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; nighttime 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. Long-term indirect impacts associated with operation that could result from activities within or adjacent to burrowing owl habitat include nighttime lighting and increased invasive plant species that may degrade habitat.

Burrowing Owl

Focused surveys completed in 2023 were negative for burrowing owl; however, the Project site contains suitable habitat and suitable burrows to support this species. Burrowing owl is a transient species and could potentially occupy the Project site prior to construction. Therefore, potential direct and indirect impacts to burrowing owl would be significant absent mitigation.

Pursuant to the California Fish and Game Code and the MBTA, a pre-construction survey in compliance with the Staff Report on Burrowing Owl Mitigation (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-9 (Pre-Construction Burrowing Owl Survey), pre-construction surveys for burrowing owl shall be conducted in areas supporting potentially suitable habitat with the first survey no less than 14 days prior to the start of construction activities, and the second within 24 hours of start of construction. A Burrowing Owl Relocation and Protection Plan will be prepared to facilitate the implementation of this mitigation measure. Implementation of MM BIO-3 (Designated Biologist Authority), MM BIO-4 (Compliance Monitoring), MM BIO-5 (Education Program), MM BIO-6 (Construction Monitoring Notebook), MM BIO-8 (Mitigation for Indirect Impacts), and MM BIO-11 (Pre-Construction Burrowing Owl Survey) in addition to compliance with PDF-CON-3 (Construction Equipment Idling Restrictions) would reduce potential direct and indirect impacts to burrowing owl to less than significant. (DEIR, p. 4.3-30.)

Mojave Desert Tortoise

Protocol surveys completed in 2023, resulted in no observations of active desert tortoise burrows, active desert tortoise sign (e.g., scat, drink basins, footprints), or individual desert tortoises. Therefore, implementation of the proposed Project is not expected impact this species. However, the Project site contains suitable sandy soils, ephemeral washes, and creosote scrub to support this species. Additionally, the Project site is located within a high probability predicted habitat for the species . Therefore, because desert tortoise is a mobile species that could enter the Project site prior to construction, this species was determined to have a moderate potential to occur, and potential direct and indirect impacts to Mojave desert tortoise would be significant absent mitigation.

A pre-construction Mojave desert tortoise clearance survey in compliance with current USFWS protocol would be necessary to reevaluate the locations of potential Mojave desert tortoise burrows within the Project limits so take of Mojave desert tortoise can be avoided. Consistent with MM BIO-10 (Pre-Disturbance Desert Tortoise Clearance Survey) a pre-construction clearance survey for Mojave desert tortoise shall be conducted in areas supporting potentially suitable habitat 14 to 21 days prior to the start of construction activities; or, alternatively, pre-construction clearance surveys may be conducted following construction of a desert-tortoise-proof fence encompassing the Project site that would ensure that tortoises cannot enter the Project after clearance surveys are completed. Should Mojave desert tortoises be located during the clearance survey, additional measures in compliance with current USFWS protocol would be required, as described further in MM BIO-10 (Pre-Disturbance Desert Tortoise Clearance Survey). In addition, implementation of MM BIO-3 (Designated Biologist Authority), MM BIO-4 (Compliance Monitoring), MM BIO-5 (Education Program), MM BIO-6 (Construction Monitoring Notebook), and MM BIO-8 (Mitigation for Indirect Impacts) in addition to PDF-CON-3 (Construction Equipment Idling Restrictions), would reduce potential direct and indirect impacts to less than significant. (DEIR, pp. 4.3-30 - 4.3-31.)

Bendire's Thrasher, LeConte's Thrasher, and Loggerhead Shrike

Loggerhead shrike, LeConte's thrasher, and Bendire's thrasher were not observed during any of the survey efforts conducted in 2022 and 2023; however, these species have a potential to

occur within the Project site due to suitable nesting habitat present and could occupy the Project site prior to construction. Potential direct impacts to these species would be significant absent mitigation. The Project would result in the permanent loss of 189.8 acres of suitable habitat for these species (i.e., impacts to creosote bush scrub). However, due to the surrounding vacant lands available with comparable suitable habitat, the loss of 189.8 acres of suitable habitat would be considered less than significant.

To avoid potential impacts to nesting loggerhead shrike, LeConte's thrasher, or Bendire'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 by a qualified biologist is required prior to vegetation removal. This requirement is outlined in MM BIO-11 (Pre-Construction Nesting Bird Survey). Implementation of MM BIO-11 (Pre-Construction Nesting Bird Survey) would reduce potential direct impacts to loggerhead shrike, LeConte's thrasher, or Bendire's thrasher to less than significant. MM BIO-3 (Designated Biologist Authority), MM BIO-4 (Compliance Monitoring), MM BIO-5 (Education Program), and MM BIO-6 (Construction Monitoring Notebook) would require that all workers complete WEAP training and would require ongoing biological monitoring and compliance with all biological resource mitigation requirements. MM BIO-8 would require trash and debris to be removed regularly and would require animal-resistant trash receptacles to avoid attracting urban-related predator species in addition to compliance with PDF-CON-3 (Construction Equipment Idling Restrictions). Although the loss of suitable habitat would be considered less than significant, implementation of MM BIO-1 (Conservation of Western Joshua Tree Lands) would require payment of fees intended to facilitate the acquisition and preservation. Compliance with these mitigation measures and PDF would ensure direct and indirect impacts associated with Project construction and operation would reduce impact to less than significant. (DEIR, pp. 4.3-31 - 4.3-36.)

American Badger and Desert Kit Fox

Desert kit fox was observed within the Project site through camera trapping as part of the Mohave ground squirrel focused surveys. American badger was not observed during any of the survey efforts conducted in 2022 and 2023; however, the Project site contains suitable habitat for American badger and therefore this species could occur within the Project site prior to construction. Potential direct and indirect impacts to these species would be significant absent mitigation.

The Project would result in the permanent loss of 198.4 acres of suitable habitat for American badger and desert kit fox, including impacts to 189.8 acres of creosote bush scrub and 8.6 acres of disturbed habitat. However, due to the surrounding vacant lands available with comparable suitable habitat, the loss of 198.4 acres of suitable habitat for these species would be considered less than significant.

To avoid potential direct impacts to American badger and desert kit fox, a pre-disturbance clearance survey would be conducted within seven days prior to the start of ground-disturbing activities to determine the presence/absence of these species, as outlined in MM BIO-12 (Pre-Disturbance American Badger and Desert Kit Fox Clearance Survey). If American badger and/or desert kit fox are not detected during the pre-disturbance clearance survey, then no

additional action is required. If the American badger and/or desert kit fox are detected on site in an active den, MM BIO-12 requires the Project Applicant to contact CDFW prior to conducting any Project-associated ground-disturbing activities and create a relocation plan to avoid/minimize impacts to these species. An avoidance buffer of 300 feet would be implemented around the active den until the den is determined to be inactive. implementation of MM BIO-3 through MM BIO-6 and MM BIO-12 (Pre-Disturbance American Badger and Desert Kit Fox Clearance Survey) would reduce potential direct impacts to American badger and desert kit fox to less than significant. Compliance with MM BIO-8 would require trash and debris to be removed regularly and would require animal-resistant trash receptacles to avoid attracting urban-related predator species and noise and vibration disturbance during construction would be addressed through implementation of PDF-CON-3 (Construction Equipment Idling Restrictions) in addition to the prior mitigation measures would reduce indirect impacts to less than significant. Although the loss of suitable habitat would be considered less than significant. (DEIR, p. 4.3-32 - 4.3-37.)

Nesting Migratory Birds

The Project site contains trees, shrubs, and bare ground that provides opportunities for avian species to nest on site. Native nesting bird species with potential to occur within the Project site are protected by California Fish and Game Code Sections 3503 and 3503.5 and by the federal MBTA (16 U.S.C. 703–711). Section 3503 provides that it is unlawful to take, possess, or needlessly destroy the active nests or eggs of any bird in California; and the MBTA prohibits the take (including killing, capturing, selling, trading, and transport) of native migratory bird species throughout the United States. Currently, California considers any nest that is under construction or modification or is supporting eggs, nestlings, or juveniles as "active." Therefore, direct and indirect impacts to nesting migratory birds would be considered significant absent mitigation.

To ensure compliance with the California Fish and Game Code and the MBTA and to avoid potential impacts to nesting birds, it is recommended that the vegetation removal activities be conducted outside the general bird nesting season (February 1 through August 31, depending on the species), and if vegetation cannot be removed outside the bird nesting season, a pre-construction nesting bird survey by a qualified biologist is required within seven days prior to any site disturbance. This requirement is outlined in MM BIO-11 (Pre-Construction Nesting Bird Survey). MM BIO-3 (Designated Biologist Authority), MM BIO-4 (Compliance Monitoring), MM BIO-5 (Education Program), MM BIO-6 (Construction Monitoring Notebook), and MM BIO-8 (Mitigation for Indirect Impacts) would require that all workers complete WEAP training and would require ongoing biological monitoring and compliance with all biological resource mitigation requirements. With the incorporation of mitigation, and PDF-CON-3 (Construction Equipment Idling Restrictions) direct and indirect impacts associated with nesting birds would be less than significant. (DEIR, pp. 4.3-32 - 4.3-33.)

Incorporation of Mitigation Measures BIO-1 through BIO-12 into the Project will ensure that these impacts are reduced to less than significant. The Town hereby directs that these mitigation measures be required in or incorporated into the Project. The Town therefore finds that changes or alterations have been required in, or incorporated into the Project that substantially lessen or avoid this impact's significant effects on the environment.

MM BIO-1: Conservation of Western Joshua Trees. Mitigation for direct impacts to 11 western Joshua trees one meter or greater but less than five meters in height, and 3 trees less than one meter in height shall be fulfilled through a payment of the elected fees as described in Section 1927.3 of The Western Joshua Tree Conservation Act. In conformance with the fee schedule, the Project Applicant shall pay $1,000 for each western Joshua tree five meters or greater in height, and $200 for each western Joshua tree less than five meters in height. Fees collected will be deposited into the Western Joshua Tree Conservation Fund for appropriation to the California Department of Fish and Wildlife.

MM BIO-2: Conservation of Desert Native Plants. Pursuant to Town of Apple Valley Municipal Code Chapter 9.76, prior to the grading permit, the Project Applicant shall submit an application to the Town for removal or relocation of protected native desert plants protected under the Town's Municipal Code Chapter 9.76, as required, and shall schedule a pre-construction site inspection with the appropriate authority. In addition, a plot plan shall be approved by the appropriate Town of Apple Valley Review Authority (County Certified Plant Expert, Planning Commission, or Town Council) indicating exactly which trees or plants are authorized to be removed.

The application shall include certification from a qualified western 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 Town of Apple Valley Municipal Code. Protected plants subject to Town of Apple Valley Municipal Code Chapter 9.76 may be relocated on site or within an area designated for the species. The application shall include a detailed plan for removal of all protected plants on the Project site. The plan shall be prepared by a qualified western Joshua tree and native desert plant expert(s). The plan shall include 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 a 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-3: Designated Biologist Authority. In accordance with Section 1927.3 of The Western Joshua Tree Conservation Act obtained for the take of western Joshua tree a designated biologist retained by the Project Applicant or construction contractor shall be on site during all site disturbing activities and shall have authority to immediately stop any activity that does not comply with the biological resource mitigation measures (included in this EIR) and/or to order any reasonable measure to avoid the unauthorized take of an individual western Joshua tree.

MM BIO-4: Compliance Monitoring. During site-disturbing activities a designated biologist retained by the Project Applicant or construction contractor shall be on site daily and 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 these areas remain protected during site disturbing activities (see MM BIO-3). Additionally, the designated biologist shall take actions to limit potential increases in invasive common ravens as a result of construction activities. These actions shall include removing inactive nests of common ravens when possible, properly disposing of wildlife carcasses, including roadkill struck during construction, and reporting common raven nesting and any evidence of predation of desert tortoises to the California Department of Fish and Wildlife. Weekly written observation and inspection records that summarize oversight activities and compliance inspections and monitoring activities required by the Incidental Take Permit, if required, shall be prepared by the designated biologist and provided to the California Department of Fish and Wildlife. (As revised per FEIR, see p. 2-2.)

MM BIO-5: 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 any ground disturbing activities. The WEAP shall consist of a presentation from a designated biologist retained by the Project Applicant or construction contractor that includes a discussion of the biology and status of protected or special-status plant and animal species including: western Joshua trees, Mohave desert tortoise, burrowing owls, LeConte's thrasher, Bendire's thrasher, loggerhead shrike, American badger, and desert kit fox. Additionally, the WEAP shall contain information regarding the negative ecological impacts of common ravens, and best practices to reduce the attractiveness of the proposed project and activities to common ravens. This shall include the importance of reducing food and water subsidies, as well as the requirement for the project to secure trash during operations of the warehouse facilities. Interpretation for non-English-speaking workers shall be provided, and the same instructions shall be provided to all 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 shall be conducting work in the Project area. (As revised per FEIR, see p. 2-3.)

MM BIO-6: Construction Monitoring Notebook. The designated biologist (see MM BIO-3) shall maintain a construction monitoring notebook on site throughout the construction

period that 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 WEAP education program. The Project contractor shall ensure that a copy of the construction monitoring notebook is available for review at the Project site upon request by Town staff, the California Department of Fish and Wildlife, or any agency with jurisdiction.

MM BIO-7: Delineation of Property Boundaries. Prior to commencing ground disturbing activities, the Project contractor shall, in consultation with the designated biologist, clearly delineate the boundaries around the entire Project footprint with fencing, stakes, or flags, consistent with the grading plan. All fencing, stakes, and flags shall be maintained until the completion of site disturbing activities in that area.

MM BIO-8: Mitigation for Indirect Impacts. The following measures shall be required to avoid/minimize potential indirect impacts to biological resources, including aquatic resources and special-status plant and animal species that may occur outside of the Project boundary.

- Invasive, non-native plant species listed on the California Invasive Plant Council's Inventory of Invasive Plants (https://www.cal-ipc.org/plants/inventory/) shall not be incorporated in the landscape plans for the Project for areas within 100 feet of undeveloped areas.
- Fully covered trash receptacles that are animal-proof shall be installed and used by construction personnel to contain all food, food scraps, food wrappers, beverage containers, and other miscellaneous trash. Trash contained within the receptacles shall be removed at least once a week from the Project site.
- Construction work areas shall be kept clean of debris, such as trash and construction materials. All construction/contractor personnel shall collect all litter and food waste from the Project site on a daily basis and dispose of such materials in covered trash receptacles. Vehicle fluids and other hazardous waste shall be disposed of in compliance with all applicable federal, state, and local agencies and regulations as described in Section 4.7, Hazards and Hazardous Materials, of this EIR.
- The amount of standing water on site shall be reduced as much as possible to limit water subsidies for invasive common ravens. Water application for dust suppression in accordance with the Mojave Desert Air Quality Management District's Rules 401 and 403.2 shall ensure a minimal amount of water is used to prevent standing water. Additionally, faucets for water sources used during construction activities shall be secured to prevent leaks.
- The Project Applicant shall consult with a qualified biologist to ensure that structures are designed in a manner than reduces the opportunities for nesting and perching by common ravens and/or anti-perching and anti-nesting devices are installed on structures. (As revised per FEIR, see pp. 2-3 – 2-4.)

MM BIO-9: Pre-Construction Burrowing Owl Survey. A qualified biologist retained by the Project Applicant or construction contractor shall conduct two pre-construction

presence/absence surveys for burrowing owls, one no less than 14 days prior to site disturbance, and one within 24 hours of site ground-disturbing activities (e.g., disking, vegetation clearing, clearing and grubbing, equipment staging, etc.) to ensure that no owls have colonized the site in the days or weeks preceding the ground-disturbing activities. Surveys for burrowing owl shall be conducted in accordance with protocols established in the California Department of Fish and Wildlife's (CDFW's) 2012 (or most recent version) Staff Report on Burrowing Owl Mitigation. If burrowing owls are not detected during the pre-construction take avoidance surveys, then no additional action is required.

If burrowing owls are detected, a Burrowing Owl Relocation and Protection Plan shall be prepared and implemented for the Project. The Burrowing Owl Relocation Plan shall require that disturbance to burrows be avoided during the nesting season (February 1 through August 31). Buffers shall be established around occupied burrows in accordance with guidance provided in CDFW's Staff Report on Burrowing Owl Mitigation. 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 by a qualified biologist approved to conduct relocation. 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 shall be in place at least 72 hours prior to ground-disturbing activities. The Project site shall be monitored daily for 1 week to confirm owl departure from burrows prior to any ground-disturbing activities. Compensatory mitigation for permanent loss of owl habitat, if the site is occupied by burrowing owl, shall be provided following the guidance in CDFW's Staff Report on Burrowing Owl Mitigation.

Where possible, burrows shall 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. An endoscope (fiber optic camera) should also be used to scope the burrow in front of the excavation. Occupied burrows that are excavated need to be replaced at a 2:1 ratio if there are already suitable burrows present nearby.

Should burrowing owl be located during the pre-construction survey, mitigation for direct impacts to 198.4 acres shall be fulfilled through conservation of suitable burrowing owl habitat through the purchase of credits at a minimum of 1:1 in-kind habitat replacement of equal or better functions and values to those impacted by the Project, for a total of 198.4 acres.

MM BIO-10: Pre-Disturbance Desert Tortoise Clearance Survey. A qualified biologist retained by the Project Applicant or construction contractor shall conduct pre-disturbance desert tortoise clearance surveys within three days of site ground-disturbing activities (e.g., disking, vegetation clearing, clearing and grubbing, equipment staging, etc.) in

accordance with current U.S. Fish and Wildlife Service (USFWS) protocol to reevaluate locations of potential Mojave desert tortoise burrows within the Project limits so take of Mojave desert tortoise can be avoided. If no Mojave desert tortoises are found during the pre-disturbance desert tortoise clearance survey, then no additional action or mitigation is required.

Should Mojave desert tortoise be located during the clearance survey, USFWS shall be contacted and all work shall cease until further direction from the USFWS is provided. All methods used for handling desert tortoises during the clearance surveys must be in accordance with the USFWS Desert Tortoise Field Manual or Project-specific guidance contained in a biological opinion or Incidental Take Permit. No take of Mojave desert tortoise shall occur without authorization in the form of an Incidental Take Permit pursuant to California Fish and Game Code Section 2081 and a biological opinion or Habitat Conservation Plan. The Project Applicant shall adhere to measures and conditions set forth within the Incidental Take Permit. Anyone who handles desert tortoises during clearance activities must have the appropriate authorizations from USFWS. The area cleared and number of Mojave desert tortoises found within that area shall be reported to the local USFWS and appropriate state wildlife agency. Notification shall be made in accordance with the conditions of the biological opinion or Incidental Take Permit.

Should Mojave desert tortoise be located during the clearance survey, the Project would result in the loss of 198.4 acres of suitable habitat for Mojave desert tortoise. Mitigation for direct impacts to 198.4 acres shall be fulfilled through conservation of suitable Mojave desert tortoise habitat through the purchase of credits at a minimum of 1:1 in-kind habitat replacement of equal or better functions and values to those impacted by the Project, for a total of 198.4 acres or as otherwise determined through coordination with the USFWS and/or California Department of Fish and Wildlife.

MM BIO-11: Pre-Construction Nesting Bird Survey. If possible, vegetation clearing shall be conducted outside of the nesting season, which is generally identified as February 1 through August 31. If avoidance of the nesting season is not feasible, then a qualified biologist shall conduct a pre-construction nesting bird survey within seven days prior to any disturbance of the site, including disking, vegetation clearing, clearing and grubbing, equipment staging, etc. If active nests are identified during the pre-construction nesting bird survey, the biologist shall establish suitable buffers around the nests, and the buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Suitable buffers shall 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).

MM BIO-12: Pre-Disturbance American Badger and Desert Kit Fox Clearance Survey. A qualified biologist shall conduct pre-disturbance clearance surveys for the American badger and/or desert kit fox within seven days of ground-disturbing activities (e.g., disking, vegetation clearing, clearing and grubbing, equipment staging, etc.). If the American badger and/or desert kit fox are not detected during the pre-disturbance clearance survey, then no additional action or mitigation is required. If the American badger

and/or desert kit fox are detected on site in an active den, then the Project Applicant shall be required to contact CDFW prior to conducting any Project-associated ground-disturbing activities and prepare and implement a relocation plan to avoid/minimize impacts to these species. An avoidance buffer of 300 feet shall be implemented around any active dens until the den is determined to be inactive.

2. Impacts to Riparian Habitat

Threshold: Would the Project 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 Game or U.S. Fish and Wildlife Service?

Finding: Less-than-Significant with Mitigation (DEIR, pp. 4.3-38 – 4.3-41)

Explanation: The Project site does not contain any sensitive vegetation communities; therefore, direct impacts to sensitive vegetation communities are not anticipated to occur, and no additional measures are recommended. No direct impacts would occur; however, the Project would result in indirect impacts associated with construction and operation activities resulting in a potentially significant impact. Implementation of MM BIO-3, MM BIO-4, MM BIO-5, MM BIO-6, MM BIO-7, MM BIO-8 (listed above) and adherence to Mojave Desert Air Quality Management District's Rules and CALGreen Standards Code would reduce indirect impacts to adjacent sensitive vegetation communities that may occur outside of the Project footprint to a less-than-significant level. (DEIR, pp. 4.3-38 - 4.3-41.)

Incorporation of Mitigation Measures BIO-3 through BIO-8 (listed above) into the Project will ensure that these impacts are reduced to less than significant. The Town hereby directs that these mitigation measures be required in or incorporated into the Project. The Town therefore finds that changes or alterations have been required in, or incorporated into the Project that substantially lessen or avoid this impact's significant effects on the environment.

3. Impacts to Wetlands

Threshold: Would the Project 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?

Finding: Less-than-Significant with Mitigation (DEIR, pp. 4.3-41 – 4.3-43)

Explanation: The Project could result in potentially significant direct and indirect impacts to non-wetland waters of the United States and state as a result of Project activities. The Project would result in direct impacts to 1.63 acres of potential non-wetland waters of the state under RWQCB jurisdiction, and 1.63 acres of streambed under CDFW jurisdiction. Construction-related (short-term) indirect impacts may include inadvertent spillover impacts outside of the construction footprint, chemical spills, and stormwater erosion and sedimentation. Long term indirect impacts from operations and maintenance activities may include changes in water quality and accidental chemical spills. Short-term and long-term direct and indirect impacts to jurisdictional waters relating to construction activities (edge effects) and trash/pollution would not likely result in significant impacts, especially with the application of

the standard BMPs that would be implemented during Project construction. Implementation of MM BIO-3, MM BIO-4, MM BIO-5, MM BIO-6, MM BIO-7, MM BIO-8 (listed above), MM BIO-13 and adherence to Mojave Desert Air Quality Management District's Rules and CALGreen Standards Code are required to reduce direct and indirect impacts to a less-than-significant level. (DEIR, pp. 4.3-31 - 4.3-43.)

Incorporation of Mitigation Measures BIO-3 through BIO-8 (listed above) and MM BIO-13 into the Project will ensure that these impacts are reduced to less than significant. The Town hereby directs that these mitigation measures be required in or incorporated into the Project. The Town therefore finds that changes or alterations have been required in, or incorporated into the Project that substantially lessen or avoid this impact's significant effects on the environment.

MM BIO-13: Jurisdictional Waters. The Project site supports aquatic resources that are considered jurisdictional under the Regional Water Quality Control Board (RWQCB) and the California Department of Fish and Wildlife (CDFW). Prior to site disturbing activities, the Project Applicant shall coordinate with the Lahontan RWQCB (Region 6) to ensure conformance with the requirements of the Porter–Cologne Water Quality Control Act (waste discharge requirement). Prior to activity within CDFW jurisdictional streambed or associated riparian habitat, the Project Applicant shall coordinate with CDFW (Inland Deserts Region 6) relative to conformance to the Lake and Streambed Alteration permit requirements.

The Project shall mitigate to ensure no net loss of waters at a minimum of minimum 1:1 with purchase of credits (1.63 acres RWQCB jurisdiction and 1.63 acres CDFW jurisdiction) for impacts to aquatic resources as part of an overall strategy to ensure no net loss. Mitigation shall be completed through use of a mitigation bank (e.g., West Mojave Mitigation Bank) or other Applicant-sponsored mitigation (such as restoration, preservation or enhancement of on-site or off-site resources). Final mitigation ratios and credits shall be determined in consultation with RWQCB and/or CDFW based on agency evaluation of current resource functions and values and through each agency's respective permitting process.

Should Applicant-sponsored mitigation be implemented, a Habitat Mitigation and Monitoring Plan (HMMP) shall be prepared in accordance with State Water Resources Control Board guidelines and approved by the agencies in accordance with the proposed program permits. The HMMP shall include a conceptual planting plan including planting zones, grading, and irrigation, as applicable; a conceptual planting plant palette; a long-term maintenance and monitoring plan; annual reporting requirements; and proposed success criteria. Any Applicant-sponsored mitigation shall be conserved and managed in perpetuity.

Best management practices shall be implemented to avoid any indirect impacts on jurisdictional waters, including the following:

- Vehicles and equipment shall not be operated in ponded or flowing water except as described in permits.

- Water containing mud, silt, or other pollutants from grading or other activities shall not be allowed to enter jurisdictional waters or be placed in locations that may be subjected to high storm flows.
- Spoil sites shall not be located within 30 feet from the boundaries of jurisdictional waters or in locations that may be subject to high storm flows, where spoils might be washed back into drainages.
- Raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances that could be hazardous to vegetation or wildlife resources resulting from Project-related activities shall be prevented from contaminating the soil and/or entering avoided jurisdictional waters.
- No equipment maintenance shall be performed within 100 feet of jurisdictional waters, including wetlands and riparian areas, where petroleum products or other pollutants from the equipment may enter these areas. Fueling of equipment shall not occur on the Project site.

3. Conflict with Policies or Ordinances

Threshold: Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Finding: Less-than-Significant with Mitigation (DEIR, p. 4.3-45)

Explanation:

California Desert Native Plants and Western Joshua Tree

The Project would result in direct impacts to 14 western Joshua trees. In addition to western Joshua tree, two desert native plant species were recorded within the Project site during the focused desert native plant survey: beavertail and silver cholla. Specifically, two beavertail and three silver cholla were observed within the Quarry at Pawnee site and would be directly impacted by the Project. In accordance with the California Desert Native Plants Act (CDNPA) and Chapter 9.76 of the Apple Valley Municipal Code, a native plant removal permit must be obtained from the Town prior to the removal of these individuals. These impacts would be addressed in a Joshua Tree Preservation, Protection, and Relocation Plan, and Desert Native Plant Relocation Plan that would be prepared to provide detailed specifications for the Project Applicant to meet the requirements of Chapter 9.76 of the Apple Valley Municipal Code to protect, preserve, and mitigate impacts to desert native plants.

Implementation of MM BIO-1 and MM BIO-2 (listed above) would reduce potential impacts to California desert native plants (western Joshua tree, Wiggins' cholla, branched pencil cholla, and short-joint beavertail) to less than significant through payment of fees pursuant to the WJTCA and submittal of an application to the Town with a detailed plan for removal or relocation of protected native desert plants, including procedures for transplantation. With the incorporation of mitigation, and with adherence to both the CDNPA and the Apple Valley Municipal Code, impacts associated with western Joshua tree and desert native plants would be less than significant. (DEIR, p. 4.3-45.)

Incorporation of Mitigation Measures BIO-1 and BIO-2 (listed above) into the Project will ensure that these impacts are reduced to less than significant. The Town hereby directs that these mitigation measures be required in or incorporated into the Project. The Town therefore finds that changes or alterations have been required in, or incorporated into the Project that substantially lessen or avoid this impact's significant effects on the environment.

4. Cumulative

Threshold: Would the Project result in cumulatively considerable impacts to biological resources?

Finding: Less-than-Significant with Mitigation (DEIR, pp. 4.3-46 – 4.3-47)

Explanation: The geographic scope of the cumulative impacts analysis for biological resources is the Town of Apple Valley and the northeast portion of the city of Victorville, in San Bernardino County. The Project, in combination with past, present, and reasonably foreseeable future development, could result in significant cumulative impacts on western Joshua trees, special-status wildlife resources and jurisdictional waters of the U.S. The Project, in combination with past, present, and reasonably foreseeable future development would not result in a significant cumulative impact to wildlife corridors and linkages, nor to local policies and regional conservation plans. The Project would therefore not contribute to a cumulative impact on these resources. When considered with other projects in the geographic region, the Project's contribution to the loss of these biological resources would be considerable resulting in a significant cumulative contribution. However, projects under jurisdiction of the Town would be subject to the same requirements to avoid and reduce impacts to biological resources.

All cumulative projects, the same as the Project would be subject to mitigation for impacts to western Joshua tree, including payment of mitigation fees through the Western Joshua Tree Conservation Act (WJTCA). The WJTCA collects mitigation fees for the acquisition and conservation of western Joshua tree habitat and other actions to conserve western Joshua trees. This would help offset the impacts of permitted projects that negatively impact western Joshua trees and help to conserve the species on a landscape scale. Therefore, as required by MM BIO-1 (Conservation of Western Joshua Trees), mitigation for direct impacts to Joshua trees that would be removed to accommodate the project would be fulfilled through a payment of the fees as described in Section 1927.3 of The Western Joshua Tree Conservation Act. Additionally, western Joshua trees and other desert native plants are locally protected by the Town and by the CDNPA. Therefore, as required by MM BIO-2 (Conservation of Desert Native Plants) and in accordance with the Town of Apple Valley Municipal Code Chapter 9.76, the preparation of a Joshua tree and desert native plants relocation plan is required to mitigate impacts to western Joshua trees as a result of the Project. As such, a Joshua Tree Preservation, Protection, and Relocation Plan, and Desert Native Plant Relocation Plan would be prepared.

Potential impacts to special-status wildlife species, such as Mojave desert tortoise, burrowing owl, loggerhead shrike, LeConte's thrasher, Bendire's thrasher, American badger, desert kit fox, and nesting birds would be reduced through implementation of MM BIO-3 through MM BIO-12. Potential impacts to jurisdictional waters of the U.S. and state, if necessary, would be reduced through implementation of MM BIO-3 (Designated Biologist Authority), MM BIO-4

(Compliance Monitoring), MM BIO-5 (Education Program), MM BIO-6 (Construction Monitoring Notebook), MM BIO-8 (Mitigation for Indirect Impacts), MM BIO-13 (Jurisdictional Waters), and adherence to Mojave Desert Air Quality Management District's Rules and CALGreen Standards Code. The Project's contribution to the significant cumulative impact to these biological resources would not be considerable resulting in a less-than-significant cumulative impact. (DEIR, p. 4.3-46- 4.3-47.)

Incorporation of Mitigation Measures BIO-1 through BIO-13 (listed above) into the Project will ensure that the Project's cumulative contribution is reduced to less than significant. The Town hereby directs that these mitigation measures be required in or incorporated into the Project. The Town therefore finds that changes or alterations have been required in, or incorporated into the Project that substantially lessen or avoid this impact's significant effects on the environment.

B. CULTURAL AND TRIBAL CULTURAL RESOURCES

1. Impacts to Archeological Resources

Threshold: Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?

Finding: Less-than-Significant with Mitigation (DEIR, pp. 4.4-17 – 4.4-18)

Explanation: The database search identified one previously recorded cultural resource overlapping the Quarry at Pawnee site: P-36-020981/CA-SBR-13515H. Resource P-36-020981/CA-SBR-13515H was recommended ineligible for inclusion in the CRHR and is also not considered to meet the criteria of a unique archaeological resource pursuant to CEQA Guidelines Section 15064.5. In addition to this previously recorded resource, surveyors identified four previously unknown/undocumented historic-period refuse scatters within the Quarry at Pawnee site: 22-0512-GS-001, 22-0512-GS-002, 22-0512-GS-003, and 22-0512-GS-004. The cultural materials observed within these scatters generally consist of historic-period cans and glass bottle fragments. All four newly identified historic-period refuse scatters were recommended as ineligible for inclusion in the CRHR because the criteria or integrity considerations for listing on the CRHR were not met and this resource was also not considered to meet the criteria of a unique archaeological resource pursuant to CEQA Guidelines Section 15064.5. Therefore, no further cultural considerations are required for resources P-36-020981/CA-SBR-13515H, 22-0512-GS-001, 22-0512-GS-002, 22-0512-GS-003, and 22-0512-GS-004. No previously recorded or newly identified cultural resources were identified for the Cordova Complex site through the database records search or the pedestrian survey.

It is possible for intact, buried archaeological deposits, including unique archaeological resources or historical resources of an archaeological nature, to exist within native soils on the Project site. If yet unknown archaeological resources, meeting the criteria of a unique archaeological resource pursuant to CEQA Guidelines Section 15064.5, were encountered inadvertently as a result of Project implementation and those resources were determined to meet the criteria of a unique archaeological resource or historical resource, there is potential for the Project to cause a substantial adverse change in the significance of a unique

archaeological resource or historical resource of an archaeological nature pursuant to CEQA Guidelines Section 15064.5.

Compliance with MM CUL-1 requires that all Project construction personnel participate in a Workers Environmental Awareness Program training for the proper identification and treatment of inadvertent discoveries. MM CUL-2 requires the retention of an on-call qualified archaeologist to respond to and address any inadvertent discoveries and conduct spot monitoring. MM CUL-3 requires construction work occurring within 100 feet of a cultural resource discovery be immediately halted until the qualified archaeologist, meeting the Secretary of Interior's Professional Qualification Standards for Archaeology, can assess and evaluate the discovery pursuant to CEQA. Additionally, MM CUL-3 requires the inadvertent discovery clause be included on all construction plans. With implementation of MM CUL-1 through MM CUL-3, potentially significant impacts to unknown archaeological resources would be reduced to a less-than-significant level. (DEIR, pp. 4.4-17 - 4.4-18.)

Incorporation of Mitigation Measures CUL-1 through CUL-3 into the Project will ensure that these impacts are reduced to less than significant. The Town hereby directs that these mitigation measures be required in or incorporated into the Project. The Town therefore finds that changes or alterations have been required in, or incorporated into the Project that substantially lessen or avoid this impact's significant effects on the environment.

MM CUL-1: Workers Environmental Awareness Program (WEAP) and Cultural Resource Sensitivity Training. Prior to any ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post replacement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind), and prior to the issuance of grading permits, the Applicant or contractor shall retain a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards. The archaeologist shall conduct a Workers Environmental Awareness Program (WEAP) and Cultural Resource Sensitivity Training for all construction personnel and monitors who are not trained archaeologists. In attendance shall be the consulting Tribe(s) Tribal Historic Preservation Officer, and/or designated Tribal Representative.

The training session shall focus on the archaeological and tribal cultural resources that may be encountered during ground-disturbing activities as well as the procedures to be followed in the event of an unanticipated discovery. A basic presentation shall be prepared and presented by the qualified archaeologist to inform all personnel working on the Project about the archaeological sensitivity of the area. The purpose of the WEAP training is to provide specific details on the kinds of archaeological materials that may be identified during construction of the Project and explain the importance of and legal basis for the protection of significant archaeological resources. Each worker shall also learn the proper procedures to follow in the event that cultural resources or human remains are uncovered during ground-disturbing activities. These procedures include work curtailment or redirection, and the immediate contact of the on-call archaeologist and if appropriate, Tribal representative. Necessity of training attendance shall be stated on all construction plans.

MM CUL-2: Archaeological and Native American Construction Monitoring. Prior to the issuance of grading permits, the Applicant shall retain a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards and enter into a Tribal Monitoring Agreement with the consulting Tribe(s) for the Project. The qualified archaeological and Tribal Monitor(s) shall be on site during all ground-disturbing activities (including, but not limited to, clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all utility and irrigation lines, and landscaping phases of any kind). The Tribal Monitor(s) shall have the authority to temporarily divert, redirect, or halt the ground-disturbing activities to allow identification, evaluation, and potential recovery of cultural resources and/or tribal cultural resources.

The qualified archaeologist, in consultation with the Tribal Monitor(s), shall be responsible for determining the duration and frequency of monitoring, and shall oversee and adjust monitoring efforts as needed (increase, decrease, or discontinue monitoring frequency) based on the observed potential for construction activities to encounter cultural deposits. The frequency of inspections shall depend on the rate of excavation, the materials excavated, and any discoveries of Tribal Cultural Resources as defined in California Public Resources Code Section 21074. Archaeological and Native American monitoring shall be discontinued when the depth of grading and the soil conditions no longer retain the potential to contain cultural deposits. The archaeologist shall be responsible for maintaining monitoring logs. Following the completion of construction, the qualified archaeologist shall provide an archaeological monitoring report to the lead agency and the South Central Coast Information Center with the results of the cultural monitoring program.

MM CUL-3: Inadvertent Discovery of Archaeological Resources. In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the Project, all construction work occurring within 60 feet of the find shall immediately stop until a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, can evaluate the significance of the find and determine whether or not additional study is warranted. Work on the other portions of the Project outside of the buffered area may continue during this assessment period. Depending upon the significance of the find under the California Environmental Quality Act (14 CCR 15064.5[f]; California PRC Section 21082), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work, such as preparation of an archaeological treatment plan, testing, or data recovery, may be warranted. If the discovery is Native American in nature, consultation with and/or monitoring by a Tribal representative will be necessary.

2. Impacts to Tribal Cultural Resources

Threshold: Would the Project 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)? AND

Would the Project 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? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Finding: Less-than-Significant with Mitigation (DEIR, p. 4.4-19)

Explanation: The Project is subject to compliance with AB 52 to ensure that consultation with tribes is conducted and tribes are allowed the opportunity to provide comments, monitor, and preserve tribal cultural resources if found during construction. The Town sent notification letters on September 11, 2023, to six California Native American tribal representatives from four tribes and received responses from two tribes: the Yuhaaviatam of San Manuel Nation and the Morongo Band of Mission Indians. The Yuhaaviatam of San Manuel Nation reviewed information provided by the Town and responded that while the Project area is within Serrano ancestral territory, the Tribe did not have any concerns with Project implementation, requested specific mitigation measures be included as part of the Project permit/plan/conditions, and did not request formal consultation.

The Morongo Band of Mission Indians stated that the Project site is located within the ancestral territory and traditional use area of the Cahuilla and Serrano people of the Morongo Band of Mission Indians and requested to initiate formal consultation under AB 52 and requested that the Town provide all relevant Project information. The Town met with the Morongo Band of Mission Indians and no tribal cultural resources were identified by the Morongo Band of Mission Indians that would warrant discretionary designation of a resource as a tribal cultural resource. The Morongo Band of Mission Indians requested specific mitigation measures be included as part of the Project permit/plan/conditions which the Town agreed to include. Therefore, the Project would not adversely affect tribal cultural resources and the Town determined that no substantial evidence has been presented that would demonstrate a significant tribal cultural resource (pursuant to criteria set forth in subdivision (c) of PRC Section 5024.1) exists within the Project site. Notwithstanding, MM CUL-3 and MM TCR-1 through MM TCR-6 are required to help ensure the proper treatment of tribal cultural resources that may be inadvertently encountered during ground-disturbing activities. With incorporation

of MM CUL-3 and MM TCR-1 through MM TCR-6, potential impacts associated with tribal cultural resources would be reduced to a less-than-significant level. (DEIR, p. 4.4-19.)

Incorporation of Mitigation Measures CUL-3 (see above) and MM TCR-1 through MM TCR-6 into the Project will ensure that these impacts are reduced to less than significant. The Town hereby directs that these mitigation measures be required in or incorporated into the Project. The Town therefore finds that changes or alterations have been required in, or incorporated into the Project that substantially lessen or avoid this impact's significant effects on the environment.

MM TCR-1: Cultural Resources Monitoring and Treatment Plan. Prior to any ground-disturbing activities the Project archaeologist shall develop a Cultural Resources Monitoring and Treatment Plan (Plan) to address the details, timing, and responsibilities of all archaeological and cultural resource activities that occur on the Project site. This Plan shall be written in consultation with the consulting Tribe(s) and shall include the following: approved Mitigation Measures (MM)/Conditions of Approval (COA), contact information for all pertinent parties, parties' responsibilities, procedures for each MM or COA, and an overview of the Project construction schedule.

In the event that cultural resources are discovered during Project activities, all work shall follow protocols outlined under MM CUL-3 (Inadvertent Discovery of Archaeological Resources). Additionally, the consulting Tribe(s) shall be contacted regarding any pre-contact and/or historic-era resources of a Native American origin and be provided information after the qualified archaeologist, as defined within MM CUL-2 (Archaeological and Native American Construction Monitoring), makes his/her initial assessment of the nature of the discovery. Should the discovery be deemed significant, as defined by CEQA (as amended, 2015), and avoidance cannot be ensured, the Cultural Resources Monitoring and Treatment Plan, created by the qualified archaeologist in coordination with the consulting Tribe(s), shall be followed and all subsequent discoveries shall be subject to this Plan. This Plan shall allow for a monitor to be present representing the consulting Tribe(s) for the remainder of the Project, should the consulting Tribe(s) elect to place a monitor on site.

MM TCR-2: Consultation with Consulting Tribes. 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 consulting Tribe(s). The lead agency and/or applicant shall, in good faith, consult with the consulting Tribe(s) throughout the life of the Project.

MM TCR-3: Pre-Grade Meeting. The retained qualified archaeologist and consulting Tribe(s) representative shall attend the pre-grade meeting with the grading contractors to explain and coordinate the requirements of the monitoring plan (in conjunction with the training held under MM CUL-1 (Workers Environmental Awareness Program [WEAP] and Cultural Resource Sensitivity Training).

MM TCR-4: Inadvertent Discovery of Tribal Cultural Resources. In the event that previously unidentified tribal cultural resources are unearthed during construction, the qualified

archaeologist and the Tribal Monitor(s) shall have the authority to temporarily divert and/or temporarily halt ground-disturbance operations in the area of discovery to allow for the evaluation of potentially significant cultural resources. Isolates and clearly non-significant deposits shall be minimally documented in the field and collected so the monitored grading can proceed. This measure is in conjunction with mitigation measure MM CUL-3 (Inadvertent Discovery of Archaeological Resources).

If a potentially significant tribal cultural resource(s) is discovered, work shall stop within a 60-foot perimeter of the discovery and an Environmentally Sensitive Area physical demarcation/barrier constructed. All work shall be diverted away from the vicinity of the find, so that the find can be evaluated by the qualified archaeologist and Tribal Monitor[s]. The archaeologist shall notify the lead agency and consulting Tribe(s) of said discovery. The qualified archaeologist, in consultation with the lead agency, the consulting Tribe(s), and the Native American monitor, shall determine the significance of the discovered resource. A recommendation for the treatment and disposition of the Tribal Cultural Resource shall be made by the qualified archaeologist in consultation with the Tribe[s] and the Native American monitor[s] and be submitted to the lead agency for review and approval. Below are the possible treatments and dispositions of significant cultural resources in order of CEQA preference:

A. Full avoidance.
B. If avoidance is not feasible, Preservation in place.

   If Preservation in place is not feasible, all items shall be reburied in an area away from any future impacts and reside in a permanent conservation easement or Deed Restriction.

C. If all other options are proven to be infeasible, data recovery through excavation and then curation in a Curation Facility that meets the Federal Curation Standards (36 CFR 79).

MM TCR-5: Inadvertent Discovery of Native American Human Remains. The following specific conditions to be imposed in order to protect Native American human remains and/or cremations. No photographs are to be taken except by the coroner, with written approval by the consulting Tribe(s).

A. Should human remains, cremations, and/or funerary objects be encountered on the surface or during any and all ground-disturbing activities (i.e., clearing, grubbing, tree and bush removal, grading, trenching, fence post placement and removal, construction excavation, excavation for all water supply, electrical, and irrigation lines, and landscaping phases of any kind), work in the immediate vicinity of the discovery shall immediately stop within a 100-foot perimeter of the discovery. The area shall be protected by the establishment of an Environmentally Sensitive Area with a marked boundary. Project personnel/observers shall be restricted from entry into the Environmentally Sensitive Area. The County Coroner shall be contacted within 24 hours of discovery. The County Coroner has 48 hours to make his/her

determination pursuant to State and Safety Code Section 7050.5 and Public Resources Code (PRC) Section 5097.98.

B. In the event that the human remains and/or cremations are identified as Native American, the Coroner shall notify the Native American Heritage Commission within 24 hours of determination pursuant to subdivision (c) of HSC Section 7050.5.

C. The Native American Heritage Commission shall immediately notify the person or persons it believes to be the Most Likely Descendant (MLD). The MLD has 48 hours, upon being granted access to the Project site, to inspect the site of discovery and make his/her recommendation for final treatment and disposition, with appropriate dignity, of the remains and all associated grave goods pursuant to PRC Section 5097.98.

D. Once the MLD has been named, the Tribe may wish to rebury the human remains and/or cremation and sacred items in their place of discovery with no further disturbance where they will reside in perpetuity. The place(s) of reburial shall not be disclosed by any party and is exempt from the California Public Records Act (California Government Code Section 6254[r]). Reburial location of human remains and/or cremations shall be determined by the Tribe's MLD, the landowner, and the Town Planning Department.

MM TCR-6: Final Report. The final report(s) created as a part of the Project (Cultural Resources Monitoring and Treatment Plan, isolate records, site records, survey reports, testing reports, etc.) shall be submitted to the lead agency and consulting Tribe(s) for review and comment. After approval of all parties, the final reports shall be submitted to the South Central Coast Information Center and the consulting Tribe(s).

4. Impacts to Paleontological Resources

Threshold: Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Finding: Less-than-Significant with Mitigation (DEIR, p. 4.4-20)

Explanation: The Project would result in a potentially significant impact on paleontological resources if inadvertently encountered during ground-disturbing activities. With implementation of MM GEO-1, impacts associated with unique paleontological resources would be less-than-significant with mitigation incorporated. (DEIR, p. 4.4-20.)

Incorporation of Mitigation Measure GEO-1 into the Project will ensure that these impacts are reduced to less than significant. The Town hereby directs that these mitigation measures be required in or incorporated into the Project. The Town therefore finds that changes or alterations have been required in, or incorporated into the Project that substantially lessen or avoid this impact's significant effects on the environment.

MM GEO-1: Paleontological Resources. The Project Applicant or proponent shall implement the following measures to protect paleontological resources.

- Paleontological Resources Impact Mitigation Program. Prior to commencement of any grading activity on site, the Project Applicant or proponent shall retain a Qualified Paleontologist to per the Society of Vertebrate Paleontology (SVP) (2010) guidelines. The Qualified Paleontologist shall prepare and implement a Paleontological Resources Impact Mitigation Program (PRIMP) for the Project. The PRIMP shall be consistent with the SVP (2010) guidelines and should outline requirements for preconstruction meeting attendance and worker environmental awareness training, where monitoring is required within the proposed Project site based on construction plans and/or geotechnical reports, procedures for adequate paleontological monitoring and discoveries treatment, and paleontological methods (including sediment sampling for microvertebrate fossils), reporting, and collections management. The qualified paleontologist shall attend the preconstruction meeting and a qualified paleontological monitor shall be on site during all rough grading and other significant ground-disturbing activities (including augering) in previously undisturbed, fine-grained Pleistocene alluvial deposits.
- Construction Worker Paleontological Resources Sensitivity Training. Prior to the commencement of Project ground-disturbing activities, a Qualified Paleontologist shall present a paleontological resources sensitivity training (or may be provided via digital recording) to project construction personnel. The paleontologist shall inform construction personnel about the laws protecting paleontological resources; the types of paleontological resources that could be encountered; the proper procedures to follow in the event of a paleontological discovery; and safety precautions to be taken when working with paleontological monitors. The Project Applicant shall provide the training agenda, materials, and attendance records to the Town within 5 business days of any request.
- Paleontological Monitoring. During grading and excavation activities, a qualified Paleontological Monitor shall be present to monitor the earth-moving activities in accordance with the Project paleontological assessment report or the PRIMP. Should paleontological resources be encountered, the Paleontological Monitor shall have the authority to halt ground-disturbing activities; and immediately notify the Qualified Paleontologist of the find; and inspect, document, and salvage the find as necessary. The Qualified Paleontologist shall prepare and submit a final report summarizing monitoring results to the Town and the San Bernardino County Museum.
- Paleontological Resources Recovery Plan. If paleontological resources are discovered during earthmoving activities, the Qualified Paleontologist meeting Society of Vertebrate Paleontology (SVP 2010) standards shall prepare and submit a Paleontological Resources Recovery Plan (PRRP) to the Town for review and approval. The recovery plan shall include, but is not limited to, sampling and fossil recovery procedures, museum curation for any scientifically significant specimen recovered, and a report of findings. Recommendations in the recovery plan as approved by the County shall be implemented before construction activities can

resume at the site where the paleontological resources were discovered. All reports and plans resulting from implementation of this measure shall be submitted to the Town and filed with the San Bernardino County Museum.

- Paleontological Resources Discoveries Protocols. If fossils are discovered during earthmoving activities, the Paleontological Monitor shall be authorized to halt the ground-disturbing activities within an appropriate buffer area determined by the Paleontological Monitor. The paleontologist shall implement the PRIMP and oversee the collection of sediment samples and exposed fossils for processing and evaluation. Any fossils encountered and recovered shall be prepared to the point of identification, catalogued, and curated at a public, nonprofit institution with a research interest in the material and with retrievable storage, such as the San Bernardino County Museum, if such an institution agrees to accept the fossils. Accompanying notes, maps, and photographs shall also be filed at the repository. All costs for lab work and curation fees are the responsibility of the project proponent or applicant. If no institution accepts the fossil collection, it may be donated to a local school or other interested organization in the area for educational purposes. The paleontologist shall prepare a final report on the collected fossils. The report shall contain an appropriate description of the fossils, treatment, and curation. A copy of the report shall be filed with the Town and the San Bernardino County Museum along with field notes and any other supporting documentation.

5. **Cumulative**

Threshold: Would the Project result in cumulatively considerable impacts related to cultural, tribal cultural, or paleontological resources?

Finding: Less-than-Significant with Mitigation (DEIR, pp. 4.4-20 – 4.4-21)

Explanation:

Cultural and Tribal Cultural Resources

The geographic scope of the cumulative cultural resources and tribal cultural resources analysis is the region surrounding the Project site, including San Bernardino County. These resource types all represent locations of specific use of the environment and landscape. For cultural resources, this use is primarily associated with the record of past activity. Whereas, for tribal cultural resources, such locations represent a continuity of use that is assigned traditional value by tribes, both in the past and present. The cumulative impact to these non-renewable resources is generally considered in terms of their cultural and/or informational value based on their resource type, context, and relationships to the surrounding landscape and/or tribal histories. With regard to cultural resources (including archaeological resources), the importance of this type of information is revealed through review of the larger historical and archaeological record which, in turn, is dependent on the contribution of shared data resulting from technical investigations. Tribal cultural resources, as well as human remains of Native American origin, while also variable in type, use, and location, are individually identified and assigned value by California Native American tribes.

The Project would not directly impact any CRHR-eligible historic-era cultural resources or any known prehistoric cultural resources. No tribal cultural resources or human remains have been identified within the Project area. However, there are a limited number of significant cultural resources; therefore, the loss of any one cultural resource site could affect the scientific value of others in a region. Implementation of appropriate mitigation measures that are identified during the discretionary approval process for cumulative projects can help to capture and preserve knowledge of such resources through a range of typical actions (e.g., preservation in place, data recovery, conformance with the Secretary of the Interior's Standards), and federal, state, and local laws can also protect these resources. However, because all significant cultural resources are unique and non-renewable and preservation in place is not always feasible, the Project in addition to cumulative projects could result in a potentially significant cumulative impact on cultural and tribal cultural resources.

The Project as well as other cumulative projects would be required by law to comply with all applicable federal, state, and local requirements related to historical, archaeological, and tribal cultural resources. Future projects within the region would also be subject to the same requirements as the Project. Technical studies and consultation would be required as part of the due diligence process and would result in the documentation and appropriate consideration of any resources that may be present. Regulations in the region for management of tribal cultural resources and cultural resources would apply to development within and outside the Town. Development within Apple Valley is subject to the General Plan, which provides policies that safeguard cultural resources from unnecessary impacts. These include General Plan Policy 1C, which requires the Town, to the greatest extent possible, to protect sensitive archaeological and historical resources from vandalism and illegal collection.

As discussed above, the Project would have potentially significant impacts on archaeological resources and tribal cultural resources related to the potential for inadvertent discoveries during ground-disturbing construction activities. Mitigation measures identified herein (MM CUL-1 through MM CUL-3 and MM TCR-1 through MM TCR-6) would avoid substantial adverse changes in the significance of cultural and tribal cultural resources. Therefore, with incorporation of these mitigation measures, the Project's contribution to the potentially significant cumulative impact on cultural and tribal cultural resources would not be cumulatively considerable. (DEIR, pp. 4.4-20 - 4.4-21.)

Incorporation of Mitigation Measures CUL-1 through CUL-3 and MM TCR-1 through MM TCR-6 (see above) into the Project will ensure that the Project's cumulative contribution is reduced to less than significant. The Town hereby directs that these mitigation measures be required in or incorporated into the Project. The Town therefore finds that changes or alterations have been required in, or incorporated into the Project that substantially lessen or avoid this impact's significant effects on the environment.

Paleontological Resources

Cumulative impacts on paleontological resources consider whether the impacts of the Project together with other related projects would substantially diminish the number of paleontological resources within the same or similar context or property type. Potential cumulative impacts on paleontological resources would result from future development in the Town and in the vicinity

of the Project site that combine to create an environment where fossils are vulnerable to destruction by earthmoving equipment, looting by the public, and natural causes such as weathering and erosion. Most impacts on paleontological resources depend on site-specific conditions and features, such as soil composition and topography and are therefore generally mitigated on a project-by-project basis. Cumulative projects, the same as the Project would be required to assess impacts to paleontological resources as part of the discretionary approval process. Additionally, as needed, projects would incorporate individual mitigation for site-specific geological units present on each individual project site. However, it is possible that Project along with other cumulative projects could have a significant cumulative impact on paleontological resources if individual projects are not properly mitigated.

The Project would have potentially significant impacts on paleontological resources if encountered during ground-disturbing construction activities; however, the mitigation measure provided (MM GEO-1) would ensure any significant paleontological resources uncovered during Project excavations would be properly analyzed and salvaged by the on-site paleontological monitor, thereby avoiding complete destruction of the find. Therefore, with incorporation of MM GEO-1, the Project's contribution to the potentially significant cumulative impact on paleontological resources would not be cumulatively considerable. (DEIR, p. 4.4-21.)

Incorporation of Mitigation Measure GEO-1 (see above) into the Project will ensure that the Project's cumulative contribution is reduced to less than significant. The Town hereby directs that these mitigation measures be required in or incorporated into the Project. The Town therefore finds that changes or alterations have been required in, or incorporated into the Project that substantially lessen or avoid this impact's significant effects on the environment.

C. GREENHOUSE GAS EMISSIONS

1. Conflict with Plans to Reduce Greenhouse Gas Emissions

Threshold: Would the Project conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Finding: Less-than-Significant with Mitigation (DEIR, pp. 4.6-26 – 4.6-33)

Explanation:

Project Potential to Conflict with State Reduction Targets and CARB's Scoping Plan

The California State Legislature passed AB 32 to provide initial direction to limit California's GHG emissions to 1990 levels by 2020 and initiate the state's long-range climate objectives. Since the passage of AB 32, the state has adopted GHG emissions reduction targets for future years beyond the initial 2020 horizon year. CARB is required to develop a Scoping Plan, which provides the framework for actions to achieve the state's GHG emission targets. While the Scoping Plan is not directly applicable to specific projects, nor is it intended to be used as the sole basis for project-level evaluations, it is the official framework for the measures and regulations that will be implemented to reduce California's GHG emissions in alignment with

the adopted targets. Therefore, a project would be found to not conflict with the statutes if it meets the Scoping Plan policies and would not impede attainment of the goals therein.

For the Project, the relevant GHG emissions reduction targets include those established by SB 32 and AB 1279, which require GHG emissions be reduced to 40% below 1990 levels by 2030, and 85% below 1990 levels by 2045, respectively. In addition, AB 1279 requires the state achieve net zero GHG emissions by no later than 2045 and achieve and maintain net negative GHG emissions thereafter. CARB's 2017 Scoping Plan update was the first to address the state's strategy for achieving the 2030 GHG reduction target set forth in SB 32 (CARB 2017a), and the most recent CARB 2022 Scoping Plan update outlines the state's plan to reduce emissions and achieve carbon neutrality by 2045 in alignment with AB 1279 and assesses progress is making toward the 2030 SB 32 target (CARB 2022b). As such, given that SB 32 and AB 1279 are the relevant GHG emission targets, the 2017 and 2022 Scoping Plan updates that outline the strategy to achieve those targets, are the most applicable to the Project. The 2017 Scoping Plan included measures to promote renewable energy and energy efficiency (including the mandates of SB 350), increase stringency of the low-carbon fuel standard, measures identified in the Mobile Source and Freight Strategies, measures identified in the proposed SLCP Plan, and increase stringency of SB 375 targets. The 2022 Scoping Plan builds upon and accelerates programs currently in place, including moving to zero-emission transportation; phasing out use of fossil gas use for heating homes and buildings; reducing chemical and refrigerants with high GWP; providing communities with sustainable options for walking, biking, and public transit; and displacement of fossil-fuel fired electrical generation through use of renewable energy alternatives (e.g., solar arrays and wind turbines). the Project would be consistent with the applicable strategies and measures in the 2017 Scoping Plan and 2022 Scoping Plan, respectively. (DEIR, pp. 4.6-26 – 4.6-31.)

Potential to Conflict with the Town of Apple Valley Climate Action Plan

The Project's consistency with applicable 2019 CAP Update strategies is therefore based on the overarching categories described within the 2019 CAP Update, rather than the entire menu of policies. The Project would generally be consistent with all strategies and would support the Town's CAP including the CAP's transportation measures, energy efficiency measures, renewable energy measures, and solid waste measures. (DEIR, pp. 4.6-31 – 4.6-32.)

Potential to Conflict with SCAG's RTP/SCS

The SCAG 2020–2045 RTP/SCS is a regional growth management strategy that targets per capita GHG reduction from passenger vehicles and light trucks in the Southern California Region pursuant to SB 375. In addition to demonstrating the Region's ability to attain the GHG emission-reduction targets set forth by CARB, the 2020-2045 RTP/SCS outlines a series of actions and strategies for integrating the transportation network with an overall land use pattern that responds to projected growth, housing needs, changing demographics, and transportation demands. Thus, successful implementation of the 2020-2045 RTP/SCS would result in more complete communities with a variety of transportation and housing choices, while reducing automobile use. The Project would be consistent with the applicable strategies set forth in the 2020-2045 RTP/SCS, specifically focus growth near destinations and mobility options; leverage technology innovations; and promote a green region.

The Project demonstrates consistency with the CARB's Scoping Plan and would not conflict with other regulations regarding reductions to GHG emissions including AB 32, SB 32, and AB 1279. Additionally, the Project would be consistent with the Town's 2019 CAP Update and the SCAG 2020–2045 RTP/SCS, with implementation of MM GHG-1 and the impact is reduced to less than significant. (DEIR, p. 4.6-33.)

Incorporation of Mitigation Measure GHG-1 (see above) into the Project will ensure that these impacts are reduced to less than significant. The Town hereby directs that this mitigation measure be required in or incorporated into the Project. The Town therefore finds that changes or alterations have been required in, or incorporated into the project that substantially lessen or avoid this impact's significant effects on the environment.

SECTION VII.
IMPACTS THAT CANNOT BE FULLY MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

The Town hereby finds that, despite the incorporation of Mitigation Measures identified in the EIR and in these Findings, the following environmental impacts cannot be fully mitigated to a less-than-significant level and a Statement of Overriding Considerations is therefore included herein:

A. AIR QUALITY

1. Conflict with Air Quality Plan

Threshold: Would the Project conflict with or obstruct implementation of the applicable air quality plan?

Finding: Significant and Unavoidable Impact (DEIR, pp. 4.2-28 – 4.2-29)

Explanation: 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 Mojave Desert Air Basin (MDAB) 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. The Project would be required to comply with all applicable Mojave Desert Air Quality Management District (MDAQMD) Rules and Regulations, including, but not limited to Rules 401 (Visibile Emissions), 402 (Nuisance), and 403 (Fugitive Dust Control for the Mojave Desert Planning Area). The Project would conform to local land use plans and would comply with all applicable MDAQMD Rules and Regulations. However, Project operational-source emissions have the potential to increase the frequency or severity of a violation in the federal or state AAQS. On this basis, the Project would be considered to potentially conflict with the Federal Particulate Matter Attainment Plan and Ozone Attainment Plan for the MDAB. Therefore, impacts associated with the conflicting with the MDAQMD would be significant and unavoidable and there is no mitigation available to reduce the impact to less than significant. (DEIR, pp. 4.2-28 - 4.2-29.)

2. Exposure to Pollutant Concentrations

Threshold: Would the Project expose sensitive receptors to substantial pollutant concentrations?

Finding: Significant and Unavoidable Impact (DEIR, pp. 4.2-35 – 4.2-37)

Explanation:

Criteria Air Pollutant Emissions and Associated Pollutant Concentrations

Project operation could result in exceedances of the MDAQMD significance thresholds for NO_x and PM_{10}, the Project would potentially result in health effects associated with those pollutants. Because construction of the Project would not exceed any MDAQMD thresholds, and operation of the Project would not exceed the MDAQMD thresholds for CO, SO_x, or $PM_{2.5}$, and because the MDAQMD thresholds are based on levels that the MDAB can accommodate without affecting the attainment date for the AAQS and the AAQS are established to protect public health and welfare, the Project is not anticipated to result in health effects associated with CO, SO_x, or $PM_{2.5}$. Because operation of the Project could result in exceedances of MDAQMD significance thresholds for NO_x and PM_{10}, and no additional feasible mitigation measures or PDFs beyond those already identified exist that would reduce these emissions to levels that are less than significant, the potential health effects associated with these criteria air pollutants are conservatively considered significant and unavoidable and there is no mitigation available to reduce the impact to less than significant. (DEIR, p. 4.2-37.)

3. **Cumulative**

Threshold: Would the Project result in cumulatively considerable impacts related to air quality?

Finding: Significant and Unavoidable Impact (DEIR, pp. 4.2-38 – 4.2-39)

Explanation: By its nature, air pollution is largely a cumulative impact. The geographic context is the MDAB. Assuming all mobile source emissions are included in the Project's criteria air pollutant emissions inventory prior to comparing emissions to the MDAQMD thresholds represents a conservative assumption because many of the heavy-duty trucks that CEQA forces the agency to assume are "caused" by the project are in fact already operating within the region due to existing goods movement patterns. Thus, in reality, speculative warehouse projects, such as the Project, are not really causing the creation of all new truck trips but instead are diverting them to different points of distribution origin. Nevertheless, this EIR conservatively assumes that all truck trips assigned to the project are in fact "new" trips when in fact this is likely not the case. It is acknowledged that due to the conservative assumed trip length for Project trucks that is set forth in this EIR, that portions of truck trips and associated mobile source emissions could possibly occur outside of the MDAB and within other air basins. However, at this stage of the environmental analysis, there is no reliable forecast of truck trip origins and destinations for the Project.

The area of the MDAB in which the Project is located is a nonattainment area for O_3 and PM_{10} under the NAAQS and/or CAAQS. The poor air quality in the MDAB is the result of cumulative emissions from motor vehicles, off-road equipment, commercial and industrial facilities, and other emission sources. Projects that emit these pollutants or their precursors (i.e., VOC and NO_x for O_3) potentially contribute to poor air quality. Daily construction emissions associated with the Project would not exceed the MDAQMD significance thresholds. However, as presented in the preceding analysis, Project operational-source air pollutant emissions would result in exceedances of regional thresholds for emissions of NO_X and PM_{10}, even after implementation of all feasible reduction measures. Although many PDFs have been identified that apply to mobile sources (PDF-DES-3, PDF-DES-4, PDF-DES-6, PDF-OP-2, PDF-OP-3, PDF-OP-4, PDF-OP-5, PDF-OP-6, and PDF-OP-9) and would reduce emissions to the extent feasible, since neither the Project Applicant nor the Town have regulatory authority to control tailpipe emissions, no

feasible PDFs or mitigation measures exist that would reduce these emissions to levels that are less than significant. As such, Project operational-source NO_X and PM_{10} emissions that exceed applicable MDAQMD regional thresholds would be significant and unavoidable, and thus, cumulatively considerable. (DEIR, p. 4.2-39.)

B. GREENHOUSE GAS EMISSIONS

1. Increase in Greenhouse Gas Emissions

Threshold: Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Finding: Significant and Unavoidable Impact (DEIR, pp. 4.6-24 – 4.6-26)

Explanation: Total estimated GHG emissions generated during construction of the Project are approximately 3,110 MT CO_2e. Estimated Project-generated construction emissions amortized over 30 years would be approximately 104 MT CO_2e per year. Operation of the Project would result in approximately 56,973 MT CO_2e per year (including amortized construction emissions), which would exceed the SCAQMD GHG threshold of 3,000 MT CO_2e 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 potentially significant impact.

The primary sources of GHGs emissions associated with the Project are mobile source vehicles and energy. Although many project design features (PDFs) have been identified that apply to mobile sources (PDF-DES-3, PDF-DES-4, PDF-DES-6, PDF-OP-2, PDF-OP-3, PDF-OP-4, PDF-OP-5, PDF-OP-6, and PDF-OP-9), quantitative reductions from these mobile source PDFs cannot be determined at this time and neither the Project Applicant nor the Town can substantively or materially affect reductions in the Project's on-road mobile source emissions beyond what is already required by regulation. However, implementation of MM GHG-1 includes the requirement that electricity for the Project be procured through the Apple Valley Choice Energy 100% Renewable Energy Plan, which would reduce the long-term GHG emissions. the Project would still exceed the applied threshold of 3,000 MT CO_2e per year after mitigation. No feasible mitigation measures beyond those already identified exist that would reduce these emissions to a level that is less than significant. Therefore, even with the incorporation of mitigation, long-term impacts associated with an increase in GHG emissions would be significant and unavoidable. (DEIR, p. 4.6-26.)

The Project's generation of greenhouse gas emissions can be minimized through Mitigation Measure GHG-1. The Town hereby directs that this mitigation measure be required in or incorporated into the Project. However, implementation of that mitigation will not reduce those impacts to less than significant.

MM GHG-1 Renewable Energy Plan. Future tenants of the Project shall be required to subscribe to the Apple Valley Choice Energy 100% Renewable Energy Plan, which is 100% renewable and 100% carbon-free, for the duration of occupancy as part of the entitlement agreement. At each lease or change of building ownership, the new lessee or owner shall also be automatically enrolled in the Apple Valley Choice Energy 100% Renewable Energy Plan.

2. **Cumulative**

Threshold: Would the Project result in cumulatively considerable impacts related to greenhouse gas emissions?

Finding: Significant and Unavoidable Impact (DEIR, p. 4.6-33)

Explanation: GHG emissions impacts are inherently cumulative in nature. As such, in the Project region and beyond, the Project, in combination with past, present, and reasonably foreseeable future development, would generate GHG emissions that could have a significant cumulative impact on the environment. The Project would result in GHG emissions in exceedance of the SCAQMD significance threshold, even after the implementation of all feasible mitigation. Therefore, Project GHG emissions would be cumulatively considerable and, thus, significant and unavoidable. (DEIR, p. 4.6-33.)

C. NOISE

1. Threshold: Would the Project 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?

Finding: Significant and Unavoidable Impact (DEIR, pp. 4.10-17 – 4.10-18)

Explanation: Operation noise.

Long-Term Operational Traffic Noise

The Project would result in changes to existing noise levels on the Project site by introducing new stationary sources of noise, including outdoor HVAC equipment, and vehicle parking lot and truck loading dock activities. These sources may affect noise-sensitive land uses adjacent to the Project site. The Project would result in the creation of additional vehicle trips on local roadways (primarily Cordova Road), which could result in increased traffic noise levels at adjacent noise-sensitive land uses. The Project would result in an increase in noise levels of 5 dB or more in locations with an ambient noise level of less than 60 dBA CNEL. Potential mitigation measures to address significant impacts from traffic noise include use of rubberized asphalt hot mix pavement and off-site noise barriers for the existing residential use adjacent to impacted roadway segments. While such measures may somewhat reduce noise levels, these measures would not sufficiently mitigate the increased noise levels generated by the projected vehicular traffic, particularly from heavy trucks. No feasible mitigation measures are available that would result in sufficient reduction of off-site traffic noise to a less-than-significant level. Consequently, Project-related off-site traffic noise impacts at adjacent noise-sensitive land uses would be significant and unavoidable. (DEIR, p. 4.10-18.)

2. **Cumulative**

Threshold: Would the Project result in cumulatively considerable impacts related to noise?

Finding: Significant and Unavoidable (DEIR, p. 4.10-19)

Explanation: The cumulative noise context for the Project includes increased traffic volumes on roadways in the vicinity and potential noise from other local development projects within the Town. It is difficult to project exactly how the ambient noise conditions within the area would change, but it is known that traffic noise levels would increase due to the additional traffic generated by the Project and other development in the Town and the region. When considering the cumulative noise impacts, it is crucial to assess the overall increase in noise levels against the noise compatibility standards set forth by the Town and the State of California.

The collective noise from traffic, aircraft, and stationary sources could result in incremental increases in the ambient noise environment within the immediate area. The Project's off-site traffic noise analysis, incorporating cumulative development projections for the year 2040, indicates that the maximum anticipated noise level increase would not exceed 7 dB at any analyzed sensitive receptor. This would be a significant cumulative impact.

Given the local noise standards, if the Project's contributions, along with other planned cumulative development, result in noise levels that exceed the established thresholds, the cumulative noise impact would be considered significant. Without feasible mitigation measures that can effectively reduce noise levels below these thresholds, the Project's cumulative noise impact from traffic (would be cumulatively considerable and thus significant and unavoidable. (DEIR, p. 4.10-19.)

VIII.
PROJECT ALTERNATIVES

A. ALTERNATIVES ANALYSIS

The CEQA Guidelines require that an EIR describe a reasonable range of alternatives to a project that would feasibly attain the basic project objectives but would avoid or substantially lessen one or more of the project's significant effects. (CEQA Guidelines §15126.6(a).)

Section 15126.6 of the CEQA Guidelines requires the consideration of a reasonable range of potentially feasible alternatives that could reduce or eliminate any significant adverse environmental effects of the proposed project, including alternatives that may, to some degree, impede the project's objectives.

PRC Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" The procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." "[I]n the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects."

Among the factors that may be taken into account when addressing the feasibility of alternatives are site suitability, economic viability, availability of infrastructure, general plan consistency, other plans or regulatory limitations, jurisdictional boundaries, and whether the proponent can reasonably acquire, control or otherwise have access to the alternative site. (CEQA Guidelines, §15126.6, subd. (f)(1).) The concept of "feasibility" also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project.

Where a significant impact can be substantially lessened (i.e., mitigated to an "acceptable level") solely by the adoption of mitigation measures, the lead agency, in drafting its findings, has no obligation to consider the feasibility of alternatives with respect to that impact, even if the alternative would mitigate the impact to a greater degree than the project. (PRC, §21002) In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility of modifying the project lies with some other agency. (CEQA Guidelines, §15091, subds. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§15093, 15043, subd. (b); see also PRC, §21081, subd. (b).)

The range of alternatives required is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The EIR shall include sufficient

information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed Project. Alternatives are 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.

B. PROJECT OBJECTIVES

The following objectives have been established for the Project:

1. Develop a project within the North Apple Valley Industrial Specific Plan area to meet the existing and growing demand for large-format logistics and warehouse buildings in the region.
2. Develop a fiscally sound, jobs-producing, and tax-generating land use in north Apple Valley.
3. Concentrate nonresidential uses near existing roadways, highways, and freeways in an effort to isolate and reduce any potential environmental impacts related to truck traffic congestion, air pollutant emissions, industrial noise, and biological resources to the greatest extent feasible.
4. Create a project that takes advantage of and enhances existing infrastructure, including the proximity to major regional roadways, railroad service corridors, and other similar infrastructure.
5. Implement the development patterns envisioned in the North Apple Valley Industrial Specific Plan.

C. ALTERNATIVES CONSIDERED BUT REJECTED FROM FURTHER ANALYSIS

Section 15126.6(c) of the CEQA Guidelines specifies that an EIR should (1) identify alternatives that were considered by the lead agency but were eliminated from detailed consideration because they were determined to be infeasible during the scoping process; and (2) briefly explain the reasons underlying the lead agency's determination. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives; (ii) infeasibility; and/or (iii) inability to avoid significant environmental impacts.

The following alternatives were considered but rejected as part of the environmental analysis for the Project:

- Alternative Land Uses
- Alternate Sites

Finding: The Town rejects the Alternative Land Uses and Alternate Sites alternatives, on the following grounds, each of which individually provides sufficient justification for rejection of this alternative: (1) the alternatives do not avoid any significant and unavoidable impacts, (2) the alternatives would likely not further reduce any of the Project's significant impacts; and (3) the alternatives are technically, financially, and legally infeasible given that they would not reduce significant adverse impacts or considered infeasible to construct or operate. Therefore, these alternatives are eliminated from further consideration.

D. EVALUATION OF ALTERNATIVES SELECTED FOR ANALYSIS

The Draft EIR discussed several alternatives to the Project in order to present a reasonable range of options. The alternatives evaluated included:

- Alternative 1: No Project Alternative
- Alternative 2: Cordova Complex Only Alternative
- Alternative 3: Reduced Project Alternative

The EIR examined the Project alternatives in detail, exploring their comparative advantages and disadvantages with respect to the Project to determine whether any of the alternatives could meet most or all of the Project objectives, while avoiding or substantially lessening its significant, unavoidable impacts. Four alternatives that could potentially meet the Project objectives were considered as part of the environmental review for the Project. The following section provides a summary of the alternatives considered.

Summary of Alternatives Considered

The EIR examined a reasonable range of alternatives to the proposed VESP to determine whether any of those alternatives could meet most or all of the Project's objectives while avoiding or substantially lessening its significant impacts. (DEIR, pp. 6-4 to 6-14.) The alternatives in the EIR were selected in relation to their potential to reduce the most significant Project impacts:

- **Alternative 1: No Project Alternative.** This alternative would entail no development and no action at the Project site.
- **Alternative 2: Cordova Complex Only Alternative.** This alternative would entail development of one warehouse on the Cordova Complex site similar to the Project, with avoidance/retention of the two western Joshua trees on the site. The Quarry at Pawnee site would remain undeveloped, resulting in an overall building space reduction of approximately 48%.
- **Alternative 3: Reduced Project Alternative.** This alternative would entail development of two warehouses similar to the Project, but with an overall building space reduction of 50%.

Alternative 1 – No Project

Description: CEQA Guidelines Section 15126.6(e) requires consideration of a "No Project Alternative," which is intended to allow decision-makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project. In cases where the project constitutes a land development project, the No Project Alternative is the "circumstance under which the project does not proceed." For many projects, the No Project Alternative represents a "No Development" or an "Existing Conditions" scenario, in which the project site remains in its existing condition and no new development occurs for the foreseeable future. This Alternative assumes no grading or development associated with construction and operation of the proposed industrial/warehouse buildings, associated office spaces, surface parking and loading areas, and all other proposed on- and off-site improvements would not occur and the existing site conditions would remain. (DEIR, pp. 6-4 - 6-5.)
Conclusions/Impacts: The No Project Alternative would produce no changes on the project site because the site would remain in its current undeveloped condition, effectively eliminating the

Project's impacts discussed in the EIR. Under the No Project Alternative, no construction or ground disturbance would occur so there would be no changes to visual conditions, biological or cultural resources, ambient noise, or effects to existing resources in the Project area. There would be no air pollutant emissions or GHG emissions associated with construction and operation activities, and no new vehicle trips. No new utilities would be needed to serve the buildings. Impacts associated with hydrology and water quality would likely be greater under Alternative 1 than with the Project, as the new engineered stormwater drainage system would not be constructed on the Project site as proposed under the Project. Under existing conditions, no storm drain or treatment facilities are currently located on site, and thus, stormwater is not presently collected or treated on the Project site prior to discharging off site. This same stormwater drainage scenario would continue to occur under Alternative 1, resulting in greater impacts related to surface drainage, water quality, erosion, and potentially periodic isolated flooding. (DEIR, pp. 6-4 -6-5.)

Ability to Meet Project Objectives: Overall, none of the mitigation measures required for the Project would be necessary with Alternative 1, and Alternative 1 would not result in any significant adverse and unavoidable impacts. However, Alternative 1 would not develop a jobs-producing and tax generating land use near transportation corridors within the housing-rich Victor Valley/High Desert region (Objective 1); would not concentrate non-residential uses near existing roadways, highways, and freeways (Objective 2); would not develop a fiscally sound and employment generating land use that maximizes utilization of warehouse permitted areas (Objective 3); would not create a project that takes advantage of and enhances existing infrastructure, including the proximity to major regional roadways such as I-15, railroad service corridors, and other similar infrastructure (Objective 4); or fulfill the existing and growing demand for logistics and warehouse uses in the region through implementation of the development patterns envisioned in the NAVISP (Objective 5). As such, Alternative 1 would not meet any of the Project objectives. (DEIR, p. 6-5.)

Finding: The Town rejects Alternative 1: No Project/No Build Alternative, on the following grounds, each of which individually provides sufficient justification for rejection of this alternative: (1) the alternative fails to meet any of the Project objectives; and (2) the alternative would result in increased impacts relating to hydrology and water quality.

Alternative 2 – Cordova Complex Only Alternative

Description: Under the Cordova Complex Only Alternative, a warehouse building would be constructed and operated on the Cordova Complex site similar to the Project. Under this alternative, the two western Joshua trees on the site would be avoided. The 1,462,342-square-foot warehouse building proposed on the Quarry at Pawnee site as part of the Project would not be constructed and the Quarry at Pawnee site would remain vacant and undeveloped and would not remove the existing 12 western Joshua trees or the desert native plants on the site, consistent with existing conditions, and would presumably continue to be subject to illegal dumping, trespassing, and unpermitted off-road vehicle use. Off-site roadway and utility improvements required under Alternative 2 would be reduced relative to the Project in that no roadway and utility improvements would be constructed east of Navajo Road, which includes improvements to Cordova Road between Navajo Road and Flint Road, improvements to Flint Road between Cordova Road and Quarry Road, construction of the sewer line within Cordova Road extending between the Cordova Complex site and Quarry at Pawnee site, and construction of the water line within Cordova Road from the Cordova Complex site to Flint Road and within Flint Road between Cordova Road and Quarry Road. All other off-site and on-site improvements proposed as part

of the Project are assumed to still be required under Alternative 2. The number of employees would be reduced to approximately 739.

Avoidance of the two western Joshua trees on the Cordova Complex site, including a 186-foot-radius buffer in consideration of the seedbank, would result in a reduction of the available landscaping and paved parking/fire lane area in the southeastern portion of the Cordova Complex site, and a reduction of the available landscaping and paved parking/fire lane area approximately mid-way along the northern boundary of the site. In this area along the northern site boundary, the building setback would be increased by approximately 25 feet to accommodate the 186-foot seedbank buffer, resulting in a slight reduction in overall building size. For the purposes of this analysis, Alternative 2 is assumed to include construction of a warehouse on the Cordova Complex site that comprises approximately 50% of the overall size of the Project's proposed warehouse space, for a total of approximately 1,511,147 square feet. This alternative assumes that the on-site landscaping and stormwater drainage areas, and parking and fire lane areas would be redesigned, reconfigured, and/or rerouted as needed to accommodate the retention of the Joshua trees but would otherwise remain similar to the Project. (DEIR, pp. 6-5 - 6-6.)

Conclusions/Impacts: Under the Cordova Complex Only Alternative, the Project's development footprint would be reduced overall by approximately 50% compared to the Project. The Quarry at Pawnee site would remain vacant, and therefore, no impacts would occur on the Quarry at Pawnee site. An approximately 1,511,147-square-foot warehouse would be constructed on the Cordova Complex site, similar to what is proposed for the Project, but with a reconfiguration of the site plan to avoid impacts to the two Joshua trees on site.

Alternative 2 would result in avoidance of biological resource impacts related to Joshua trees and desert native plants, and a reduction in magnitude of air quality and noise impacts from significant and unavoidable to less than significant. Alternative 2 would also generally result in incremental reductions in the severity of impacts related to aesthetics; air quality; biological resources; cultural, tribal cultural, and paleontological resources; energy; GHG emissions; noise; transportation; and utilities and service systems. Although impacts would generally be incrementally reduced, impacts would not be reduced below a level of significance in the case of significant and unavoidable impacts that have been identified for the Project related to GHG emissions. MM BIO-1 through MM BIO-4 would not be applicable to Alternative 2, because impacts to Joshua trees and desert native plant species would be avoided. All of the other mitigation measures required for the Project would also apply to Alternative 2, as the land use type and construction and operation characteristics would also be relatively similar.

Aesthetics

Alternative 2 would still involve the development of approximately 1,511,147 square feet of warehouse space and associated improvements, which would still be the primary visual feature on the Cordova Complex site. Aesthetic impacts on the Cordova Complex site would be similar to the Project. However, under Alternative 2, the Quarry at Pawnee site would remain in its current undeveloped condition. There would be no changes to visual conditions on the Quarry at Pawnee site. Therefore, visual changes would still occur with implementation of Alternative 2 due to the construction of a warehouse similar to the Project on the Cordova Complex site but would overall the change in views and character of the site would be of a lower magnitude since only one warehouse building would be built. (DEIR, p. 6-6.)

Air Quality

Under Alternative 2, the extent of construction activities would be reduced compared to the Project, because only one warehouse building would be constructed. Air pollutant emissions would be reduced in proportion to the reduction in square footage; thus, construction-related air pollutant emissions would be reduced by approximately 50%. Like the Project, Alternative 2 would include the implementation of PDFs that would serve to reduce short-term construction emissions to a level that would not exceed the thresholds of significance established by the Mojave Desert Air Quality Management District (MDAQMD). Long-term emissions resulting from operation of Alternative 2 would also be reduced by approximately 50%. As a result, emissions of NO_x and PM_{10}, would be reduced relative to the Project to a level below the MDAQMD regional air quality standard and would therefore not contribute to an existing air quality violation. Alternative 2 would generate fewer average daily vehicle trips compared to the Project due to the reduced warehouse space and impacts due to a conflict with the regional air quality standard and the level of contribution to an existing air quality violation would be reduced to less than significant. As such, Alternative 2 would reduce and avoid the Project's significant and unavoidable impacts due to operational air pollutant emissions and conflicts with the Federal Particulate Matter Attainment Plan and Ozone Attainment Plan for the Mojave Desert Air Basin (MDAB).

Impacts to nearby sensitive receptors would also be reduced to less than significant under Alternative 2, because emissions under Alternative 2 would be below the MDAQMD thresholds of significance. Therefore, air quality impacts related to conflicts with applicable air quality plans, cumulatively considerable increases in criteria pollutants, and exposure of sensitive receptors to substantial pollutant concentrations would be reduced to less-than-significant levels under Alternative 2. (DEIR, p. 6-7.)

Biological Resources

The overall development intensity would be reduced under Alternative 2 as compared to the Project. Alternative 2 would develop the Cordova Complex site, resulting in a similar overall building footprint, with the exception of slight reductions to accommodate avoidance of the two Joshua trees on site. The Quarry at Pawnee site would remain vacant and undeveloped, thereby avoiding direct impacts on 12 western Joshua trees. Therefore, Alternative 2 would avoid impacts on Joshua trees. In addition, two desert native plant species were recorded within the Quarry at Pawnee site during the focused desert native plant survey: two beavertail and three silver cholla; direct impacts to these desert native plant species which would occur under the Project would be avoided under Alternative 2. Therefore, Alternative 2 would not include the removal of western Joshua tree, beavertail, and silver cholla, so in accordance with the California Desert Native Plant Act (CDNPA) and Chapter 9.76 of the Apple Valley Municipal Code, a native plant removal permit would no longer be needed to be obtained from the Town. Alternative 2 would not necessitate the preparation of a Joshua Tree Preservation, Protection, and Relocation Plan or Desert Native Plant Relocation Plan to meet the requirements of Chapter 9.76 of the Apple Valley Municipal Code to protect, preserve, and mitigate impacts to desert native plants, because they would no longer be impacted.

Other construction-related short-term impacts would still occur with construction of the Cordova Complex warehouse, including chemical spills, stormwater erosion and sedimentation, dust pollution, and increased wildfire risk. Like the Project, potential long-term (post-construction) indirect impacts from operation and maintenance activities may include changes in water quality, increased wildfire

risk, induced demand of the surrounding area, increased traffic and vehicle emissions, and accidental chemical spills. Alternative 2 would still be required to adhere to applicable regulations, including preparation of a SWPPP and implementation of BMPs in compliance with the NPDES Construction General Permit, dust mitigation measures in accordance with the MDAQMD's Rules 401 and 403.2, Town and state fire safety requirements, and CALGreen requirements related to outdoor materials and trash/waste storage. As such, the Project site and potential suitable habitat would still be disturbed as a result of development activities, albeit to a smaller area, which would reduce the magnitude of impacts from a biological resources perspective. Alternative 2 would result in direct impacts to 0.84 acres of potential non-wetland waters of the state under RWQCB jurisdiction, and 0.87 acres of streambed under CDFW jurisdiction, which would be less than the Project. However, compliance with mitigation measures MM BIO-5 through MM BIO-13 would still be required to address these impacts to jurisdictional aquatic resources. Therefore, biological resources impacts would be reduced under Alternative 2. (DEIR, p. 6-7 – 6-8.)

Cultural, Tribal Cultural, and Paleontological Resources

Under Alternative 2, the Project would be constructed and operated similar to that planned for the Project on the Cordova Complex site, while the Quarry at Pawnee site would remain undeveloped. The Cordova Complex site would need to be disturbed to a similar extent as proposed by the Project, which would result in a similar potential to disturb presently unknown/unrecorded cultural, tribal cultural, and paleontological resources as the Project on the Cordova Complex site. Compliance with mitigation measures MM CUL-1 through MM CUL-3 and MM TCR-1 through MM TCR-6 and MM GEO-1 would still be required. However, no disturbance would occur on the Quarry at Pawnee site. Therefore, cultural resources impacts would be reduced under Alternative 2. (DEIR, p. 6-8.)

Energy

The level of construction activities would be reduced under Alternative 2 compared to the Project. Thus, construction-related energy usage would be less than the Project. Alternative 2 would generate fewer vehicle trips per day and would have less building space than the Project as proposed; thus, on-site and mobile energy consumption would be less than the Project. Accordingly, energy usage associated with long-term operation of Alternative 2 would be reduced compared to the Project. Therefore, energy impacts would generally be reduced under Alternative 2. (DEIR, p. 6-8.)

Greenhouse Gas Emissions

Similar to air quality, the extent of construction activities would be reduced by approximately 50% under Alternative 2 compared to the Project, with a corresponding reduction in GHG emissions. Thus, construction related GHG emissions would be lessened. Alternative 2 would generate fewer vehicle trips per day relative to the Project due to the reduction in overall warehouse space. Accordingly, GHG emissions associated with long-term operation of Alternative 2 would be reduced by approximately 50% compared to the Project. As discussed above, the Project would result in significant and unavoidable impacts with regard to generating GHG emissions. While GHG emissions would be reduced by approximately 50% under Alternative 2, they would remain well over the significance threshold of 3,000 metric tons of carbon dioxide equivalent (MT CO_2e) per year. Implementation of mitigation measures under the Project and Alternative 2 would not reduce potential operation-related GHG emissions to less-than-significant levels. Similar to the Project, impacts would still remain significant and unavoidable and compliance with mitigation measure MM GHG-1 would still be required. (DEIR, p. 6-8.)

Hazards and Hazardous Materials

Under Alternative 2, the Cordova Complex site would be developed with a similar development intensity as the Project and the Quarry at Pawnee site would not be developed. Like the Project, Alternative 2 would still require compliance with all applicable federal, state, and local regulations pertaining to hazards and hazardous materials. Therefore, hazards and hazardous materials impacts would be similar under Alternative 2. (DEIR, p. 6-8.)

Hydrology and Water Quality

Under Alternative 2, the new engineered stormwater drainage system would be constructed on the Cordova Complex site as proposed under the Project, and the Quarry at Pawnee site would remain undeveloped with no storm drain or treatment facilities. Under Alternative 2, the Cordova Complex site and its on-site stormwater drainage system would be designed to comply with all state, regional, and local regulations related to site stormwater drainage and water quality during both construction and operation of the Project, regardless of the size of the Project. Therefore, hydrology and water quality impacts would be similar under Alternative 2. (DEIR, p. 6-9.)

Land Use and Planning

Similar to the Project, Alternative 2 would be consistent with the Project site's existing NAVISP land use designation and zoning. Given the substantial similarities in uses between the Project and Alternative 2, Alternative 2 would otherwise not conflict with any plans, policies, or ordinances adopted for the purposes of mitigating or avoiding environmental effects. Therefore, land use and planning impacts would be similar under Alternative 2. (DEIR, p. 6-9.)

Noise

Noise associated with Alternative 2 would occur during short-term construction activities and under long-term operation. The types of construction activities conducted on the Project site would be similar under Alternative 2 and would cover a smaller physical area due to the fact that the Quarry at Pawnee site would not be developed. The types of construction equipment used, and the types of construction activities conducted on the Cordova Complex site would be similar under Alternative 2, and the peak daily noise levels generated during the construction phase would also be similar.

Long-term operational noise generated by Alternative 2 would primarily be associated with vehicles traveling to and from the site, and on-site vehicle idling, maneuvering, and parking. Alternative 2 would generate fewer daily trips compared to the Project, and, as such, would contribute to a corresponding reduction in traffic-related noise on local roadways compared to the Project. The traffic noise levels under Alternative 2 would be reduced by approximately 3 decibels (dB) relative to the Project. With a 3-dB reduction, predicted noise increases at receivers would not exceed the applicable significance threshold of an increase of 5 dB or more used for traffic noise. Therefore, noise impacts would be reduced to less than significant under Alternative 2. (DEIR, p. 6-9.)

Transportation

As presented in Appendix C of the DEIR, the Cordova Complex warehouse would generate 5,173 daily passenger car equivalent (PCE) trips and the Quarry at Pawnee warehouse would generate 4,849 daily PCE trips. Alternative 2 would result in no trip generation associated with the Quarry at Pawnee warehouse, and would have similar, though slightly reduced daily trips and trip generation due to the

slightly reduced warehouse size, as described for the Cordova Complex site. Thus, Alternative 2 would result in fewer vehicle trips than the Project.

Vehicle miles traveled (VMT) is largely dependent on the specific land use type of a particular project and the location of that project. Thus, the average trip length for passenger vehicle and truck trips associated with the Project would essentially remain constant. In addition, the Project's VMT per employee would also stay relatively the same under Alternative 2 as the Project's VMT per employee. However, the reduced warehouse size would support fewer employees than the Project. Therefore, transportation impacts with regard to VMT would be reduced under Alternative 2. (DEIR, p. 6-9.)

Utilities and Service Systems

Under Alternative 2, development would occur on the Cordova Complex site similar to the Project, while the Quarry at Pawnee site would remain vacant. In addition, no off-site improvements would be constructed east of Navajo Road. Wet and dry utilities would still be required to serve the Cordova Complex site, with construction and operational characteristics of these on- and off-site improvements being similar to the Project, but to a lesser extent than the Project. Therefore, utilities and service systems impacts would be reduced under Alternative 2. (DEIR, p. 6-10.)

Ability to Meet Project Objectives: As a 1,511,147-square-foot warehouse on the Cordova Complex site, Alternative 2 would meet the Project objectives, including providing industrial uses within the NAVISP (Objective 1), developing a jobs-producing and tax-generating land use in north Apple Valley (Objective 2); concentrating non-residential uses near existing roadways, highways, and freeways (Objective 3); creating a project that takes advantage of and enhances existing infrastructure, including the proximity to major regional roadways such as I-15, railroad service corridors, and other similar infrastructure (Objective 4); and implementing development patterns envisioned in the NAVISP (Objective 5). However, Objectives 1, 2, and 5 would not be met to the same degree as the Project because Alternative 2 would result in the development of one (rather than two) warehouse. Therefore, Alternative 2 would provide less industrial uses than the Project (Objective 1), would generate fewer jobs and taxes (Objective 2), and would implement NAVISP development patterns on only one site instead of two (Objective 5). (DEIR, p. 6-10.)

Findings: The Town rejects Alternative 2, Cordova Complex Only, on the following grounds, each of which individually provides sufficient justification for rejection of this alternative: (1) the alternative fails to avoid or reduce the Project's significant and unavoidable impacts relating to GHG; and (2) the alternative would generate fewer jobs and tax revenues and fails to meet the Project objectives.

Alternative 3 – Reduced Project

Description: Under the Reduced Project Alternative, the Project would be constructed and operated as planned on the Project site, with the exception that the size of the proposed development would be reduced by 50%, equating to an industrial/warehouse project consisting of approximately 779,976 square feet on the Cordova Complex site and 731,171 square feet on the Quarry at Pawnee site, for a total size of 1,511,147 square feet, compared to the Project's total of 3,022,294 square feet. All other on-site and off-site improvements are assumed to still be required for Alternative 3. Since the building footprint would be reduced by a total of 1,511,147 square feet (approximately 18 acres on the Cordova Complex site and 17 acres on the Quarry at Pawnee site for a total of 35 acres), this extra space on the Project site would remain vacant. This would allow for avoidance of the two Joshua trees

on the Cordova Complex site, and avoidance of some, but not all, of the Joshua trees on the Quarry at Pawnee site. In addition, the desert native plants on the Quarry at Pawnee site are assumed to be avoided. All other on- and off-site improvements proposed as part of the Project are assumed to still be required under Alternative 3. The number of employees would be reduced to approximately 716. (DEIR, p. 6-10.)

Conclusions/Impacts: Under Alternative 3, because the Project's development footprint would be reduced by 50% compared to the Project it is assumed that a similar reduction in the duration of construction activities and operational intensity would occur. Likewise, a smaller building footprint would be expected to support fewer operational activities than the larger footprints proposed as part of the Project. Thus, the severity of many environmental impacts related to construction and operational phases would be either the same or reduced under Alternative 3. The environmental impacts that would have a reduction in severity include aesthetics, air quality, energy, GHG emissions, noise, and transportation. However, because the development intensity would be reduced under Alternative 3 compared to the Project, certain environmental impacts would differ as a result of this reduction. (DEIR, p. 6-11.)

Aesthetics

Under Alternative 3, the Project would be constructed and operated as planned on the Project site, with the exception that the size of the proposed development would be reduced by 50%, equating to approximately 35 acres of undeveloped land on the Project site. A reduction in building square footage would reduce the scale and massing of the buildings. Nonetheless, Alternative 3 would still involve the development of two warehouses approximately 730,000 to 780,000 square feet in size, which would still be the primary visual feature on the Project site. For these reasons, aesthetics impacts would be similar but lessened under Alternative 3. (DEIR, p. 6-11.)

Air Quality

Under Alternative 3, the extent of construction activities would be reduced compared to the Project. Thus, construction-related air quality emissions would be lessened. As with the Project, Alternative 3 would include implementation of PDFs that would serve to reduce short-term construction emissions to a level that would not exceed the thresholds of significance established by the MDAQMD. Alternative 3 would generate fewer vehicle trips including truck trips per day due to the reduction in the amount of building space. Accordingly, air pollutant emissions associated with long-term operation of Alternative 3 would be reduced as compared to the Project. Long-term operation of Alternative 3 would be reduced in proportion to the reduction in square footage, which would reduce the significant and unavoidable impacts of the Project due to emissions of NO_x and PM_{10} in exceedance of MDAQMD thresholds to a less-than-significant level. Therefore, Alternative 3 would reduce and avoid the Project's significant and unavoidable impacts due to operational air pollutant emissions and conflicts with the Federal Particulate Matter Attainment Plan and Ozone Attainment Plan for the MDAB, as would occur under the Project.

Impacts to nearby sensitive receptors would also be reduced to less than significant under Alternative 3 because emissions under Alternative 3 would be below the MDAQMD thresholds of significance. Therefore, air quality impacts related to conflicts with applicable air quality plans, cumulatively considerable increases in criteria pollutants, and exposure of sensitive receptors to

substantial pollutant concentrations would be reduced to less-than-significant levels under Alternative 3. (DEIR, p. 6-11.)

Biological Resources

Under Alternative 3, the Project would be constructed and operated as planned on the entire Project site, although the development intensity would be reduced. Compared to the Project, Alternative 3 would develop less of the Project site, resulting in a smaller overall building footprint. With smaller building footprints, direct impacts to the two western Joshua tree individuals on the Cordova Complex site could be avoided; on the Quarry at Pawnee site, due to the locations of the existing 12 western Joshua tree individuals (i.e., the majority concentrated around the middle of the site), direct impacts could be avoided to some, but not all, of the trees. Other desert native plants occurring on the Quarry at Pawnee site that would be impacted by the Project, which include beavertail and silver cholla, occur on the southern half of the Quarry at Pawnee site and could likely be avoided with the reduced warehouse size. Compliance with mitigation measures MM BIO-1 through MM BIO-13 would still be required. Therefore, biological resources impacts would be reduced under Alternative 3. (DEIR, pp. 6-11-6-12.)

Cultural, Tribal Cultural, and Paleontological Resources

Under Alternative 3, the Project would be constructed and operated as planned on the Project site, but with a reduced development intensity. Compared to the Project, Alternative 3 would develop less of the Project site with buildings, parking and loading areas, and other associated improvements, resulting in a smaller overall building footprint on the site that would disturb less land. As such, the Project site would still be disturbed but to a lesser extent, which would result in a reduced potential to disturb presently unknown/unrecorded cultural, tribal cultural, and paleontological resources as the Project. Compliance with mitigation measures MM CUL-1 through MM CUL-3 and MM TCR-1 through MM TCR-6 and MM GEO-1 would still be required. Therefore, cultural resources impacts would be similar under Alternative 3 but slightly less than under the Project. (DEIR, p. 6-12.)

Energy

The level of construction activities would be reduced under Alternative 3 compared to the Project. Thus, construction-related energy usage would be lessened. Alternative 3 would also generate fewer vehicle trips per day and would have a less building space than the Project as proposed, resulting in less on-site and mobile energy consumption. Accordingly, energy usage associated with long-term operation of Alternative 3 would be lessened compared to the Project. Therefore, energy impacts would be reduced under Alternative 3. (DEIR, p. 6-12.)

Greenhouse Gas Emissions

Similar to air quality, the extent of construction activities would be reduced under Alternative 3 compared to the Project. Thus, construction related GHG emissions would be lessened. Alternative 3 would also generate fewer vehicle trips per day due to the reduction in the amount of building space. Accordingly, GHG emissions associated with long-term operation of Alternative 3 would be lessened compared to the Project. As discussed above, the Project would result in significant and unavoidable impacts with regard to generating GHG emissions. Implementation of mitigation measure MM GHG-1 would reduce potential operation-related GHG emissions, the same as the Project. While GHG emissions would be reduced by approximately 50% under Alternative 3, they would remain well over the significance threshold of 3,000 MT CO_2e per year. In order to reduce potentially significant impacts

associated with GHG emissions, the Project would need to be reduced in size by 95% to approximately 150,000 square feet to eliminate this impact. Based Therefore, based on a 50% reduction in development, GHG emissions impacts would be reduced under Alternative 3, but would still remain significant and unavoidable. (DEIR, p. 6-12.)

Hazards and Hazardous Materials

Under Alternative 3, the Project would be constructed and operated as planned on the site, with the exception that the development intensity would be reduced. Like the Project, Alternative 3 would still require compliance with all applicable federal, state, and local regulations pertaining to hazards and hazardous materials. Therefore, hazards and hazardous materials impacts would be similar to the Project under Alternative 3. (DEIR, pp. 6-12 – 6-13.)

Hydrology and Water Quality

Under Alternative 3, the new engineered stormwater drainage system would be constructed on the Project site as proposed under the Project. Under existing conditions, no storm drain or treatment facilities are present, and thus, stormwater is not presently collected or treated on the Project site prior to either percolating into the soil or being discharged off site. However, under Alternative 3, the on-site stormwater drainage system would be designed to comply with all state, regional, and local regulations as related to stormwater infrastructure and water quality the same as the Project. This would include during both construction and operation of the Project, regardless of the size of the Project. Therefore, hydrology and water quality impacts would be similar to the Project under Alternative 3. (DEIR, p. 6-13.)

Land Use and Planning

Similar to the Project, Alternative 3 would be consistent with the Project site's existing NAVISP land use designation and zoning. Given the substantial similarities in uses between the Project and Alternative 3, Alternative 3 would otherwise not conflict with any plans, policies, or ordinances adopted for the purposes of mitigating or avoiding environmental effects. Therefore, land use and planning impacts would be similar under Alternative 3. (DEIR, p. 6-13.)

Noise

Noise associated with Alternative 3 would occur during short-term construction activities and under long-term operation. The types of construction activities conducted on the Project site would be similar under Alternative 3 and would generally be in a similar physical area. However, because Alternative 3 would result in construction of less building area on site, it is anticipated that the duration of noise impacts during the building construction and architectural coating phase would slightly decrease under Alternative 3 as compared to the Project. Nonetheless, the types of construction equipment and activities conducted on site would be similar under Alternative 3, and the peak daily noise levels generated during the construction phase would also be similar.

Under long-term operational conditions, noise generated by Alternative 3 would primarily be associated with vehicles traveling to and from the site, and on-site vehicle idling, maneuvering, and parking. Alternative 3 would generate fewer daily trips than the Project, and, as such, would contribute less traffic-related noise to local roadways than the Project. With the reduction in warehouse size and associated vehicle trips, traffic noise associated with Alternative 3 would be reduced by approximately 3 dB relative to the Project. With a 3-dB reduction, noise levels would not exceed the applicable

significance threshold of an increase of 5 dB or more used for traffic noise. Therefore, noise impacts would be reduced to less than significant under Alternative 3. (DEIR, p. 6-13.)

Transportation

VMT is largely dependent on the specific land use type of a particular project and the location of that project. While a reduction in a Project's size could reduce the overall VMT associated with a given project, reducing a project's square footage would not have an effect on a project's average trip length. Thus, while under Alternative 3 the Project's development footprint would be reduced by 50% compared to the Project, the average trip length for passenger vehicle and truck trips associated with the Project would essentially remain constant. In addition, because a reduction in Project size would correlate to a similar reduction in on-site workforce, the Project's VMT per employee would also stay relatively the same under Alternative 3 as the Project's VMT per employee. Therefore, transportation impacts with regard to VMT would be similar under Alternative 3. However, trip generation would be reduced with Alternative 3 because Alternative 3 would have fewer employees. (DEIR, p. 6-13.)

Utilities and Service Systems

Under Alternative 3, the Project would be constructed and operated as planned on the Project site, with the exception that the size of the proposed development would be reduced by 50%. Solid waste generation would be somewhat reduced relative to the Project due to the smaller Project footprint and associated reduction in construction materials and number of employees that would be on site. Similarly, Alternative 3 would result in less water use and wastewater generation associated with a smaller building footprint and fewer employees. All other on- and off-site improvements proposed as part of the Project are assumed to still be required under Alternative 3. As such, the same wet and dry utilities would be required, with construction and operational characteristics of these on- and off-site improvements being similar to the Project. Therefore, utilities and service systems impacts would be similar or slightly reduced under Alternative 3. (DEIR, 6-14.)

Ability to Meet Project Objectives: Alternative 3 would be expected to satisfy the Project objectives, concentrating non-residential uses near existing roadways, highways, and freeways (Objective 3); creating a project that takes advantage of and enhances existing infrastructure, including the proximity to major regional roadways such as I-15, railroad service corridors, and other similar infrastructure (Objective 4); and implementing development patterns envisioned in the NAVISP (Objective 5 However, Objectives 1, 2, and 5 would not be met to the same degree as the Project because Alternative 3 would result in the development of less overall warehouse space through two smaller warehouses. Therefore, Alternative 3 would provide less industrial uses than the Project (Objective 1), would create approximately 716 jobs, which is approximately half the number of jobs that would be created by the Project (Objective 2), and would implement NAVISP development patterns but at a reduced magnitude (Objective 5). (DEIR, p. 6-14.)

Findings: The Town rejects Alternative 3. Reduced Project, on the following grounds, each of which individually provides sufficient justification for rejection of this alternative: (1) the alternative fails to reduce the significant and unavoidable GHG impact; and (2) the alternative would generate fewer jobs and tax revenues.

E. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

Each of the three Project alternatives considered in the EIR would lessen at least one environmental impact relative to the Project. As previously addressed, if the No Project Alternative is the environmentally superior alternative—which is the case in this analysis—the EIR must also identify another environmentally superior alternative among the remaining alternatives.

Alternative 2 and Alternative 3 would both generally result in a reduction in the magnitude of many Project impacts. Impacts associated with air quality; cultural, tribal cultural, and paleontological resources; hazards and hazardous materials; hydrology and water quality; transportation; and noise would be similar under Alternative 2 and Alternative 3. Both Alternative 2 and Alternative 3 would reduce impacts compared to the Project, notably including the elimination of significant and unavoidable impacts related to air quality and noise. However, Alternative 2 and Alternative 3 would not lessen impacts related to GHG emissions to below a level of significance; therefore, GHG-related impacts would remain significant and unavoidable. While Alternative 2 and Alternative 3 would both ultimately include a similar overall amount of warehouse space, Alternative 2 would involve only one warehouse, which would result in less of a change in views and visual character due to the concentration on one site. Additionally, Alternative 2 would avoid biological resource impacts related to Joshua trees and desert native plants, while Alternative 3 would not be able to completely avoid impacts to Joshua trees or desert plants. Both Alternative 2 and Alternative 3 would similarly meet most, but not all, of the Project objectives. Therefore, Alternative 2 is the environmentally superior alternative under CEQA, as it would reduce the magnitude of most Project impacts, eliminate the Project's significant and unavoidable impacts related to air quality and noise, and avoid some of the Project's impacts on biological resources.

However, Alternative 2 would not meet the Project Objective 1 of developing industrial uses within the NAVISP to the same magnitude as the Project, as it would result in the construction of one warehouse building instead of two with overall less industrial space. Alternative 2 would also not meet Objective 2 to the same extent as the Project. Alternative 2 would produce fewer jobs and generate less tax revenue compared to the Project. In addition, Alternative 2 would also not meet Objective 5 to the same extent as the Project. Therefore, while Alternative 2 would have reduced impacts compared to the Project, it would not eliminate all of the significant and unavoidable impacts of the Project and it would not meet all Project objectives to the same extent as the Project. (DEIR, pp. 6-14 – 6-15.)

SECTION IX.
FINDINGS REGARDING SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

Sections 15126(c) and 15126.2(c) of the CEQA Guidelines, require that an EIR address any significant irreversible environmental changes that would occur should the project be implemented. Generally, a project would result in significant irreversible environmental changes if any of the following would occur:

- The project would involve a large commitment of non-renewable resources;
- The primary and secondary impacts of the project would generally commit future generations to similar uses;
- The project involves uses in which irreversible damage could result from any potential environmental accidents; or
- The proposed consumption of resources is not justified.

Change in Land Use that Commits Future Generations to Similar Uses

The Project site is within the North Apple Valley Industrial Specific Plan (NAVISP) area and is designated Specific Plan Industrial (I-SP) in the NAVISP. In the Town of Apple Valley (Apple Valley or Town) General Plan, the site is designated Specific Plan (SP) and is also zoned as SP (Town of Apple Valley 2009, 2012, 2022). The Project is consistent with the underlying land use designation and zoning applied by the Town's General Plan and Municipal Code. As such, although construction of the Project would result in the development of a total of over 3 million square feet of warehouse space on the two sites, the Town already committed the area to warehouse (and similar) uses when the Town adopted the NAVISP and designated the site as I-SP within the NAVISP.

Land uses surrounding the Project site primarily consist of vacant, undeveloped land. However, existing and approved large-scale industrial facilities are located in the broader Project vicinity within 2 to 3 miles of the Project site. Commercial and industrial land uses in the Project vicinity are located to the south and include a Walmart Distribution Center, Victor Valley College Regional Public Safety Training Center, Fresenius Medical Care Distribution Center, Big Lots Distribution Center, The Rocks Paintball Spot, and Apple Valley Airport. Since the Project site is located near existing urbanized uses, it would not result in land use changes that would commit future generations to uses that do not already occur in the Project vicinity.

The land use proposed as part of the Project would be consistent with existing development present in the Project vicinity, is consistent with the Town's planning and zoning documents, and would further implement the Town's land use vision for this area. Thus, the Project would not result in land use changes that would commit future generations to uses that do not already occur in the Project area, particularly given that this proposed use is consistent with Town's long-term vision for development of this area and consistent with nearby uses. (Draft EIR, p. 5-3.)

Irreversible Damage from Environmental Accidents

Construction activities associated with the Project would involve some risk of environmental accidents. However, these activities would be conducted in accordance with all applicable federal, state, and local regulations, and would follow professional industry standards for safety. Once operational, any materials handled with the potential to cause environmental accidents would be transported, used, stored, and disposed of in compliance with applicable federal, state, and local regulations. Use of any such materials would not adversely affect the environment or public due to the type or quantity of materials released and the receptors exposed to that release. (Draft EIR, p. 5-3.)

Large Commitment of Nonrenewable Resources

There would be an irretrievable commitment of labor, capital, and materials used during the construction and operation of the Project. Nonrenewable resources would primarily be committed in the form of fossil fuels such as fuel, oil, natural gas, and gasoline used by equipment associated with Project construction. Consumption of other nonrenewable or slowly renewable resources would also occur.

New development, such as that proposed by the Project, is required to comply with California Title 24 energy efficiency requirements which is considered demonstrable evidence of efficient use of energy. The Project would provide for and promote energy efficiencies beyond those required under other applicable federal and state standards and regulations, and in doing so would meet or exceed all Title 24 standards. The Project would also be designed to achieve Leadership in Energy and Environmental Design (LEED) Silver certification. On this basis, the Project would not result in the inefficient, wasteful, or unnecessary consumption of energy. (Draft EIR, pp. 5-3 - 5-4.)

SECTION X.
GROWTH-INDUCING IMPACTS

Section 15126.2(e) of the State CEQA Guidelines requires a Draft EIR to discuss the ways the Project could foster economic or population growth or the construction of additional housing, directly or indirectly, in the surrounding environment. In accordance with State CEQA Guidelines Section 15126.2(e), a Project would be considered to have a growth-inducing effect if it would:

- Directly or indirectly foster economic or population growth, or the construction of additional housing in the surrounding environment;
- Remove obstacles to population growth (e.g., construction of an infrastructure expansion to allow for more construction in service areas);
- Tax existing community service facilities, requiring the construction of new facilities that could cause significant environmental effects; or
- Encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively.

In addition, CEQA Guidelines that that growth inducement must not be assumed.

The Project would require a temporary construction workforce and a permanent operational workforce, both of which could potentially induce population growth in the Project area. The temporary workforce would be needed to construct the two warehouse buildings and associated improvements. The number of construction workers needed during any given period would largely depend on the specific stage of construction but would likely range from a dozen to several dozen workers on a daily basis.

Because the future tenants are not yet known, the number of jobs the Project would generate cannot be precisely determined. Thus, employment estimates were calculated using average employment density factors reported by Southern California Association of Governments (SCAG). SCAG reports for every 2,111 square feet of warehouse space in the County, the average number of jobs supported is one employee (SCAG 2001).

The Project would include 3,022,294 square feet of warehouse space; therefore, it is estimated approximately 1,432 employees would be required for operation of the Project.'

The Town has a population of approximately 75,867 residents (U.S. Census Bureau 2022). According to the Town's General Plan, upon buildout, the Town could support a population of 185,858 residents (Town of Apple Valley 2009). The Project-related increase of approximately 1,432 employees would represent a nominal percentage of the Town's projected future population upon General Plan buildout.1 It is anticipated the Project's temporary and permanent employment requirements could likely be met by the Town's existing labor force without people needing to relocate into the Project region, and the Project would not stimulate population growth or a population concentration above what is assumed in local and regional land use plans.

Projects that physically remove obstacles to growth, or projects that indirectly induce growth, are those that may provide a catalyst for future unrelated development in the area. The Project would involve

installation of new water and sanitary sewer lines, as well as storm drainage infrastructure, in the Project vicinity. The purpose of these new utilities is solely to serve the needs of the Project, and not to provide capacity for future projects or growth. In addition, since the surrounding Project area is already served by existing wet and dry utilities, the Project would not expand sanitary sewer or stormwater drainage infrastructure into areas not previously served by such utilities.

Further, given that the surrounding Project area is already served by existing wet and dry utilities, it is unlikely that the Project would create demand for existing community service facilities that would require construction or expansion of regional-scale facilities. Thus, the Project would not result in indirect population growth by providing vehicular access to an area presently lacking such access.

Based on the proximity of the Project site to existing facilities, the average response times in the Project vicinity, the ability for nearby cities to respond to emergency calls, and the fact that the Project site is already located within the Apple Valley Fire Protection District and San Bernardino County Sheriff's Department service areas, the Project would be adequately served by public services without the construction of new, or the expansion of existing, facilities. Although the Project could potentially result in an 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 or expanded fire or police facilities. Lastly, since the Project would not directly or indirectly induce unplanned population growth in the Town, it is not anticipated that many people would relocate to the Town as a result of the Project. Therefore, an increase in school-age children requiring public education is not expected to occur as a result. For these reasons, the need for new or expanded school facilities would not be required.

In conclusion, the Project could cause population growth through new job opportunities. However, this growth falls well within Town and regional growth projections for population and housing. The Project would not remove obstacles to population growth and would not cause an increase in population such that new community facilities or infrastructure would be required outside of the Project site. Lastly, the Project is not expected to encourage or facilitate other activities that could significantly affect the environment, as explained above. For these reasons, the Project is not considered to be significantly growth inducing. (Draft EIR, pp. 5-4 - 5-5.)

XI.
STATEMENT OF OVERRIDING CONSIDERATIONS

"CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian." (CEQA Guidelines, § 15021, subd. (d).)

To reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment, an agency must prepare a statement of overriding considerations." (CEQA Guidelines, §§ 15021, subd. (d), 15093.)

A statement of overriding considerations must set forth the specific reasons why the agency found that the project's "specific economic, legal, social, technological, or other benefits" rendered "acceptable" its "unavoidable adverse environmental effects." (CEQA Guidelines, §§ 15093, subd. (a), 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The Cordova Complex and Quarry at Pawnee Warehouse Project (Project) would result in significant and unavoidable impacts; therefore, this Statement of Overriding Considerations has been prepared.

A. SIGNIFICANT AND UNAVOIDABLE IMPACTS

Approval of the Project will result in significant adverse environmental effects in relation to air quality, greenhouse gas emissions and noise that cannot be avoided even with the adoption of all feasible mitigation measures.

B. FINDING OF OVERRIDING CONSIDERATIONS

The following statement identifies the reasons why, in the Town's judgment, the benefits of the Project outweigh its unavoidable significant impacts.

The Town finds that each of the overriding considerations expressed as benefits and set forth below constitutes a separate and independent ground for such a finding. The substantial evidence supporting the various benefits can be found in the documents identified for inclusion in the Record of Proceedings.

The Town has considered the EIR, the public Record of Proceedings on the proposed Project and other written materials presented to and prepared by the Town, as well as verbal and written testimony received, and hereby determines that implementation of the Project would result in the following substantial public benefits:

1. The Project would provide much-needed jobs in the High Desert/Victor Valley region to help balance the jobs/housing ratio by developing warehouse space to fulfill the needs of the growing industrial sector in an area that faces a shortage of such space. The limited availability of industrial facilities can result in delays in the time it takes for good to reach consumers. The Project would provide a total of 3,022,294 square-feet of distribution/warehouse uses with associated office spaces and loading areas. The Project would benefit the Town and the region by supporting the goods movement industry in decreasing lead times for delivery of consumer

products and providing much needed employment opportunities. The addition of permanent jobs would contribute to indirect economic benefits when wages are spent on goods and services within the Town, which also generates sales tax revenues for the Town's General Fund.

2. The Project encourages economic growth and industry diversity within the Town by providing warehouse/distribution facilities for businesses wishing to locate and invest in Apple Valley. The Project would increase annual property tax revenues as the Project would increase the property tax value and would also generate additional revenues through the collection of certain other taxes, licenses, and fees associated with business operation. Taxes and fee revenues generated by constructing and operating the Project would increase the Town's General Fund. The Project would also support temporary construction jobs and permanent, skilled jobs. The generation of these jobs would result in both direct and indirect economic benefit to the community when wages are spent on goods and services within the Town, further increasing sales tax revenues for the General Fund.

3. With its close proximity to major regional roadways and other similar infrastructure, the Project takes advantage of and enhances existing infrastructure which also helps reduce secondary environmental effects associated with construction and operation of the Project consistent with the Project objective #3 (DEIR, p. 3-7). The Project is located in the northern part of the Town, which is within the High Desert/Victor Valley region of San Bernardino County. Specifically, the Project site includes the Cordova Complex site bounded by Cordova Road to the north, Navajo Road to the east, Doberman Street to the south, and Dachshund Avenue to the west. The Quarry at Pawnee site is bounded by Quarry Road to the north, Flint Road to the east, Cordova Road to the south, and an unnamed road to the west. Regional access is provided by Interstate 15 (I-15), located approximately 3 to 4.25 miles west of the Project site. The Project would include various off-site street improvements to adjacent roadways to ensure efficient off-site circulation, including extending the roadways, widening and improving roadways, and providing new frontage.

4. The proposed Project would result in the development of a currently vacant site with a Project that is consistent with the development patterns envisioned in the Town's North Apple Valley Industrial Specific Plan (NAVISP) and is consistent with the specific plan land use designation of Industrial and General Industrial land uses and zoning, consistent with Project objective #5 (DEIR, p. 3-7). The proposed Project would use the Project's proximity to I-15 to provide needed warehouse space to businesses wishing to invest in the Town. These facilities take advantage of the area's proximity to regional transportation corridors, facilitating the regional and national goods movement industry, consistent with Project objectives #3 and #4 (DEIR, p. 3-7). Development of the proposed Project in this area is consistent with the NAVISP and underlying zoning for industrial uses furthering the Town's vision of creating a cohesive, high-quality business park environment to meet existing and growing demand for warehouse and logistic facilities consistent with Project objective #1 (DEIR, p. 3-7).

After weighing the economic, legal, social, technological, and other benefits of the Project against the significant unavoidable impacts of the Project identified in the EIR, the Town hereby determines that those benefits outweigh the risks and adverse environmental impacts of the Project, and further determines that the Project's significant unavoidable impacts are acceptable.

Accordingly, the Town adopts this Statement of Overriding Considerations, recognizing that significant unavoidable impacts will result from implementation of the Project. Having (i) adopted all feasible mitigation measures, as discussed in the EIR and herein; (ii) rejected alternatives to the Project, as discussed in the EIR and herein; and (iii) recognized the significant unavoidable impacts of the Project, the Town hereby finds that the benefits of the Project, as stated herein, are determined to be overriding considerations that warrant approval of the Project and outweigh and override its significant unavoidable air quality, greenhouse gas emissions, noise, impacts, and thereby justify the approval of the Cordova Complex and Quarry at Pawnee Warehouse Project.