

**CEQA Findings of Fact and
Statement of Overriding Considerations**

For the Red Apple Pavilion Project

December 2018

I. INTRODUCTION

The Environmental Impact Report (EIR), consisting of the Draft EIR and the Final EIR, is intended to serve as an informational document for public agency decision-makers and the general public regarding the objectives and components of the Red Apple Pavilion (Project) located on approximately 14 acres at the southwest corner of Red Apple Avenue and Tucker Road/State Route 202, Tehachapi, CA 93561. The Project applicant is Tehachapi Holdings, LLC.

II. ENVIRONMENTAL DOCUMENTATION BACKGROUND

The Project was reviewed by the Tehachapi Development Services Planning Department (serving as Lead Agency) in accordance with the requirements of the CEQA. The City prepared an Initial Study in accordance with Section 15063(a) of the State CEQA Guidelines. Pursuant to the provisions of Section 15082 of the State CEQA Guidelines, the City then circulated an Initial Study and Notice of Preparation (IS/NOP) to State, regional and local agencies, and members of the public for a 30-day period commencing on January 26, 2017, and ending February 27, 2017. The purpose of the IS/NOP was to formally inform the public that the City was preparing a Draft EIR for the Project, and to solicit input regarding the scope and content of the environmental information to be included in the Draft EIR.

Written comment letters responding to the IS/NOP were submitted to the City by public agencies. Substantive comment letters were received from three public agencies, and the State CEQA Clearinghouse submitted a form letter confirming receipt of the IS/NOP. The IS/NOP letters and comments received during the comment period are included in Appendices A of the Draft EIR.

The Draft EIR evaluated in detail the potential effects of the Project. It also analyzed the effects of a reasonable range of three alternatives to the Project, including Alternative 1 – No Project, Alternative 2 – Reduced Density (Phase 1 Only), and Alternative 3 – Alternate Site Plan. The Draft EIR for the Project (State Clearinghouse No. 2014011017), incorporated herein by reference in full, was prepared pursuant to CEQA and State, and Agency, CEQA Guidelines (Pub. Resources Code § 21000, et seq.; 14 Cal. Code Regs. §15000, et seq.). The Draft EIR was circulated for a 45-day public comment period beginning on September 21, 2018, and ending on November 5, 2018, meeting the 45 days required by CEQA Guidelines Section 15105(a). Five comment letters were received by the City on the Project. Copies of the written comments received are provided in the Final EIR. Pursuant to Section 15088 of the CEQA Guidelines, the City, as Lead Agency, reviewed all comments received during the review period for the Draft EIR and responded to each comment in Section III of the Final EIR.

The EIR (both the Draft and Final), is intended to serve as an informational document for public agency decision-makers and the general public regarding objectives and components of the Project. The EIR addresses the environmental effects associated with implementation of the Project, identifies feasible mitigation measures and alternatives that may be adopted to reduce or eliminate these impacts, and the Final EIR includes written responses to all comments received

on the Draft EIR during the public review period. Responses in writing were delivered to all public agencies that made comments on the Draft EIR on November 30, 2018, at least 10 days prior to certification of the Final EIR pursuant to Pub. Resources Code § 21092.5(a). The Final EIR was also made available for review on the City's website.

A duly noticed public hearing for the Project to be held by the City Planning Commission is scheduled for December 10, 2018. The Planning Commission will consider certifying the EIR for this Project at this hearing and approve the Project, including the site plans for the Project and Alternate Site Plan (Alternative 3) so as to facilitate needed flexibility for the applicant to best accommodate present market demands at the time of Project implementation.

The documents and other materials that constitute the record of proceedings on which the City's CEQA findings are based are located at the Development Services Planning Department, City Hall Annex, 117 S. Robinson Street, Tehachapi, California 93561. This information is provided in compliance with CEQA Section 21081.6(a)(2).

III. FINDINGS REQUIRED TO BE MADE BY LEAD AGENCY UNDER CEQA

Section 21081 of the California Public Resources Code and Section 15091 of the State CEQA Guidelines (Guidelines) require a public agency, prior to approving a project, to identify significant impacts and make one or more of three possible findings for each of the significant impacts.

- A. The first possible 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.” (Guidelines Section 15091 (a)(1)); and
- B. The second possible 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.” (Guidelines Section 15091(a)(2)); and
- C. The third possible finding 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.” (Guidelines, Section 15091(a)(3)).

CEQA 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.” CEQA Guidelines Section 15364 adds another factor: “legal”

considerations. (See also *Citizens of Goleta Valley v. Board of Supervisors* [Goleta II] (1990) 52 Cal.3d 553, 565.)

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 (*City of Del Mar v. City of San Diego* [1982] 133 Cal.App.3d 410, 417 [*City of Del Mar*]). “[F]easibility’ under CEQA encompasses “desirability” to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (*Ibid.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* [1993] 23 Cal.App.4th 704, 715 [*Sequoyah Hills*].)

For the 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. These interpretations appear to be mandated by the holding in *Laurel Hills Homeowners Assn. v. City Council*, 83 Cal.App.3d 515, 519-527, 147 Cal.Rptr. 842 (1978), in which the Court of Appeal held that an agency had satisfied its obligation to substantially lessen or avoid significant effects by adopting numerous mitigation measures, not all of which rendered the significant impacts in question (e.g., the “loss of biological resources”) less than significant.

Although CEQA Guidelines Section 15091 requires only that approving agencies specify that a significant effect is “avoid[ed] or substantially lessen[ed],” these findings, for purposes of clarity, in each case will specify whether the effect in question has been reduced to a less than significant level, or has simply been substantially lessened but remains significant.

With respect to a project for which significant impacts are not avoided or substantially lessened either through the adoption of feasible mitigation measures or feasible environmentally superior alternatives, a public agency, after adopting proper findings based on substantial evidence, 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[b]; see also CEQA § 21081[b].)

Because the EIR identified significant effects that may occur as a result of the Project including the Alternate Site Plan, and in accordance with the provisions of the Guidelines presented above, the City hereby adopts these findings set forth in this document as part of the approval of the Project including the Alternate Site Plan. These findings constitute the City’s best efforts to set forth the evidentiary and policy bases for its decision to approve the Project including the Alternate Site Plan in a manner consistent with the requirements of CEQA. These findings, in

other words, are not solely informational, but rather constitute a binding set of obligations that come into effect with the City's approval of the Project including the Alternate Site Plan.

The findings and determinations contained herein are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the Project including the Alternate Site Plan and the EIR. The findings and determinations constitute the independent findings and determinations by the City in all respects and are fully and completely supported by substantial evidence in the record as a whole.

Although the findings below identify specific sections within the EIR in support of various conclusions reached below, the City incorporates by reference and adopts as its own, the reasoning and analysis set forth in the EIR and thus relies on that reasoning, even where not specifically mentioned or cited below, in reaching the conclusions set forth below, except where additional evidence is specifically mentioned. This is especially true with respect to approval of all mitigation measures recommended in the EIR and the reasoning set forth in responses to comments in the EIR. 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 the City with respect to any particular subject matter of the Project including the Alternate Site Plan must be deemed made if it appears in any portion of these findings or findings elsewhere in the record. The EIR, comments and responses to comments, and all appendices are hereby fully incorporated herein by this reference.

A. RECORD OF PROCEEDINGS

The record of proceedings includes the documents and other materials that constitute the administrative record upon which the City approved the Project and Alternative Site Plan. The following information is incorporated by reference and made part of the record supporting these Findings of Fact:

- All Project plans and application materials including supportive technical reports including the Alternate Site Plan;
- The Draft EIR and Appendices (September 2018) and Final EIR (November 2018), and all documents relied upon or incorporated therein by reference;
- The Mitigation Monitoring and Reporting Program (MMRP) prepared for the Project including the Alternate Site Plan by merit of same mitigation measures required of it;
- The City of Tehachapi General Plan;
- Tehachapi Municipal Code, including but not limited to the Zoning Ordinance;
- All records of decision, resolutions, staff reports, memoranda, maps, exhibits, letters, minutes of meetings, summaries, and other documents approved, reviewed, relied upon,

or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project including the Alternate Site Plan;

- Any documents expressly cited in these Findings of Fact, in addition to those cited above; and
- Any and all other materials required for the record of proceedings by Public Resources Code Section 21167.6(e).

Pursuant to CEQA Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City has based its decision are located in and may be obtained from the Tehachapi Development Services Planning Department, as the custodian of such documents and other materials that constitute the record of proceedings.

The findings reported in the following pages incorporate the facts and discussions of the environmental impacts that are found to be significant in the Final EIR for the Project including the Alternate Site Plan as fully set forth therein. Section 15091 of the CEQA Guidelines requires findings to address environmental impacts that an EIR identifies as “significant.” For each of the significant impacts associated with the Project including the Alternate Site Plan, either before or after mitigation, the following sections are provided:

1. Description of Significant Effects - A specific description of the environmental effects identified in the EIR, including a judgment regarding the significance of the impact;
2. Mitigation Measures - Reference to the identified mitigation measures or actions that are required as part of the Project including the Alternate Site Plan (numbering of the mitigation measures correspond to the Mitigation Monitoring Program, which is included as Section V of the Final EIR);
3. Finding - One or more of the three specific findings in direct response to CEQA Section 21081 and CEQA Guidelines Section 15091;
4. Rationale for Finding - A summary of the reasons for the finding;
5. Reference - A notation on the specific section in the Draft EIR which includes the evidence and discussion of the identified impact.

IV. DESCRIPTION OF THE PROJECT

The Project involves the demolition of unoccupied sheds and out-buildings and a concrete step foundation of former buildings and the construction of a new commercial retail center totaling approximately 120,455 square feet. Approximately six buildings would be constructed in a row

comprising the major anchors for the Project and shop space on the western portion of the site along McIntosh Street. Four pad buildings are proposed on the eastern portion of the Project Site along Tucker Road. All of the buildings would be single-story in height. Two buildings along Tucker Road (Pad 1 and Pad 2) would be fast food establishments each with a drive through, one stand alone structure (Shops 2) would include restaurant or fast food space and one stand alone structure at the corner of Red Apple Avenue and Tucker Road would include a pharmacy with a drive through pharmacy window (Major F). Five of the six buildings in the western portion of the site (Majors A – E) would include retail space and one building (Shops 1) would be divided between retail and restaurant space. The Project will be constructed in two phases with the buildings along Tucker Road to be Phase 1 (totaling 32,855 square feet) and the six buildings in the western portion of the site along McIntosh Street to be Phase 2 (totaling 87,600 square feet).

The Alternate Site Plan would construct a modified version of the Project with approximately 3.3 acres comprising the southwest portion of the Project to be left undisturbed. Specifically, the Alternate Site Plan would result in an overall reduction in major retail space and shop pads, and an increase in fast-food restaurant pads as well as the replacement of the Major F pad (pharmacy with a drive-through pharmacy window) in the northeastern corner of the Project Site with a gas station with convenience market that includes a drive-through automated car wash. The gas station with convenience market, and fast-food restaurant pads would be constructed in Phase 1. The major retail space would be constructed in Phase 2. This alternative would result in approximately 50,500 square feet of major retail space, approximately 10,975 square feet of fast-food restaurant pads, no shop pads, and a 16-pump fuel island with an approximately 2,900-squarefoot convenience market with drive-through automated car wash for a total of approximately 64,375 square feet of total retail floor area. The proposed land uses under this alternative would require 178 parking stalls per the City's code requirements, and approximately 372 parking stalls would be provided by the Alternate Site Plan. Furthermore, the same construction schedule identified for the Project would be applicable to the Alternate Site Plan; however, construction of the Phase 2 development would likely be reduced overall due to the reduction in the area being developed.

V. ENVIRONMENTAL IMPACTS FOUND NOT TO BE SIGNIFICANT OR LESS THAN SIGNIFICANT BY THE INITIAL STUDY

The City Planning Department prepared an Initial Study dated January 23, 2017. The Initial Study is located in Appendix A of the Draft EIR. The Initial Study found the following environmental impacts not to be significant or less than significant:

- A. Aesthetics
 - 1. Scenic Vistas
 - 2. Scenic Resources

- B. Agricultural and Forest Resources
- C. Air Quality
 - 1. Objectionable Odors
- D. Biological Resources
 - 1. Riparian Habitat
 - 2. Wetlands
 - 3. Movement of any Resident or Migratory Species
 - 4. Local Policies and Ordinance Protecting Biological Resources
 - 5. Habitat Conservation Plans
- E. Cultural Resources
 - 1. Historical Resources
- F. Geology and Soils
- G. Hazards and Hazardous Materials
- H. Hydrology and Water Quality
 - 1. Water Quality
 - 2. 100-Year Flood Hazard Areas
 - 3. Impede Flood Flows
 - 4. Expose People or Structures to Flooding
 - 5. Seiche, Tsunami or Mudflow
- I. Land Use and Planning
- J. Mineral Resources
- K. Noise
 - 1. Airport Land Use Plans
 - 2. Private Airstrips
- L. Population and Housing
- M. Public Services
- N. Recreation

- O. Transportation/Traffic
 - 1. Air Traffic Patterns
 - 2. Design Features
 - 3. Adopted Policies, Plans, or Programs
- P. Tribal Cultural Resources
- Q. Utilities and Service Systems

VI. ENVIRONMENTAL IMPACTS FOUND NOT TO BE SIGNIFICANT

Impacts of the Project including the Alternate Site Plan found to be less than significant in the EIR and that require no mitigation are identified below. The City has reviewed the record and agrees with the conclusion that the following environmental issues would not be significantly affected by the Project including the Alternate Site Plan and therefore, no additional findings are needed. These findings do not repeat the full discussions of environmental impacts contained in the EIR. The City ratifies, adopts, and incorporates the analysis, explanation, findings, responses to comments, and conclusions of the EIR. The City adopts the reasoning of the EIR, City staff reports, and presentations regarding the Project including the Alternate Site Plan.

- A. Air Quality
 - 1. Conflict With or Obstruct Implementation of the Applicable Air Quality Plan

The General Plan Update Final EIR concluded that development permitted by development under the General Plan would not conflict with adopted federal and State air quality attainment plans. The proposed Project including the Alternate Site Plan is consistent with the General Plan land use designation for the Project Site. Therefore, the proposed Project including the Alternate Site Plan would not exceed the growth projections of the General Plan and, as such, would not jeopardize attainment of State and national ambient air quality standards in the area under the jurisdiction of the EKAPCD. Thus, impacts are less than significant.
 - 2. Violation of Air Quality Standards or Substantial Contribution to Air Quality Violations

Construction: Construction of Phase 1 is anticipated to occur in 2019. Phase 2 would be constructed sometime in the future, but this analysis assumes that it would occur in 2039 (with full build-out in 2040). The annual construction-related emissions generated during the Project construction phases including the Alternate Site Plan would not exceed the thresholds of significance recommended by EKAPCD. Therefore, this impact of the Project including the Alternate Site Plan would be less than significant. However, the General Plan Final EIR identified

mitigation measures to reduce construction-related air quality impacts associated with new development throughout the City. Accordingly, mitigation measures MM B-1 through MM B-3, which have been modified to address this Project, are required. (These mitigation measures would be required of the Alternate Site Plan as well.)

- MM B-1: Prior to the issuance of a grading permit, the Project developer shall require in contract specifications that grading activities shall comply with the following EKAPCD land preparation, excavation, and/or demolition mitigation measures:
 - All soil excavated or graded should be sufficiently watered to prevent excessive dust. Watering should occur as needed with complete coverage of disturbed soil areas. Watering should be a minimum of twice daily on unpaved/untreated roads and on disturbed soil areas with active operations.
 - All clearing, grading, earth moving and excavation activities should cease: (a) during periods of winds greater than 20 mph (averaged over 1 hour), if disturbed material is easily windblown, or (b) when dust plumes of 20 percent or greater opacity impact public roads, occupied structures or neighboring property.
 - All fine material transported off site should be either sufficiently watered or securely covered to prevent excessive dust.
 - Areas disturbed by clearing, earth moving or excavation activities should be minimized at all times.
 - Stockpiles of soil or other fine loose material shall be stabilized by watering or other appropriate method to prevent wind-blown fugitive dust.
 - Where acceptable to the fire department, weed control should be accomplished by mowing instead of discing, thereby, leaving the ground undisturbed and with a mulch covering.
- MM B-2: Prior to the issuance of a building permit, the Project developer shall require in contract specifications that building activities shall comply with the following EKAPCD building construction mitigation measures:
 - Once initial leveling has ceased all inactive soil areas within the construction site should either be seeded and watered until plant growth is evident, treated with a dust palliative, or watered twice

daily until soil has sufficiently crusted to prevent fugitive dust emission.

- All active disturbed soil areas should be sufficiently watered to prevent excessive dust, but no less than twice per day.
- MM B-3: Prior to the issuance of a grading and/or building permit, the Project developer shall require in contract specifications that grading and building activities shall comply with the following EKAPCD vehicle mitigation measures:
 - On-site vehicle speed should be limited to 15 mph.
 - All areas with vehicle traffic should be paved, treated with dust palliatives, or watered a minimum of twice daily.
 - Streets adjacent to the Project Site should be kept clean and accumulated silt removed.
 - Access to the site should be by means of an apron into the Project from adjoining surfaced roadways. The apron should be surfaced or treated with dust palliatives. If operating on soils that cling to the wheels of the vehicles, a grizzly or other such device should be used on the road exiting the Project, immediately prior to the pavement, in order to remove most of the soil material from the vehicle's tires.
 - Properly maintain and tune all internal combustion engine powered equipment.
 - Require employees and subcontractors to comply with California's idling restrictions for compression ignition engines.

3. Expose Sensitive Receptors to Substantial Pollutant Concentrations

Phase 1 of the proposed Project is expected to result in the average generation of 1,881 vehicle trips per weekday with 43 trips generated during the AM peak traffic hour and 122 trips generated during the PM peak hour. The completed Project (Phases 1 and 2) would result in the average generation of 6,898 vehicle trips per weekday with 157 trips generated during the AM peak traffic hour and 448 trips generated during the PM peak hour. None of the intersections evaluated in the Transportation Impact Analysis Report would approach 44,000 vehicles per hour. As such, the increase in traffic associated with the Project would not be capable of increasing localized CO concentrations at intersections to levels that exceed

federal and/or State standards. The Alternative Site Plan would result in fewer vehicle trips, and thereby, this same finding is applicable. The impact of the proposed Project including the Alternate Site Plan would be less than significant.

The Project including the Alternate Site Plan would involve the operation of new commercial retail buildings at the Project Site. These are also sensitive receptors for TACs. Additionally, the proposed commercial uses would not be a significant TAC source. A small number of diesel vehicles are expected to deliver items to the site on a daily basis; much less than 40 vehicles per day. Therefore, the impact of the Project including the Alternate Site Plan would be less than significant.

B. Biological Resources

1. Identify Any Species As Candidate, Sensitive, Or Special Status

Of the 18 special status plant species known to occur in the vicinity of the Project Site, none were determined to have the potential to occur in the Project Site. Therefore, no additional plant survey is necessary to determine the presence of these special status species and there would be no impact to special status plant species.

Of the 18 special status wildlife species known to occur in the vicinity of the Project Site, 17 have no potential to occur within the Project Site and one is unlikely to occur in the Project Site. Most of the species found in the review of background literature occur in habitats not found in the Project Site. Habitat suitability for non-native annual grassland-associated species in the Project Site is reduced due to the extensive colonization of non-native herbaceous vegetation with limited non-native grasslands interspersed throughout the property. In addition, the Project Site undergoes regular disturbance via mowing.

Implementation of the Project including the Alternate Site Plan, under both phases of development, would have no effect on special status plants or natural communities. The Project including the Alternate Site Plan is also unlikely to affect special status wildlife (Tehachapi pocket mouse) since the Site primarily consists of ruderal herbaceous vegetation with limited grasslands for this species to forage. In addition, the Site has become fairly isolated with rural homes south and west of the Site and a busy vehicular intersection north and east of the Site. This fragmentation of habitat, in combination with the non-native ruderal herbaceous vegetation would likely prevent this species from occupying the Site. Therefore, impacts on candidate, sensitive, or special status species either directly or indirectly through habitat modification would be less than significant.

2. Cumulative Impacts

The Project including the Alternate Site Plan would not, in conjunction with cumulative projects, contribute to cumulatively considerable effects with respect to sensitive habitats. In addition, the General Plan EIR analyzed movement of native and migratory fish or wildlife species and concluded impacts would be less than significant. Therefore, the Project including the Alternate Site Plan, in conjunction with cumulative projects, would not contribute to cumulatively considerable effects with respect to movement of migratory fish or wildlife species.

C. Cultural Resources

1. Cumulative Impacts

The Project including the Alternate Site Plan will not result in any impact to archaeological or paleontological resources. The cumulative effect of these projects would contribute to the continued loss of subsurface cultural resources, if these resources are not protected upon discovery. CEQA requirements for protecting archaeological and paleontological resources and Tribal Cultural Resources are applicable to development in the City of Tehachapi. The cumulative projects would be subject to the same protection and mitigation measures as the Project including the Alternate Site Plan. The Project and cumulative projects not resulting in any impact to archaeological or paleontological resources or human remains or Tribal Cultural Resources and subsurface cultural resources would be protected upon discovery as required by law. Therefore, impacts to those resources would be cumulatively less than significant and would not be cumulatively considerable.

D. Greenhouse Gas Emissions

1. Generation of Greenhouse Gases

The estimated annual construction-related and operational GHG emissions associated with Phase 1 have been calculated. The annual emissions would not approach the 25,000 tons per year threshold of significance. Therefore, the impact of Phase 1 would be less than significant.

The estimated annual construction-related and operational GHG emissions associated with Project buildout (Phases 1 and 2) would not approach the 25,000 tons per year threshold of significance. The Alternate Site Plan would result in an overall reduction in construction, and thereby would be less than the Project's estimate emissions which would be less than significant. Therefore, the impact of completed Project including the Alternate Site Plan would be less than significant.

The annual GHG emissions generated under Phase 1 and Project Buildout (Phases 1 and 2) including the Alternate Site Plan would be less than significant. Therefore, no mitigation is required to reduce an otherwise significant impact of the Project including the Alternate Site Plan associated with GHG emissions. However, the General Plan Update Final EIR identified mitigation measures to reduce construction-related and operational air quality impacts associated with new development throughout Tehachapi. The mitigation measures from the General Plan Update Final EIR that are applicable to the Project including the Alternate Site Plan have been modified to address this one particular Project and are as follows.

- MM E-1: Prior to the issuance of a grading and/or building permit, the Project developer shall require in contract specifications that grading and building activities shall comply with the following EKAPCD vehicle mitigation measures:
 - Properly maintain and tune all internal combustion engine powered equipment.
 - Require employees and subcontractors to comply with California's idling restrictions for compression ignition engines.

2. Conflict With Applicable Plans or Regulations

The Project including the Alternate Site Plan would comply with or exceed the regulations and reduction actions/strategies outlined in the Climate Change Scoping Plan. These strategies and measures have been implemented on the state level through the CALGreen Code. Based on this information, the Project including the Alternate Site Plan would not conflict with an applicable plan, policy or regulation for the purpose of reducing the emissions of GHGs. The impact of the Project including the Alternate Site Plan would be less than significant.

3. Cumulative Impacts

All projects in the State and City, which include the related projects, are subject to policies and regulations which work to achieve the State's GHG reduction goals, and include state and local green building standards, along with other statewide programs designed to reduce GHG emissions, such as mobile source emissions reductions, fuel standards, and conversion of electricity generation from carbon fuel sources to renewable sources. For these reasons, and since the Project including the Alternate Site Plan is consistent with GHG reduction goals and policies, the contribution of the Project including the Alternate Site Plan to the cumulative effect of global climate change is not considered to be cumulatively considerable.

E. Hydrology and Water Quality

1. Water Quality Standards or Waste Discharge Requirements

Construction: Soil particles removed by stormwater runoff can have negative impacts on downstream conditions. Grading activities can greatly increase erosion processes. Two general strategies are typically required to prevent construction silt from entering drainage courses. First, the amount of exposed soil is typically limited and erosion control procedures are implemented for those areas that must be exposed. Common mitigation measures for controlling fugitive dust emissions, such as covering truck loads and street sweeping, are also effective in controlling stormwater quality. Second, the construction area would be secured to control off-site migration of pollutants. Erosion control devices, including temporary diversion dikes/berms, drainage swales, and siltation basins, are typically required around construction areas to ensure that sediment is trapped and properly removed. These measures would be implemented through compliance with the requirements of the General Construction Activity Stormwater Permit, including implementation of a SWPPP.

The Project SWPPP would apply to both Phase 1 and Phase 2 development and would identify potential pollutant sources that may affect the quality of discharge associated with construction activity, identify non-storm water discharges, and provide design features to effectively prohibit the entry of pollutants into the public storm drain system during construction. The Alternate Site Plan would also be required to prepare a SWPPP. When properly designed and implemented, these BMPs would ensure that short-term construction-related water quality impacts, under both development phases, would be less than significant.

Operations: The new uses would create new impervious surfaces on a minimally developed site, resulting in the potential for polluted stormwater runoff. The Project including the Alternate Site Plan would be required to comply with the City's Development Standards to manage, capture, and treat stormwater runoff that would ultimately flow to the City's Storm Water Drainage System. The design of these facilities would be reviewed for compliance with the City of Tehachapi Development Standards and Kern County Hydrology Manual. With compliance with the City's Development Standards and methodology and requirements of the Kern County Hydrology Manual, the operational water quality impacts of the Project including the Alternate Site Plan would be less than significant.

2. Groundwater Supplies

All water supplied to the Project Site would be derived from the City's existing water supply and infrastructure and the Project including the Alternate Site Plan does not propose any groundwater wells or pumping activities.

Groundwater recharge occurs through the infiltration of surface water (generally in the form of rainwater) into the ground and ultimately the groundwater aquifer. Project development including the Alternate Site Plan (either just Phase 1 and/or complete Project buildout with Phase 2) would increase the amount of impervious area on the Project Site, thereby decreasing the amount of surface area available for infiltration.

However, the highest groundwater level on the Project Site area is very deep (approximately 100 feet) and it is unlikely that groundwater replenishment is significant on the Project Site. Nonetheless, in compliance with City Development Standards, the Project including the Alternate Site Plan would be required to manage, capture, and treat runoff, which would include the installation of detention basins on the Project Site. The design of these detention basins would be reviewed by the City for compliance with the City of Tehachapi Development Standards and Kern County Hydrology Manual. Therefore, implementation of this City requirement, impacts would be less than significant.

3. Erosion and Siltation

Construction: No river or stream traverses the Project Site, nor would the Project including the Alternate Site Plan alter an existing off-site river or stream. During Project construction under both development phases, a temporary alteration of the existing on-site drainage pattern may occur, including under the Alternate Site Plan as well. However, these changes would not result in substantial erosion or siltation due to stringent controls imposed under the General Construction Activity Stormwater Permit, including implementation of a SWPPP. The SWPPP would include detailed BMPs for controlling soil erosion and sediment on the site and would require that all sediment be contained on the Project Site during both phases of development. With implementation of SWPPP (that would apply to both development phases) and the required BMPs, drainage impacts during construction of Phase 1 and Phase 2 would be less than significant.

Operations: If not properly designed and constructed, the Project including the Alternate Site Plan could increase the potential that surface water runoff that could be redirected and cause flooding. However, the Project including the Alternate Site Plan is unlikely to alter the drainage pattern in a manner that would result in substantial erosion or siltation because the Project Site would be level.

Additionally, the Project including the Alternate Site Plan would be required to comply with the City's Development Standards to ensure that the post-construction volume of runoff from the Project Site would not result in erosion or siltation. Therefore, the operational impact on drainage patterns with respect to the potential for erosion or siltation would be less than significant.

4. Flooding

Construction: During Project construction (under both Phase 1 and Phase 2 development), a temporary alteration of the existing on-site drainage pattern may occur from the demolition of existing structures and land cover, and during site preparation and grading for Project construction, which would also be applicable under the Alternate Site Plan. However, due to stringent controls imposed under the General Construction Activity Stormwater Permit, including implementation of a SWPPP (applicable to the Project including the Alternate Site Plan under both Phase 1 and Phase development) these changes would not result in a substantial increase in the rate or amount of surface runoff that could result in flooding. The SWPPP would include detailed BMPs for controlling runoff from the Project Site. With implementation of the required BMPs, drainage impacts during construction under Phase 1 and Phase 2 would be less than significant.

Operations: The Project including the Alternate Site Plan would comply with the requirements of the City's Development Standards, which would require the Project including the Alternate Site Plan to manage, capture, and treat runoff from the Project Site under both development phases of the Project including the Alternate Site Plan that would ultimately flow to the City's Storm Water Drainage System. While the Project including the Alternate Site Plan would increase the amount of impermeable surfaces at the Project Site, stormwater flows generated within the Project including the Alternate Site Plan would be managed through a comprehensive on-site drainage treatment and conveyance system that would be constructed under Phase 1 and then under Phase 2 development areas of the Project Site. Under the Project including the Alternate Site Plan, stormwater would be captured and treated prior to entering the stormwater drainage system. No increase in stormwater flows, which could cause flooding outside the Project Site, would occur. Therefore, the operational impact under both development phases on drainage patterns with respect to the potential for flooding would be less than significant.

5. Stormwater Drainage Systems or Pollution

The Project Applicant would prepare a SWPPP (applicable to both development phases of the Project including the Alternate Site Plan) to prevent runoff and water quality impacts during construction as well as comply with the City's

Development Standards, which would limit or reduce flows to the City storm drain system. Therefore, stormwater runoff from the Project Site would not exceed the capacity of the existing or planned stormwater drainage systems.

However, should the City determine improvements to the stormwater drainage system are necessary during the permit review process, the Applicant would be responsible for the improvements, and such improvements would be conducted as part of the Project including the Alternate Site Plan either on-site or off-site within the right-of-way. The stormwater drainage infrastructure construction activities would be temporary and of short duration, and construction (under both Phase 1 and Phase 2 development) would use appropriate BMPs and would not result in significant environmental impacts. Furthermore, as the Project including the Alternate Site Plan would manage, capture, and treat runoff, as required by regulatory compliance, implementation of the Project including the Alternate Site Plan with respect to surface runoff volume during operation would be less than significant. With compliance with existing regulations, the construction and operation of the Project including the Alternate Site Plan under both phases of development would not introduce substantial sources of polluted runoff which could exceed the capacity of the existing systems.

6. Cumulative Impacts

During the update of the General Plan and Zoning Code, the City analyzed impacts to hydrology and water quality from planned development. The General Plan EIR found that impacts to hydrology and water quality would be less than significant as each new development would be required to design and develop a stormwater collection system that ensures appropriate water quality protection measures and sufficient capacity. All projects would be required to implement Best Management Practices and to conform to the existing NPDES water quality regulations. Therefore, the Project including the Alternate Site Plan, in conjunction with the cumulative projects, would not contribute to cumulatively considerable effects with respect to hydrology and water quality.

F. Noise

1. Noise Standards

Operation - Traffic: For the segments of Tucker Road north of Tehachapi Boulevard, Tucker Road north of Conway Avenue, Valley Boulevard east of Golden Hills Boulevard, Valley Boulevard east of Sierra Vista Drive, and Curry Street south of Valley Boulevard, the increase in traffic noise associated with Phase 1 would not cause total exterior noise to exceed the 65 dBA CNEL standard and the incremental increase would be below the applicable substantial threshold criteria.

Therefore, noise impacts to these locations during operation of Phase 1 would be less than significant.

Four residential roadway segments - Tucker Road south of Valley Boulevard, Red Apple Avenue west of Tucker Road, Valley Boulevard west of Mountain View Avenue, and Valley Boulevard west of Curry Street - already exceed the 65 dBA CNEL standard for sensitive uses. The incremental increase in noise caused by Phase 1 would be less than 1 dBA at each location, which is an allowable increase under the substantial threshold criteria for each of the affected roadway segments. Therefore, noise impacts to these locations during operation of Phase 1 would be less than significant.

For the segments of Tucker Road north of Tehachapi Boulevard, Tucker Road north of Conway Avenue, Valley Boulevard east of Golden Hills Boulevard, Valley Boulevard east of Sierra Vista Drive, and Curry Street south of Valley Boulevard, the increase in traffic noise associated with Project Buildout including the Alternate Site Plan would not cause total exterior noise to exceed the 65 dBA CNEL standard and the incremental increase would be below the applicable substantial threshold criteria. Therefore, noise impacts to these locations during operation of Project Buildout including the Alternate Site Plan would be less than significant.

Four residential roadway segments - Tucker Road south of Valley Boulevard, Red Apple Avenue west of Tucker Road, Valley Boulevard west of Mountain View Avenue, and Valley Boulevard west of Curry Street - already exceed the 65 dBA CNEL standard for sensitive uses. The incremental increase in noise caused by Project Buildout including the Alternate Site Plan would be less than 1 dBA at each location, which is an allowable increase under the substantial threshold criteria for each of the affected roadway segments. Therefore, noise impacts to these locations during operation of Project Buildout including the Alternate Site Plan would also be less than significant.

Operation – On-Site Noise: Operation of the Project including the Alternate Site Plan would also result in increased activity at the Project Site. To evaluate this type of increased level of activity, daytime noise levels were measured at an existing shopping center in Camarillo, California that is anchored by an Albertson's grocery store. The average noise level was measured to be 54.8 dBA L_{eq} and the sources of noise included cars (driving, doors, motors, honks, alarm chirps, and alarm signals), shopping carts, and people talking. These shopping center noise measurements demonstrate that the noise levels within the Project parking lot would largely be overshadowed by vehicle traffic on the adjacent roadways, which would also occur under the Alternate Site Plan. As such, activities within the Project Site would not increase the ambient noise levels above the roadway noise levels.

Operational noise would also be generated by trucks making deliveries to the Project Site. These deliveries would involve heavy-duty semi trucks and smaller medium-duty trucks. Buildings 5 through 10 would have loading docks along the western perimeter of the Project Site. No loading docks would be located in the southern part of the Site near the existing home along Tucker Road.

Based on delivery truck noise level information, operation of the Project including the Alternate Site Plan would not generate a substantial permanent increase in ambient noise levels in the vicinity above levels occurring at the nearest homes. As such, operational noise impacts of the Project including the Alternate Site Plan would be less than significant.

2. Groundborne Vibration or Groundborne Noise Levels

Construction: The nearest existing use that could be exposed to ground-borne vibration from construction at the Project Site is the residence to the immediate south of the Project Site along Tucker Road. This building is located about 75 feet from the nearest grading area. The next nearest residential uses are those located to the west of the Site across McIntosh Street. These are located more than 100 feet from the Project Site.

Vibration levels could reach as high as approximately 0.089 inches per second PPV within 25 feet of an operating large bulldozer. The maximum vibration level of 0.089 inches per second PPV would be below the thresholds of significance for both potential building damage and human annoyance. Therefore, the potential impacts associated with construction vibration would be less than significant.

Operations: The Project including the Alternate Site Plan would not include uses that are expected to generate measurable levels of ground-borne vibration during operation of the Project including the Alternate Site Plan. Therefore, the greatest regular source of Project-related ground-borne vibration including the Alternate Site Plan would be from local trucks making deliveries to the Project Site and larger garbage trucks picking-up Project-related refuse material. The vibration levels associated with these trucks would be less than the levels associated with large construction equipment. Therefore, the operational impacts associated with ground-borne vibration would be less than significant at nearby sensitive uses.

3. Permanent Increase in Ambient Noise Levels

As discussed in finding (1), above, operation of the Project including the Alternate Site Plan would not significantly increase the ambient noise levels as a result of increased traffic or on-site activities. As such, impacts related to operational noise would be less than significant.

4. Temporary Increase in Ambient Noise Levels

As discussed in finding (1), above, if grading and paving activities were to occur for a consistent basis over eight hours in a single day, the noise level at the single-family home to the south of the Site would be significant.

5. Cumulative Impacts

Cumulative mobile source noise impacts will occur primarily as a result of increased traffic on local roadways due to the Project including the Alternate Site Plan, ambient growth, and related projects. However, as shown in Draft EIR Table IV.G-13 and Table IV.G-15, in accordance with the FTA manual exposure criteria the addition of a noise source would result in no impact. Therefore, incremental effects would not be considerable or significant when viewed in connection with the effects of past, current, and probable future Projects and cumulative impacts would be less than significant.

G. Transportation/Traffic

1. Applicable Plan, Ordinance or Policy Regarding Circulation Performance

Construction: The analysis in the Traffic Impact Analysis (TIA) report examined the potential traffic impacts after completion of the Project. (A subsequent technical memorandum was prepared for the Alternate Site Plan.) During the temporary construction phases (Phase 1 and Phase 2), traffic from construction workers as well as from trucks will add to the existing traffic. The typical construction shift is 7:30 AM to 3:30 PM with construction workers arriving before the shift starts and leaving at the end of the shift. Construction related trucks arrive and depart throughout the shift. However, the total amount of construction traffic is considerably less than the trips generated by the Project including the Alternate Site Plan and evaluated in the TIA report. Therefore, the Project's traffic impacts from Phase 1 and Phase 2 (Project Buildout) during construction would be less than significant, and the traffic impacts from the Alternate Site Plan would be further reduced from the Project's due to the reduction in overall development.

Operations – Project Fair Share Analysis:

The Project's "fair share" of the recommended improvements has been calculated for the key study locations that are forecast to operate at adverse levels of service in the Existing With Project Phase I, Existing With Project Buildout, Year 2019 With Project Phase I, and Year 2040 With Project Buildout traffic conditions.

*Existing Conditions Plus Phase 1 Traffic:**Intersections*

The Project Phase 1 fair share percentages (worse time period impacted) for the three (3) impacted intersections are shown below. The Project may be required to construct or pay a fair share towards the following improvements, subject to the direction of the Public Works Director:

6. Sierra Vista Drive at Valley Boulevard (SR-202)
8. Tucker Road at Red Apple Ave/Tehachapi Blvd Rd
10. Tucker Road at Valley Boulevard (SR-202)

Roadway Segments

The results of the roadway segment analyses indicate that the proposed Project Phase I is not forecast to have a significant impact at any of the twelve (12) key roadway segments for the Existing With Project Phase I traffic conditions. As there are no significant impacts, no Project fair share calculation is needed.

*Existing Conditions Plus Phase 2 Traffic:**Intersections*

The Project Buildout fair share percentages (worse time period impacted) for the four (4) impacted intersections for the Existing With Project Buildout traffic conditions are shown below. The Project may be required to construct or pay a fair share towards the following improvements, subject to the direction of the Public Works Director:

6. Sierra Vista Drive at Valley Boulevard (SR-202)
7. Tucker Road at SR-58 Eastbound Ramps
8. Tucker Road at Red Apple Ave/Tehachapi Blvd Rd
10. Tucker Road at Valley Boulevard (SR-202)

Roadway Segments

The results of the roadway segment analyses indicate that the proposed Project Buildout is not forecast to have a significant impact at any of the 12 key roadway

segments for the Existing With Project Buildout traffic conditions. As there are no significant impacts, no Project fair share calculation is required.

Year 2019 Conditions Plus Phase 1 Traffic:

Intersections

The Project Phase I fair share percentages (worse time period impacted) for the seven (7) impacted intersections for the Year 2019 With Project Phase I traffic conditions are:

3. Santa Lucia Street at Valley Boulevard (SR-202)
5. Westwood Boulevard at Red Apple Avenue
6. Sierra Vista Drive at Valley Boulevard (SR-202)
7. Tucker Road at SR-58 Eastbound Ramps
8. Tucker Road at Red Apple Ave/Tehachapi Blvd Rd
10. Tucker Road at Valley Boulevard (SR-202)
13. Mountain View Avenue at Tehachapi Boulevard

Roadway Segments

The results of the roadway segment analyses indicate that the proposed Project Phase I is not forecast to have a significant impact at any of the 12 key roadway segments for the Year 2019 With Project Phase I traffic conditions. As there are no significant impacts, no Project fair share calculation is required.

Year 2040 Conditions Plus Phase 2 Traffic:

Intersections

The Project Buildout fair share percentages (worse time period impacted) for the nine impacted intersections for the Year 2040 With Project Buildout traffic conditions are:

3. Santa Lucia Street at Valley Boulevard (SR-202)
5. Westwood Boulevard at Red Apple Avenue
6. Sierra Vista Drive at Valley Boulevard (SR-202)

7. Tucker Road at SR-58 Eastbound Ramps
8. Tucker Road at Red Apple Ave/Tehachapi Blvd Rd
10. Tucker Road at Valley Boulevard (SR-202)
13. Mountain View Avenue at Tehachapi Boulevard
14. Mulberry Street at Tehachapi Boulevard
19. Green Street at Tehachapi Boulevard

Roadway Segments

The results of the roadway segment analyses indicate that the proposed Project Phase Buildout is not forecast to have a significant impact at any of the 12 key roadway segments for the Year 2040 With Project Buildout traffic conditions. As there are no significant impacts, no Project fair share calculation is required.

Project Operations – Caltrans Facilities: Based on the Caltrans criteria, the results of the basic freeway segment analysis for Existing traffic conditions, and given that the maximum Level of Service is a LOS A, it is determined that no additional analysis is needed for the Caltrans Facilities since the Project generates between 1 and 12 peak hour trips assigned to a state highway facility and all freeway segments are forecast to operate at an acceptable LOS A during the AM and PM peak hours under Existing traffic conditions.

2. Emergency Access

Construction: While it is expected that construction activities for the Project including the Alternate Site Plan would primarily be confined on-site, short-term construction activities may temporarily affect emergency access through this section of Red Apple Avenue/Tehachapi Boulevard, Tucker Road and McIntosh Street during certain periods of the day by adding construction traffic to the street network and requiring partial lane closures during street improvements and utility installations. Partial lane closures, if determined to be necessary, would not greatly affect emergency vehicles, the drivers of which normally have a variety of options for avoiding traffic, such as using their sirens to clear a path of travel or driving in the lanes of opposing traffic. Additionally, if there are partial closures to streets surrounding the Project Site, flagmen would be used to facilitate the traffic flow until construction is complete. Emergency vehicles would have multiple routes, including Cherry Lane and Sage Lane in which to provide emergency services to other locations in the area without the potential for conflict. Emergency access to the Project Site would be maintained throughout

construction through marked emergency access points. Construction impacts are temporary in nature and do not cause lasting effects to impact emergency access. As such, construction-related impacts would be less than significant.

Operations: While the Project including the Alternate Site Plan is anticipated to affect the LOS of roadways in the vicinity, the increases in traffic would not greatly affect emergency vehicles because the drivers of emergency vehicles normally have a variety of options for avoiding traffic, such as using their sirens to clear a path of travel or driving in the lanes of opposing traffic. Emergency vehicle access to the Project Site would continue to be provided from major roadways adjacent to the Project Site, including Red Apple Avenue/Tehachapi Boulevard, Tucker Road and McIntosh Street. All circulation improvements that are proposed for the Project Site would comply with the Fire Code and emergency access to the Project Site would be maintained at all times.

Access to the Project Site during operation of Phase I of the Project including the Alternate Site Plan would be provided via 1 driveway along Red Apple Avenue and via 2 driveways along Tucker Road. The proposed driveway (Driveway 1) on Red Apple Avenue would be unsignalized and would provide full access to the Site. The proposed driveway (Driveway 2) on Tucker Road would also be unsignalized and would provide full ingress but right-out only egress to the Site. The proposed driveway (Driveway 3) on Tucker Road, which would be aligned with the proposed Walmart driveway #1 under Year 2019 and Year 2040 traffic conditions, would be signalized and would provide full access to the Project Site. It should be noted that Red Apple Avenue would be restriped concurrently with the construction of Phase 1 of the Project including the Alternate Site Plan. The restriping of the median and/or installation of a raised median along Red Apple Avenue would provide Driveway 1 an exclusive westbound left-turn lane for vehicles entering the site and a two-car gap storage refuge in the median for northbound left-turning vehicles exiting the Project Site. The restriping of the median and/or installation of a raised median along Tucker Road would restrict exiting vehicles at Driveway 2 to right-turn only while Driveway 3 would remain full access.

Similarly, access to the Project Phase 2 (Buildout) including the Alternate Site Plan would be provided via 2 driveways along Red Apple Avenue, via 2 driveways along Tucker Road and via 1 driveway along McIntosh Street. The proposed driveway (Driveway 1) on Red Apple Avenue would be unsignalized and would provide right-in and right-out only access to the Site. The proposed driveway (Driveway 2) on Tucker Road would also be unsignalized and would provide full ingress but right-out only egress to the Site. The proposed driveway (Driveway 3) on Tucker Road, which would be aligned with the proposed Walmart driveway #1 under Year 2019 and Year 2040 traffic conditions, would be signalized and would provide full access to the Project Site. The proposed driveway (Driveway 4) on Red Apple Avenue

would be unsignalized and would provide full access to the Project Buildout site as well as under the Alternate Site Plan. The proposed driveway (Driveway 5) on McIntosh Street would be unsignalized and would provide full access to the Project (Buildout) site as under the Alternate Site Plan. It should be noted that Red Apple Avenue would be restriped concurrently with the construction of the Project Buildout. The restriping of Red Apple Avenue would restrict access at Driveway 1 to right-in/right-out only. An exclusive westbound left-turn lane for vehicles entering the site and a two-car gap storage refuge in the median for northbound left-turning vehicles exiting the Project Site would be provided at Driveway 4. Similar to Phase I access, the restriping of the median and/or installation of a raised median along Tucker Road would restrict exiting vehicles at Driveway 2 to right-turn only while Driveway 3 would remain full access.

The three Project driveways are forecast to operate at acceptable levels of service LOS B or better during the AM and PM peak hours under the Existing With Project Phase I traffic conditions including the Alternate Site Plan. The five Project driveways are forecast to operate at acceptable levels of service LOS C or better during the AM and PM peak hours under the Existing With Project Buildout traffic conditions including the Alternate Site Plan. Also, the three Project driveways are forecast to operate at acceptable levels of service LOS C or better during the AM and PM peak hours under the Year 2019 With Project Phase I traffic conditions as under the Alternate Site Plan as well. Finally, the five Project driveways are forecast to operate at acceptable levels of service LOS C or better during the AM and PM peak hours under the Year 2040 With Project Buildout traffic conditions as under the Alternate Site Plan as well. As such, impacts related to emergency access to the Project Site would be less than significant.

VII. ENVIRONMENTAL IMPACTS FOUND TO BE LESS THAN SIGNIFICANT AFTER MITIGATION

The EIR determined that the Project, as by extension the Alternate Site Plan, has potentially significant environmental impacts in the areas discussed below. The EIR identified feasible mitigation measures to avoid or substantially reduce the environmental impacts in these areas to a level of less than significant. Based on the information and analysis set forth in the EIR and other evidence in the administrative record relating to the Project including the Alternate Site Plan, the City finds and determines that the Project including the Alternate Site Plan would not have any significant environmental impacts in these areas, as long as all identified feasible mitigation measures are incorporated into the Project including the Alternate Site Plan. The City again ratifies, adopts, and incorporates the full analysis, explanation, findings, responses to comments, and conclusions of the EIR.

A. Aesthetics

1. Degrade Existing Visual Character or Quality of the Site

(i) Mitigation Measures

The City finds that Mitigation Measures MM A-1, MM A-2, and MM A-3, which are incorporated into the Project including the Alternate Site Plan and incorporated into these findings as set forth herein, reduce the impacts related to visual impacts to less than significant. These mitigation measures were taken into account in the analysis of Project impacts including the Alternate Site Plan.

(ii) Finding

Changes or alterations and mitigation measures have been required in, or incorporated into, the Project including the Alternate Site Plan that avoid or substantially lessen potential significant environmental effects on visual impacts to less than significant levels with the implementation of mitigation measures MM A-1, MM A-2, and MM A-3. No further mitigation is required.

(ii) Finding Rationale

Construction: Phase 1 would involve fencing the perimeter of the Project Site along Tucker Road and partially along Red Apple Avenue. The fencing would temporarily affect views along those roadways during Phase 1 construction of approximately 5 to 6 months. The fencing would also continue along the southern boundary between the site and the existing single family home on Tucker Road. The single-family homes to the west of McIntosh Street would not be impacted due to distance and the intervening topography. Phase 2 implementation would include fencing partially along Red Apple Road, along the western perimeter of the site and McIntosh Street and the southern boundary of the site and the area between Phase 1 and 2 on the Project Site.

Construction activities and equipment on the Project Site would constitute a temporary visual distraction typically associated with construction activities. However, this impact would be temporary in nature and typical of all construction projects. The temporary visual impacts would occur twice – once under each construction phase. However, once constructed, there would be no impact and this temporary visual impact would be less than significant.

Operations: The Project Site would also have extensive landscaped areas and landscaped islands within the parking area. Project Site landscaping would include a variety of trees (e.g., Black pine, Chinese pistache, Bradford pear, Raywood ash, and Chinese evergreen elm), shrubs, groundcover, grasses, and accent plantings.

The Project including the Alternate Site Plan would be required to submit landscape and irrigation plans to the City of Tehachapi to ensure conformance with City standards. Landscape impacts would be less than significant.

Although the Project including the Alternate Site Plan would materially change the visual character of the site from a mostly vacant, undeveloped site to a partially built environment under Phase 1 and a fully built environment with implementation of Phase 2 with a retail structure and center, the visual quality of the development would employ architectural elements in the design that are acceptable to the City. The Project including the Alternate Site Plan would not be out of character with the surrounding commercial development. The Project Site is zoned for commercial development of the type proposed. The City has anticipated this development in this area of the City and the Project design including the Alternate Site Plan would be consistent with the City's design policies, including the Town Form Element and Zoning Code. Therefore, the Project including the Alternate Site Plan would not substantially degrade the existing visual character or quality of the site and its surroundings.

The Project including the Alternate Site Plan would involve alteration of the Project Site streetscape along Tucker Road, Red Apple Avenue and McIntosh Street. In order to implement the Project including the Alternate Site Plan, the power lines traversing the site within City limits would need to be removed. Removing these power lines and poles would be a beneficial visual impact as these lines are usually considered visually unattractive. The Project plans including the Alternate Site Plan include access to the Project Site from Tucker Road, Red Apple Avenue and McIntosh Street. McIntosh Street is currently unpaved and the City will require the street to be widened and paved as part of Phase 2 development, which would alter the current visual character of the street from rural to urban. The Project landscaping including the Alternate Site Plan would include landscaped islands between McIntosh Street and the loading docks and parking areas of the western elevation of the row of buildings for Majors A, B, C, D and E and Shops 1 under Phase 2. The proposed landscape would include ground cover/grasses and trees, which would enhance the area with trees where none occur. Mitigation measures are provided to reduce these visual impacts to less than significant.

- MM A-1: All power poles along Red Apple Avenue, Tucker Road, and McIntosh Street within City limits shall be undergrounded or removed in compliance with City of Tehachapi standards and as dictated by the utility owner of the poles.
- MM A-2: Prior to issuance of building permits, a landscape and irrigation plan, prepared by a landscape architect contractor shall be submitted to

the City of Tehachapi for review and approval and pay application fees in place at such time shall apply. The plan shall comply with the City of Tehachapi Landscape Guidelines.

- MM A-3: Prior to issuance of occupancy permits all landscaping shall be installed and shall be in a viable growth condition and in substantial conformance with the approved landscape plan.

2. Create Substantial Light or Glare

(i) Mitigation Measures

The City finds that Mitigation Measure MM A-4, which is incorporated into the Project including the Alternate Site Plan and incorporated into these findings as set forth herein, reduce the impacts related to light and glare impacts to less than significant. These mitigation measures were taken into account in the analysis of Project impacts including the Alternate Site Plan.

(ii) Finding

Changes or alterations and mitigation measures have been required in, or incorporated into, the Project including the Alternate Site Plan that avoid or substantially lessen potential significant environmental effects on visual impacts to less than significant levels with the implementation of mitigation measure MM A-4. No further mitigation is required.

(ii) Finding Rationale

The Project including the Alternate Site Plan would construct a commercial center on a primarily vacant site that would introduce new light and glare sources typical of a commercial development. Under Phase 1, new buildings and lit parking areas would be introduced along Tucker Road and part of Red Apple Avenue. Lighting of parking areas along Tucker Road would be downcast and light spillage on Tucker Road from parking lot lighting would be consistent with other commercial lighting on Tucker Road and would not be significant. The parking entry on Red Apple Road that would be constructed under Phase 1 would be offset from the residence located at the northwest corner of Tucker Road and Red Apple Avenue and parking lot lighting would not directly shine on this residence.

Under Phase 2, a row of buildings would be constructed along McIntosh Street with loading docks and some parking area to the rear with access from McIntosh Street. Residential uses to the west along McIntosh Street would be shielded from lighting from the stores as the store fronts would be oriented towards Tucker Road. However, there would be some lighting and security lighting, presumably

affixed to the buildings that would face towards McIntosh Street and the residential uses to the west. Therefore, Phase 2 of the Project including the Alternate Site Plan would introduce new light sources in this area and potential impacts would be significant. However, the City will require the Project including the Alternate Site Plan to utilize Dark Sky Technology fixtures and downcast lighting to minimize the impact. This requirement is provided as a mitigation measures (or Conditions of Approval) which would reduce potentially significant impacts to a less than significant level.

Under both Phases of development, the Project buildings including the Alternate Site Plan would include glass on the store fronts. However, store front building materials would primarily feature non-reflective materials and would therefore not be highly reflective. Additionally, these store fronts would not be oriented towards the residential uses to the west, but towards either the interior of the site or to Tucker Road, a busy commercial corridor. Therefore, glare impacts would be less than significant. Mitigation measure (Condition of Approval) is provided to ensure the impact would be less than significant.

- MM A-4: Prior to light fixture installation, the applicant shall submit a photometrics analysis to the Community Development Department for review and approval, all exterior parking lot lighting on the property shall utilize Dark Sky Technology fixtures.

3. Reference

For a complete discussion of impacts associated with Aesthetics, please see Section IV.A of the Draft EIR.

B. Noise

1. Exposure of Persons to Excessive Noise Levels

(i) Mitigation Measures

The City finds that Mitigation Measure MM G-1, which is incorporated into the Project including the Alternate Site Plan and incorporated into these findings as set forth herein, reduce the impacts related to noise impacts to less than significant. This mitigation measure was taken into account in the analysis of Project impacts including the Alternate Site Plan.

(ii) Finding

Changes or alterations and mitigation measures have been required in, or incorporated into, the Project including the Alternate Site Plan that avoid or

substantially lessen potential significant environmental effects on noise impacts to less than significant levels with the implementation of mitigation measure MM G-1. No further mitigation is required.

(ii) Finding Rationale

Construction: The nearest residential use that would be exposed to construction noise levels from the Project Site is the residence to the immediate south of the Project Site along Tucker Road. The next nearest residential uses are those located to the west of the Site across McIntosh Street. The maximum daytime noise levels that would be expected to occur as a result of Project including the Alternate Site Plan construction have been calculated for these residential receptor locations. The calculations assume that construction activities would be concentrated near the perimeter of the Site closest to the receptor locations. Noise levels at these receptors would be lower when construction activities occur elsewhere within the Site further from the Site perimeter.

For Phase 1, the maximum hourly daytime noise levels at the nearest residential receptor would be 76.9 dBA L_{eq} , which would not exceed the 1-hour 90 dBA L_{eq} threshold of significance or the 8-hour 80 dBA L_{eq} threshold of significance. Therefore, noise impacts during construction of Phase 1 would be less than significant.

The maximum hourly daytime noise levels at the nearest residential receptor during Phase 2 would be 80.4 dBA L_{eq} , which would also not exceed the 1-hour 90 dBA L_{eq} threshold of significance. Construction noise levels at the homes to the west of the Site during Phase 2 would not exceed the thresholds of significance. However, if grading and paving activities were to occur for a consistent basis over eight hours in a single day, the noise level at the single family home to the south of the Site would be significant. This is possible during the Site grading phase, but is highly unlikely during the paving phase since the paving activity would be expected to occur in the immediate vicinity of the home for only a few hours and then it would occur elsewhere within the Site at a greater distance from the home. Accordingly, mitigation measure MM G-1 would be required to limit the amount of time that grading activities may occur in the vicinity of the residences to the south of the Site. Following implementation of MM G-1, noise impacts during construction of Project including the Alternate Site Plan Buildout would be less than significant.

- MM G-1: Grading activities within the southeastern portion of the Project Site within 150 feet of the existing residence to the south of the Site shall be restricted to a maximum of seven hours per day.

2. Reference

For a complete discussion of impacts associated with Noise, please see Section IV.G of the Draft EIR.

VIII. ENVIRONMENTAL IMPACTS FOUND TO BE SIGNIFICANT AND UNAVOIDABLE

The Project, and by extension the Alternate Site Plan, results in the following impacts, which are found to be significant and unavoidable.

A. Air Quality

1. Violation of Air Quality Standards or Substantial Contribution to Air Quality Violations

The daily mobile source emissions of NO_x generated by the completed Project including the Alternate Site Plan would exceed the operational threshold of significance set by EKAPCD. Therefore, impacts associated with operational emissions from a completed Project including the Alternate Site Plan would be significant.

(i) Finding

Both the Project and Alternate Site Plan would result in daily mobile source emissions of NO_x that would exceed the operational threshold of significance set by EKAPCD, and impacts would therefore be significant and unavoidable. The City finds that changes and alterations and mitigation measures were made to the Project or Alternate Site Plan to reduce the significant air quality impacts of the Project. No feasible measures are available to reduce these impacts to less-than-significant levels.

(ii) Rationale for Findings

Operations: Operational emissions generated by area sources, energy sources, and mobile sources would result from the normal day-to-day activities at the Project Site after occupation. Area source emissions would be generated by the operation of landscape maintenance equipment and the use of consumer products. Energy Sources would be generated by the consumption of natural gas for heating and cooking.

The daily mobile source emissions and total annual operational emissions generated by Phase 1 would not approach the operational thresholds of

significance set by EKAPCD. Therefore, impacts associated with operational emissions from Phase 1 would be less than significant.

The total annual operational emissions generated by the completed Project including the Alternate Site Plan would not exceed the operational thresholds of significance set by EKAPCD. However, the daily mobile source emissions of NO_x generated by the completed Project including the Alternate Site Plan would exceed the operational threshold of significance set by EKAPCD. Therefore, impacts associated with operational emissions from a completed Project including the Alternate Site Plan would be significant.

2. Result in a Cumulative Considerable Net Increase Of Any Criteria Pollutant For Which the Project Region is in Non-Attainment

The mass daily operation-related emissions generated by the Project including the Alternate Site Plan would exceed thresholds of significance recommended by the SCAQMD for NO_x. Therefore, the cumulative impact would be significant. In accordance with SCAQMD guidance, operational emissions that exceed the thresholds of significance (NO_x) are considered to be cumulatively considerable.

(i) Finding

Both the Project and Alternate Site Plan would result in daily mobile source emissions of NO_x that would exceed the operational threshold of significance set by EKAPCD, and would therefore be cumulatively considerable. The City finds that changes and alterations and mitigation measures were made to the Project and Alternate Site Plan to reduce the significant air quality impacts of the Project. No feasible measures are available to reduce these impacts to less-than-significant levels.

(ii) Rationale for Findings

The emissions generated by Project including the Alternate Site Plan construction-related activities would not exceed the thresholds of significance recommended by EKAPCD. The operational emissions generated by Phase 1 also would not exceed thresholds of significance recommended by EKAPCD. The impacts would be less than significant. However, daily operational mobile source emissions of NO_x generated by Project Buildout including the Alternate Site Plan would exceed the thresholds of significance recommended by EKAPCD. Therefore, operation of the completed Project (Buildout) including the Alternate Site Plan would contribute substantially to an existing or projected air quality violation. No mitigation is available or feasible to reduce the operational mobile source impact to a less than significant level. Therefore, the cumulative air quality impact

associated with the completed Project including the Alternate Site Plan would be significant and unavoidable.

3. Reference

For a complete discussion of impacts associated with Air Quality, please see Section IV.B of the Draft EIR.

B. Transportation/Traffic

1. Applicable Plan, Ordinance or Policy Regarding Circulation Performance

Operations – Existing Plus Phase 1 Traffic: The estimated Project traffic was added to the existing traffic volumes to estimate Existing plus Project traffic volumes. Three of the 19 study intersections currently operate at unacceptable levels of service during the AM and/or PM peak hour when compared to the City of Tehachapi and Kern County impact criteria. These intersections are:

6. Sierra Vista Drive at Valley Boulevard (SR-202) (PM peak)
8. Tucker Road at Red Apple Avenue/Tehachapi Boulevard (both AM and PM peak)
10. Tucker Road at Valley Boulevard (SR-202) (PM peak)

The remaining 16 key study intersections currently operate at acceptable levels of service during the AM and PM peak hours.

Operations – Existing Plus Phase 2 Traffic: With Phase 2 added (Project Buildout), four of the 19 key study intersections are forecast to operate at unacceptable levels of service during the AM and/or PM peak hours when compared to the City of Tehachapi and Kern County impact criteria. The four significantly impacted intersections under Project Buildout (Phase 1 and 2) are:

6. Sierra Vista Drive at Valley Boulevard (SR-202) (PM peak)
7. Tucker Road at SR-58 Eastbound (SR-202)
8. Tucker Road at Red Apple Avenue/Tehachapi Boulevard (both AM and PM peak)
10. Tucker Road at Valley Boulevard (SR-202) (PM peak)

The remaining 15 key study intersections are forecast to operate at acceptable levels of service during the AM and PM peak hours.

Operations – Future with Project – Year 2019: The Year 2019 Without Project traffic, seven of the 19 study intersections are forecast to operate at an unacceptable level of service during the AM and/or PM peak hour when compared to the City of Tehachapi and Kern County impact criteria for LOS. The seven significantly impacted intersections without the Project in Year 2019 are:

3. Santa Lucia Street at Valley Boulevard (PM peak)
5. Westwood Boulevard at Red Apple Avenue (both AM and PM peak)
6. Sierra Vista Drive at Valley Boulevard (SR-202) (both AM and PM peak)
7. Tucker Road at SR-58 Eastbound Ramps (PM peak)
8. Tucker Road at Red Apple Avenue/Tehachapi Boulevard (both AM and PM peak)
10. Tucker Road at Valley Boulevard (SR-202) (PM peak)
13. Mountain View Avenue at Tehachapi Boulevard (PM peak)

The remaining 12 key study intersections are forecast to operate at acceptable levels of service during the AM and PM peak hours.

When Project traffic is added to Year 2019 conditions, seven of the 19 key study intersections are forecast to operate at unacceptable levels of service during the AM and PM peak hours when compared to the City and County's LOS standards. The seven significantly impacted intersections with Project traffic in Year 2019 are:

3. Santa Lucia Street at Valley Boulevard (PM peak)
5. Westwood Boulevard at Red Apple Avenue (both AM and PM peak)
6. Sierra Vista Drive at Valley Boulevard (SR-202) (both AM and PM peak)
7. Tucker Road at SR-58 Eastbound Ramps (PM peak)
8. Tucker Road at Red Apple Avenue/Tehachapi Boulevard (both AM and PM peak)
10. Tucker Road at Valley Boulevard (SR-202) (both AM and PM peak)
13. Mountain View Avenue at Tehachapi Boulevard (PM peak)

Roadway Segments: For the Year 2019 Without Project traffic conditions, seven of the 12 key study roadway segments are forecast to operate at unacceptable levels of service on a daily basis when compared to the City of Tehachapi and Kern County LOS standards. The roadway segments operating at adverse levels of service are:

1. Valley Blvd *between* Woodford Tehachapi Rd and Sage Ln
2. Valley Blvd *between* Sierra Vista Dr and Tucker Rd
3. Red Apple Ave *between* Reeves St and Tucker Rd
4. Tucker Rd *between* SR-58 EB Ramps and Red Apple Ave/Tehachapi Blvd
8. Valley Blvd *between* Weir St and Beech St
9. Valley Blvd *between* Mill St. and Curry St.
10. Tehachapi Blvd *between* Tucker Rd and Mountain View Ave

The remaining 5 key study roadway segments are forecast to operate at acceptable levels of service on daily basis.

When Phase 1 Project traffic volumes are added to the 12 key roadway segments, seven roadway segments are forecast to operate at unacceptable levels of service on a daily basis when compared to the City of Tehachapi and Kern County LOS standards. These seven significantly impact roadway segments include:

1. Valley Blvd *between* Woodford Tehachapi Rd and Sage Ln
2. Valley Blvd *between* Sierra Vista Dr and Tucker Rd
3. Red Apple Ave *between* Reeves St and Tucker Rd
4. Tucker Rd *between* SR-58 EB Ramps and Red Apple Ave/Tehachapi Blvd
8. Valley Blvd *between* Weir St and Beech St
9. Valley Blvd *between* Mill St. and Curry St.
10. Tehachapi Blvd *between* Tucker Rd and Mountain View Ave

The remaining 5 key study roadway segments are forecast to operate at acceptable levels of service on daily basis.

To determine if the Project Phase I traffic creates a direct impact, the adverse roadway segments identified above (under both Phase 1) were further analyzed under peak hour conditions to determine if there would be any peak hour deficiencies. As analyzed in the Traffic Impact Assessment report, these study roadway segments are forecast to operate at LOS C or better during the AM and PM peak hours. As a result, the key study roadway segments impacts under Phase 1 would be less than significant and no improvements are required.

Operations – Future with Project – Year 2040: The Year 2040 Without Project traffic conditions, 8 of the 19 key study intersections are forecast to operate at an unacceptable level of service during the AM and PM peak hours when compared to the LOS standards defined in this report. The intersections operating at adverse levels of service are:

3. Santa Lucia Street at Valley Boulevard (PM peak)
5. Westwood Boulevard at Red Apple Avenue (both AM and PM peak)
6. Sierra Vista Drive at Valley Boulevard (SR-202) (PM peak)
7. Tucker Road at SR-58 Eastbound Ramps (PM peak)
8. Tucker Road at Red Apple Avenue/Tehachapi Boulevard (both AM and PM peak)
10. Tucker Road at Valley Boulevard (SR-202) (PM peak)
13. Mountain View Avenue at Tehachapi Boulevard (both AM and PM peak)
14. Mulberry Street at Tehachapi Boulevard (PM peak)

The remaining 11 key study intersections are forecast to operate at acceptable levels of service during the AM and PM peak hours.

When Phase 2 (Buildout) Project traffic is added to Year 2040 conditions, nine of the 19 key study intersections are forecast to operate at unacceptable levels of service during the AM and PM peak hours when compared to the City and County's LOS standards. The nine significantly impacted intersections with Project Phase 2 (Buildout) traffic in Year 2040 are:

3. Santa Lucia Street at Valley Boulevard (PM peak)
5. Westwood Boulevard at Red Apple Avenue (both AM and PM peak)
6. Sierra Vista Drive at Valley Boulevard (SR-202) (both AM and PM peak)

7. Tucker Road at SR-58 Eastbound Ramps (PM peak)
8. Tucker Road at Red Apple Avenue/Tehachapi Boulevard (both AM and PM peak)
10. Tucker Road at Valley Boulevard (SR-202) (both AM and PM peak)
13. Mountain View Avenue at Tehachapi Boulevard (both AM and PM peak)
14. Mulberry Street at Tehachapi Boulevard (PM peak)
19. Green Street at Tehachapi Boulevard (PM peak)

The remaining 10 key study intersections are forecast to operate at acceptable levels of service during the AM and PM peak hours.

Roadway Segments: For the Year 2040 Without Project traffic conditions, eight of the 12 key study roadway segments are forecast to operate at unacceptable levels of service on a daily basis when compared to the City of Tehachapi and Kern County LOS standards. The roadway segments operating at adverse levels of service are:

1. Valley Blvd *between* Woodford Tehachapi Rd and Sage Ln
2. Valley Blvd *between* Sierra Vista Dr and Tucker Rd
3. Red Apple Ave *between* Reeves St and Tucker Rd
4. Tucker Rd *between* SR-58 EB Ramps and Red Apple Ave/Tehachapi Blvd
8. Valley Blvd *between* Weir St and Beech St
9. Valley Blvd *between* Mill St. and Curry St.
10. Tehachapi Blvd *between* Tucker Rd and Mountain View Ave

The remaining four key study roadway segments are forecast to operate at acceptable levels of service on daily basis.

When Phase 2 (Buildout) Project traffic volumes are added to the 12 key roadway segments, eight roadway segments are forecast to operate at unacceptable levels of service on a daily basis when compared to the City of Tehachapi and Kern County LOS standards. The roadway segments operating at adverse levels of service are:

1. Valley Blvd *between* Woodford Tehachapi Rd and Sage Ln
2. Valley Blvd *between* Sierra Vista Dr and Tucker Rd
3. Red Apple Ave *between* Reeves St and Tucker Rd
4. Tucker Rd *between* SR-58 EB Ramps and Red Apple Ave/Tehachapi Blvd
5. Tucker Rd *between* Red Apple Ave and Conway Ave
8. Valley Blvd *between* Weir St and Beech St
9. Valley Blvd *between* Mill St. and Curry St.
10. Tehachapi Blvd *between* Tucker Rd and Mountain View Ave

The remaining four key study roadway segments are forecast to operate at acceptable levels of service on daily basis.

Operations – Traffic Signal Warrant Analysis:

Existing Conditions Plus Phase 2: Although the unsignalized intersection of Tucker Road at SR-58 Eastbound Ramps has future traffic conditions that would exceed the volume of thresholds of Warrant #3, Part B for the PM peak hour, no traffic signal would be recommended at this location as recommended intersection improvements would offset the Project's impact at this location thereby negating the need for a traffic signal. However, this intersection is also under the jurisdiction of Caltrans, and the City cannot, therefore, guarantee recommended improvements are made to this intersection nor condition another agency or the Project Applicant to construct the recommended improvement. Therefore, impacts would be significant and unavoidable.

Although the unsignalized intersection of Tucker Road at SR-58 Eastbound Ramps has future traffic conditions that would exceed the volume of thresholds of Warrant #3, Parts A and B for the AM and/or PM peak hour, no traffic signal would be recommended at this location as recommended intersection improvements would offset the Project's impact at this location thereby negating the need for a traffic signal. However, this intersection is also under the jurisdiction of Caltrans, and the City cannot, therefore, guarantee recommended improvements are made to this intersection nor condition another agency or the Project Applicant to construct the recommended improvement. Therefore, impacts would be significant and unavoidable.

Year 2019 Conditions Plus Phase 1: The unsignalized intersections of Santa Lucia Street at Valley Boulevard and Westwood Boulevard at Red Apple Avenue under Year 2019 and Year 2019 With Project Phase I traffic conditions exceed the volume thresholds of Warrant #3, Parts A and B for the AM and/or PM peak hour and impacts would be significant. Therefore, a traffic signal at these 2 locations would be required. However, these intersections are located outside of the City's jurisdiction, and the City cannot, therefore, guarantee these traffic signals would be installed nor condition another agency or the Project Applicant to install the signals. Therefore, impacts would be significant and unavoidable.

Year 2040 Conditions Plus Phase 2: Although the unsignalized intersections of Tucker Road at SR-58 Eastbound Ramps and Mountain View Avenue at Tehachapi Boulevard have future traffic conditions that would exceed the volume of thresholds of Warrant #3, Parts A and B for the AM and/or PM peak hour, no traffic signal would be recommended at these locations as recommended intersection improvements would offset the Project's impact at these 2 locations thereby negating the need for a traffic signal. However, Tucker Road at SR-58 Eastbound Ramps is also under the jurisdiction of Caltrans, and the City cannot, therefore, guarantee recommended improvements are made to this intersection nor condition another agency or the Project Applicant to construct the recommended improvement. Therefore, impacts at this intersection would be significant and unavoidable.

The unsignalized intersections of Santa Lucia Street at Valley Boulevard, Westwood Boulevard at Red Apple Avenue, and Green Street at Tehachapi Boulevard have future traffic conditions that would exceed the volume thresholds of Warrant #3, Parts A and/or B for the AM and/or PM peak hour. Santa Lucia Street at Valley Boulevard and Westwood Boulevard at Red Apple Avenue are located outside of the City's jurisdiction, and the City cannot, therefore, guarantee recommended improvements are made to these intersections nor condition another agency or the Project Applicant to construct the recommended improvements. Therefore, impacts at these intersections would be significant and unavoidable.

Operations – Alternate Site Plan: The Alternate Site Plan would result in 1,332 fewer daily trips with 1 fewer AM peak hour trip (7 fewer trips inbound, 6 more trips outbound) and 80 fewer PM peak hour trips (38 fewer trips inbound, 42 fewer trips outbound) than the proposed Project. The Project would require the implementation of mitigation measures MM H-1 through MM H-4 (see below) to reduce potentially significant impacts to intersections within the City to a less than significant level; however, intersections outside of the City's jurisdiction in the vicinity of the Project would be significantly impacted in both phases of the Project and in both the existing and future conditions. The trip reduction under this

alternative would not avoid all significant impacts to intersections within and outside the City's jurisdiction. The alternative would also be subject to similar faire share fees commensurate to the impact as under the proposed Project.

(i) Mitigation Measures

The City finds that Mitigation Measures MM H-1, MM H-2, MM H-3, and MM H-4, which are incorporated into the Project including the Alternate Site Plan and incorporated into these findings as fully set forth herein, are included to further reduce the traffic impacts and reflect good planning and design practices currently promoted by the City. These mitigation measures were taken into account in the analysis of Project impacts including the Alternate Site Plan. With implementation of the mitigation measures, these traffic impacts would be reduced to a less than significant level. However, the City does not have exclusive jurisdiction over the affected intersections as some of the intersections are under the jurisdiction of Caltrans and Kern County. As the City of Tehachapi does not have jurisdiction over all of the affected intersections, neither the City nor the Project Applicant can guarantee that these improvements will be made within these other jurisdictions. As there are intersections that will operate at an unacceptable LOS with implementation of the Project or Alternate Site Plan, and the lead agency cannot condition all the recommended improvements be made to all intersections, impacts are considered significant and unavoidable.

(ii) Finding

The Project and Alternate Site Plan would result in significant and unavoidable impacts related to intersections as described above. Changes and alterations and mitigation measures, where available, have been required for or incorporated into the Project and Alternate Site Plan to reduce unavoidable traffic impacts to the greatest extent possible. There are no additional measures which the City can impose to reduce the unavoidable traffic impacts to less-than-significant levels.

(iii) Rationale for Findings

The Project and Alternate Site Plan would result in significant and unavoidable traffic-related impacts at several intersections as described above. With implementation of the mitigation measures, these traffic impacts would be reduced to a less than significant level. However, the City does not have exclusive jurisdiction over the affected intersections and neither the City nor the Project Applicant can guarantee that these improvements will be made within these other jurisdictions. As there are intersections that will operate at an unacceptable LOS with implementation of the Project or Alternate Site Plan, and the lead agency cannot condition all the recommended improvements be made to all

intersections, traffic impacts associated with the completed Project including the Alternate Site Plan would be significant and unavoidable.

2. Conflict with Congestion Management Program

The Project including the Alternate Site Plan would significantly impact five intersections along the SR-202, a CMP roadway, during the AM and PM peak hours under Existing Conditions With Phase 1 Project Traffic, Existing Conditions With Phase 2 (Buildout) Project Traffic, Year 2019 With Phase 1 Project Traffic and Year 2040 With Phase 2 (Buildout) Project Traffic.

Significant impacts to the ramp intersection at Tucker Road at SR-58 Eastbound Ramps would occur during the PM peak hour under Existing With Project Buildout Traffic Conditions, Year 2019 Cumulative With Project Phase I Traffic Conditions, and Year 2040 With Project Buildout Traffic Conditions. The Alternate Site Plan would generate less traffic than the proposed Project, but would not avoid all significant impacts to CMP intersections within and outside the City's jurisdiction.

(i) Mitigation Measures

The City finds that Mitigation Measures MM H-1, MM H-2, MM H-3, and MM H-4, which are incorporated into the Project including the Alternate Site Plan and incorporated into these findings as fully set forth herein, are included to further reduce the traffic impacts and reflect good planning and design practices currently promoted by the City. These mitigation measures were taken into account in the analysis of Project impacts including the Alternate Site Plan. With implementation of the mitigation measures, these traffic impacts would be reduced to a less than significant level. However, the City does not have exclusive jurisdiction over the affected intersections as some of the intersections are under the jurisdiction of Caltrans and Kern County. As the City of Tehachapi does not have jurisdiction over all of the affected intersections, neither the City nor the Project Applicant can guarantee that these improvements will be made within these other jurisdictions. As there are intersections that will operate at an unacceptable LOS with implementation of the Project or Alternate Site Plan, and the lead agency cannot condition all the recommended improvements be made to all intersections, impacts are considered significant and unavoidable.

(ii) Finding

The Project and Alternate Site Plan would result in significant and unavoidable impacts related to CMP intersections as described above. Changes and alterations and mitigation measures, where available, have been required for or incorporated into the Project and Alternate Site Plan to reduce unavoidable traffic impacts to

the greatest extent possible. There are no additional measures which the City can impose to reduce the unavoidable traffic impacts to less-than-significant levels.

(iii) Rationale for Findings

The Project and Alternate Site Plan would result in significant and unavoidable traffic-related impacts at several CMP intersections as described above. With implementation of the mitigation measures, these traffic impacts would be reduced to a less than significant level. However, the City does not have exclusive jurisdiction over the affected intersections and neither the City nor the Project Applicant can guarantee that these improvements will be made within these other jurisdictions. As there are CMP intersections that will operate at an unacceptable LOS with implementation of the Project or Alternate Site Plan, and the lead agency cannot condition all the recommended improvements be made to all intersections, traffic impacts associated with the completed Project including the Alternate Site Plan would be significant and unavoidable.

3. Reference

For a complete discussion of impacts associated with Transportation/Traffic, please see Section IV.H of the Draft EIR.

IX. ALTERNATIVES TO THE PROJECT

In addition to the Project, the EIR evaluated a reasonable range of three alternatives to the Project. These alternatives are: (1) No Project Alternative; (2) Reduced Density (Phase 1 Only) Alternative; and (3) Alternate Site Plan Alternative. In accordance with CEQA requirements, the alternatives to the Project include a “No Project” alternative and alternatives capable of eliminating the significant adverse impacts of the Project. These alternatives and their impacts, which are summarized below, are more fully described in Section VI of the Draft EIR.

A. Summary of Findings

Based upon the following analysis, the City finds, pursuant to CEQA Guidelines section 15096(g)(2), that one alternative, Alternate Site Plan (Alternative 3) analyzed in the EIR, is feasible and does lessen effects of the Project although the Alternate Site Plan does not avoid significant effects of the Project.

B. Project Objectives

An important consideration in the analysis of alternatives to the Project is the degree to which such alternatives would achieve the objectives of the Project. As more thoroughly described in the Draft EIR Section II, Project Description, both the City and applicant have

established specific objectives concerning the Project, which are incorporated by reference herein and discussed further below.

C. Project Alternatives Analyzed

1. Alternative 1 – No Project Alternative

Under the No Project Alternative, the Project would not be constructed, and the Project Site would remain in its current condition. The Project Site is mostly vacant with the exception of some sheds and out-buildings and some foundations of former buildings as well as two open water wells. The remaining and majority of the property consists of fallow agricultural land (i.e., grazed/hay production) primarily supporting ruderal herbaceous vegetation and ruderal grasslands. The site has been used for earth dumping, as observed by dirt piles, along the eastern and southeastern property boundaries and the dirt has been colonized with ruderal grasses, herbs and shrubs. The analysis of the No Project Alternative assumes the continuation of existing conditions, as well as development of the Related Projects described in Draft EIR Section III. Environmental Setting.

(i) Impact Summary

The No Project Alternative would result in fewer impacts on the existing environment, because it would not include any new development and associated air emissions or traffic trips. The Project would result in significant and unavoidable impacts to operational air quality and traffic. Comparatively, the No Project Alternative would avoid these significant and unavoidable Project-related impacts because no new development would occur on the Project Site.

(ii) Findings

The No Project Alternative would result in no impacts on the environment in most areas compared to the Project; however, beneficial water quality improvements would not be realized as under the Project. Therefore, the No Project Alternative is environmentally superior to the Project. However, the No Project Alternative does not satisfy any of the Project Objectives, discussed below. It is found, pursuant to Public Resources Code section 21081, subsection (a)(3), that specific economic, legal, social, technological, or other considerations, including considerations identified in Section XII of these Findings (Statement of Overriding Considerations), make infeasible the No Project Alternative described in the Draft EIR.

(iii) Rationale for Findings

The No Project Alternative maintains the Project Site in its current condition. As a result, the No Project Alternative does not result in the construction of an approximately 120,455-square-foot commercial retail center. As such, the No Project Alternative would not create the Project's community serving amenities, including retail/restaurant spaces. Therefore, the No Project Alternative would not create employment-generating opportunities, would not provide additional dining opportunities for the citizens of Tehachapi, and would not expand and provide new retail options, with updated, modern, and energy efficient buildings. Therefore, the No Project Alternative would not meet any of the Project Objectives.

(iv) Reference

For a complete discussion of impacts associated with Alternative 1, please see Section VI of the Draft EIR.

2. Alternative 2 – Reduced Density (Phase I Only)

Under Alternative 2, Reduced Density, only Phase 1 from the Project would be developed. The Reduced Density Alternative would only develop the proposed buildings along Tucker Road and would result in approximately 17,215 square feet of major retail space, which represents an approximately 82 percent decrease from the proposed Project, encompassed in one building; and approximately 7,500 square feet of shops (restaurant or fast food), which represents an approximately 59 percent decrease from the proposed Project, encompassed in one building. The same two pads for fast-food restaurants totaling approximately 8,140 square feet would be developed under the Reduced Density Alternative as under the Project. Accordingly, the provided amounts of parking would be reduced from 541 spaces under the Project to 121.5 spaces under the Reduced Density Alternative. Furthermore, the same construction schedule identified for Phase 1 would be applicable to the Reduced Density Alternative, which anticipates construction to commence and be completed in 2019.

(i) Impact Summary

The Reduced Density Alternative in most areas would result in lesser degrees of Project impacts due to the reduction in development at the Project Site with the exception of hydrology and water quality. Impacts to hydrology and water quality would be greater under the Reduced Density Alternative because this alternative would not provide the same degree of beneficial water quality improvements from decreasing and treating the storm water leaving the site and improving the

quality of surface runoff due to the lack of a larger cohesive drainage conveyance and treatment system as would be realized under the Project for the entire Project Site. However, these impacts would remain less than significant.

(ii) Findings

The Project would result in significant and unavoidable impacts to air quality from daily operational mobile source NO_x emissions generated during the completed Project by motor vehicles. Comparatively, the Reduced Density Alternative would avoid this significant and unavoidable Project-related impact from the 73 percent decrease in trips generated by the alternative. Since mobile source emissions (including criteria emissions and toxic air contaminants) are roughly proportional to trip generation, mobile source emissions would be reduced to a level that is less than significant. However, this alternative would not avoid resulting in a significant and unavoidable impact to intersections outside of the City's jurisdiction, albeit a lesser amount of intersections would be significantly impacted.

It is found, pursuant to Public Resources Code section 21081, subsection (a)(3), that specific economic, legal, social, technological, or other considerations, including considerations identified in Section XI of these Findings (Statement of Overriding Considerations), make infeasible the Reduced Density Alternative described in the Draft EIR.

(iii) Rationale for Findings

The Reduced Density Alternative would only develop Phase I of the Project.

The Reduced Density Alternative would avoid the significant and unavoidable air quality Project-related impacts from daily operational mobile source NO_x emissions with a 73 percent decrease in trips generated by the alternative. However, this alternative would not avoid this impact resulting in a significant and unavoidable impact to intersections outside of the City's jurisdiction, albeit a lesser amount of intersections would be significantly impacted.

The Reduced Density Alternative would not meet the following Project Objectives or not meet the objectives as fully as the Project: provide development that maximizes the property's use potential that is consistent with the City's General Plan land uses, zoning ordinance and in conformance with municipal standards, codes, and policies; maximize and broaden the City's sales tax base by providing local and regional tax-generating uses; and improve and maximize economic viability of the currently vacant and underutilized project site and area through the establishment of a new commercial center.

(iv) Reference

For a complete discussion of impacts associated with Alternative 1, please see Section VI of the Draft EIR.

3. Alternative 3 – Alternate Site Plan

Under the Alternate Site Plan Alternative, there would be an overall reduction in major retail space and shop pads, and an increase in fast-food restaurant pads as well as the replacement of the Major F pad (pharmacy with a drive-through pharmacy window) in the northeastern corner of the Project Site with a gas station with convenience market that includes a drive-through automated car wash. Development under this alternative would be phased similar to the proposed Project. The gas station with convenience market, and fast-food restaurant pads would be constructed in Phase 1. The major retail space would be constructed in Phase 2. This alternative would result in approximately 50,500 square feet of major retail space (an approximately 46 percent decrease from the proposed Project), approximately 10,975 square feet of fast-food restaurant pads (an approximately 35 percent increase from the proposed Project), no shop pads, and a 16-pump fuel island with an approximately 2,900-square-foot convenience market with drive-through automated car wash for a total of approximately 64,375 square feet of total retail floor area. In total, this alternative would result in an approximately 73 percent reduction in total retail floor area compared to the proposed Project. The proposed land uses under this alternative would require 178 parking stalls per the City's code requirements, and approximately 372 parking stalls would be provided by the alternative. Furthermore, the same construction schedule identified for the Project would be applicable to the Alternate Site Plan Alternative; however, construction of the Phase 2 development would likely be reduced overall due to the reduction in the area being developed.

(i) Impact Summary

The Alternate Site Plan Alternative in most areas would result in lesser degrees of Project impacts due to the reduction in total retail floor area with fewer buildings from fewer pads in Phase 2, and reduced building footprints from pads associated with Phase 1 development at the Project Site as well as a reduced in the total area to be developed. Specifically, in regards to aesthetics, air quality, biological resources, cultural resources and tribal cultural resources, GHG emissions, noise, and transportation/traffic, the Alternate Site Alternative would result in lesser degree of impact compared to the Project. The Alternate Site Plan Alternative would result in similar impacts as the proposed Project in regards to hydrology and water quality. The Alternate Site Plan Alternative would not avoid resulting

in the same significant impacts as the Project, but would lessen the degree of these impacts due to the approximately 73 percent reduction in total retail floor area, the approximately 19 percent reduction in vehicle trips, and the reduction in total area to be developed.

(ii) Findings

The Project would result in significant and unavoidable impacts to air quality from daily operational mobile source NO_x emissions generated during the completed Project by motor vehicles. Comparatively, the Alternate Site Plan Alternative would not avoid resulting in these significant impacts, but would lessen the degree of these impacts due to the approximately 73 percent reduction in total retail floor area, the approximately 19 percent reduction in vehicle trips, and the reduction in total area to be developed.

(iii) Rationale for Findings

Although the Alternate Site Plan Alternative would lessen the degree of the significant and unavoidable air quality Project-related impacts from daily operational mobile source NO_x emissions, the impact would remain significant and unavoidable.

The Alternate Site Plan Alternative would meet all of the Project Objectives. Therefore, the Alternate Site Plan Alternative would result in a similar level of impact while fulfilling the Project Objectives, but with a different mix of retail and restaurant space than the Project.

(iv) Reference

For a complete discussion of impacts associated with Alternative 1, please see Section VI of the Draft EIR.

D. Alternatives Rejected as Being Infeasible

In addition to the three alternatives listed above, another alternative was considered and rejected.

- Development of an alternate site. Three potential sites were explored in the Capital Hills area of the City, and two potential sites were explored in East Tehachapi. The Project applicant does not currently own or control any of the potential sites in the Capital Hills area or the East Tehachapi area, nor can the Project applicant reasonably acquire these sites. Furthermore, it should be noted that relocating the Project to an alternate site would not avoid or lessen the

Project's significant operational impact to air quality or the significant operational impact to transportation/traffic.

E. Environmentally Superior Alternative

Section 15126.6(e)(2) of the CEQA Guidelines indicates that an analysis of alternatives to a Project shall identify an environmentally superior alternative among the alternatives evaluated in an EIR. In addition, Section 15126.6(e)(2) of the CEQA Guidelines states that: "If the environmentally superior alternative is the 'no Project' alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives."

The selection of an environmentally superior alternative is based on an evaluation of the extent to which the alternatives reduce or eliminate the significant impacts associated with the Project, and on a comparison of the remaining environmental impacts of each alternative.

Of the alternatives evaluated, the No Project Alternative is considered the overall environmentally superior alternative as it would not include any new development, and thus, would not generate emissions affecting air quality and GHG, vehicle trips, noise, etc. However, the No Project Alternative would not meet any of the Project Objectives. In addition, without development of the Project at the Project Site, although most impacts are avoided under the No Project Alternative, the beneficial aspects of the Project, the increase in employment, providing retail opportunities, maximizing and broadening the City's sales tax base by providing local and regional tax-generating uses, and improving and maximizing economic viability of the currently vacant and underutilized project site and area through the establishment of a new commercial center, and the fulfillment of numerous regional and City plan and policy goals for the area would not occur.

Among the other alternatives, the environmentally superior alternative is Alternative 3 (Alternate Site Plan Alternative). Alternative 3 would result in a 73 percent reduction in total retail floor area, an approximately 19 percent reduction in vehicle trips, which would lessen the degree of impacts related to NO_x emissions. Although this impact would be reduced compared to the Project, the Alternate Site Plan Alternative would exceed EKAPCD's thresholds of significance, resulting in significant and unavoidable impacts to air quality from daily operational mobile source NO_x emissions generated during the operation of the Alternate Site Plan Alternative.

Alternative 3 would result in lesser degree of impact compared to the less-than-significant impacts of the Project in regard to aesthetics, air quality, biological resources, cultural resources and tribal cultural resources, GHG emissions, and noise. The Alternate Site Plan Alternative would generate less traffic than the proposed Project, the alternative would have the same, albeit to a lesser degree, or fewer significant traffic impacts than the Project during operation. The trip reduction under this alternative would not avoid all

significant impacts to intersections within and outside the City's jurisdiction. The Alternate Site Plan Alternative would result in similar, less-than-significant impacts as the proposed Project in regards to hydrology and water quality.

Alternative 3 would meet all of the Project Objectives, as follows:

- Provide development consistent with the City's General Plan land uses, zoning ordinance and in conformance with municipal standards, codes and policies;
- Provide development that maximizes the property's use potential that is consistent with the City's General Plan land uses, zoning ordinance and in conformance with municipal standards, codes, and policies;
- Maximize and broaden the City's sales tax base by providing local and regional tax-generating uses;
- Improve and maximize economic viability of the currently vacant and underutilized project site and area through the establishment of a new commercial center;
- Create additional employment-generating opportunities for the citizens of Tehachapi and surrounding communities;
- Provide additional dining opportunities for the citizens of Tehachapi and surrounding communities;
- Expand and provide new retail options, with updated, modern, and energy efficient buildings, in close proximity to local consumers by providing daytime and nighttime shopping opportunities in a safe and secure environment; and
- Provide (where necessary) adequate infrastructure and public amenities.

X. OTHER CEQA CONSIDERATIONS

A. Growth Inducing Impacts

The Project including the Alternate Site Plan would generate new full- and part-time jobs to the area. This increased employee population would patronize local businesses and services in the area, and would foster economic growth. The potential concentration of employment in this area of the City that would occur under the Project including the Alternate Site Plan would be consistent with the Tehachapi General Plan's vision and policies discussed in Section VII of the Draft EIR [Effects Not Found to be Significant, Land Use]). The General Plan, Town Form Element, envisioned the Project Site as I/R, Infill/Regeneration, which defines areas to be targeted for infill development. Further, the Project Site is located within General Plan planning subarea 2, Tucker Road Corridor, which is characterized as a center for regional services and goods. Furthermore, the Project Site is zoned C-3 General Commercial which establishes the widest range of retail

commercial activities, including regional shopping centers and heavy commercial use. Therefore, as the Project including the Alternate Site Plan conforms to the General Plan for uses identified for the Project Site and does not conflict with the zoning ordinance designation for the site implementation of the Project including the Alternate Site Plan would realize infill development for the Project Site as envisioned by the planning document and zoning ordinance. The Project including the Alternate Site Plan would foster economic growth and revitalize an area by adding businesses to the Project Site. The employees associated with the Project including the Alternate Site Plan could, in turn, patronize existing local businesses and services in the area. The projected employment growth would not cause growth (i.e., new housing or employment generators) or accelerate development in an undeveloped area that exceeds projected/planned levels, and that would result in an adverse physical change in the environment, or introduce unplanned infrastructure (see Section VII of the Draft EIR [Effects Not Found to be Significant, Population and Housing]). Therefore, projected employment growth associated with the Project including the Alternate Site Plan would be less than significant.

Finally, due to the Project's proposed land uses and location including the Alternate Site Plan, the Project including the Alternate Site Plan would not provide for the removal of an impediment to growth (e.g., establishment of an essential public service or the provision of new access to an area) or development of or encroachment on an isolated or adjacent area of open space (being distinct from an "infill" type of project). The Project including the Alternate Site Plan would not provide a public service or access to a new area or encroach on open space, and the Project including the Alternate Site Plan would be located on an already developed site that is urban and served by existing roadways. Thus, no removal of impediments to growth or encroachments on open space would occur.

B. Significant Irreversible Environmental Changes

Section 15126.2(c) of the CEQA Guidelines provide that an EIR is required to address any significant irreversible environmental changes that would occur should the proposed Project including the Alternate Site Plan be implemented. The types and level of development associated with the Project including the Alternate Site Plan would consume limited, slowly renewable, and non-renewable resources. This consumption would occur during construction of the Project including the Alternate Site Plan and would continue throughout its operational lifetime. The development of the Project including the Alternate Site Plan would require a commitment of resources that would include (1) building materials, (2) fuel and operational materials/resources, and (3) the transportation of goods and people to and from the Project Site.

Construction of the Project including the Alternate Site Plan would require consumption of resources that are not replenishable or that may renew so slowly as to be considered non-renewable. These resources would include certain types of lumber and other forest

products, aggregate materials used in concrete and asphalt (e.g., sand, gravel and stone), metals (e.g., steel, copper and lead), petrochemical construction materials (e.g., plastics), and water. Fossil fuels, such as gasoline and oil, would also be consumed in the use of construction vehicles and equipment. The consumption of these resources would be spread out through the construction period.

The commitment of resources required for the type and level of proposed development would limit the availability of these resources for future generations for other uses during the operation of the Project including the Alternate Site Plan. However, this resource consumption would be consistent with growth and anticipated change in the Tehachapi area.

C. CEQA Considerations

1. The City, acting through Development Services of the Planning Department is the “Lead Agency” for the Project including the Alternate Site Plan evaluated the EIR. The City finds that the EIR was prepared in compliance with CEQA and the CEQA Guidelines. The City finds that it has independently reviewed and analyzed the EIR for the Project including the Alternate Site Plan, that the Draft EIR which was circulated for public review reflected its independent judgment and that the Final EIR reflects the independent judgment of the City.
2. The EIR evaluated the following potential Project and cumulative environmental impacts: Aesthetics; Air Quality; Biological Resources; Cultural and Tribal Cultural Resources; Greenhouse Gas Emissions; Hydrology and Water Quality; Noise; and Transportation/Traffic. Additionally, the EIR considered Growth Inducing Impacts and Significant Irreversible Environmental Changes. The significant environmental impacts of the Project and the alternatives were identified in the EIR.
3. The City finds that the EIR provides objective information to assist the decisions makers and the public at large in their consideration of the environmental consequences of the Project including the Alternate Site Plan. The public review period provided all interested jurisdictions, agencies, private organizations, and individuals the opportunity to submit comments regarding the Draft EIR. The Final EIR was prepared after the review period and responds to comments made during the public review period.
4. The City of Tehachapi, Development Services, Planning Department evaluated comments on environmental issues received from persons who reviewed the Draft EIR. In accordance with CEQA, the Department of City Planning prepared written responses describing the disposition of significant environmental issues raised. The Final EIR provides adequate, good faith and reasoned response to the comments. The City reviewed the comments received and responses thereto and

has determined that neither the comments received nor the responses to such comments add significant new information regarding environmental impacts to the Draft EIR. The Lead Agency has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these findings, concerning the environmental impacts identified and analyzed in the EIR.

5. The Final EIR documents changes to the Draft EIR. Having reviewed the information contained in the Draft EIR and the Final EIR and in the administrative record, as well as the requirements of CEQA and the CEQA Guidelines regarding recirculation of Draft EIRs, the City finds that there is no new significant impacts, substantial increase in the severity of a previously disclosed impact, significant information in the record of proceedings or other criteria under CEQA that would require recirculation of the Draft EIR, or preparation of a supplemental or subsequent EIR.

Specifically, the City finds that:

- a. The Responses To Comments contained in the Final EIR fully considered and responded to comments claiming that the Project would have significant impacts or more severe impacts not disclosed in the Draft EIR and include substantial evidence that none of these comments provided substantial evidence that the Project would result in changed circumstances, significant new information, considerably different mitigation measures, or new or more severe significant impacts than were discussed in the Draft EIR.
 - b. The City has thoroughly reviewed the public comments received regarding the Project and the Final EIR as it relates to the Project to determine whether under the requirements of CEQA, any of the public comments provide substantial evidence that would require recirculation of the EIR prior to its adoption and has determined that recirculation of the EIR is not required.
 - c. None of the information submitted after publication of the Final EIR, including testimony at the public hearings on the Project, constitutes significant new information or otherwise requires preparation of a supplemental or subsequent EIR. The City does not find this information and testimony to be credible evidence of a significant impact, a substantial increase in the severity of an impact disclosed in the Final EIR, or a feasible mitigation measure or alternative not included in the Final EIR.
6. The mitigation measures identified for the Project were included in the Draft EIR and Final EIR. As revised, the final mitigation measures for the Project are described in the Mitigation Monitoring and Reporting Program (MMRP). Each of the mitigation measures identified in the MMRP is incorporated into the Project

including the Alternate Site Plan. The City finds that the impacts of the Project including the Alternate Site Plan have been mitigated to the extent feasible by the mitigation measures identified in the MMRP.

7. CEQA requires the Lead Agency approving a Project including the Alternate Site Plan to adopt a MMRP or the changes to the Project including the Alternate Site Plan that it has adopted or made a condition of approval in order to ensure compliance with the mitigation measures during Project implementation including the Alternate Site Plan. The mitigation measures included in the EIR as certified by the City, and adopted by the City, serve that function. The MMRP includes all of the mitigation measures adopted by the City in connection with approval and ensures compliance with such measures during implementation of the Project including the Alternate Site Plan. In accordance with CEQA, the MMRP provides the means to ensure that the mitigation measures are fully enforceable. In accordance with the requirements of Public Resources Code Section 21081.6, the City hereby adopts the MMRP.
8. In accordance with the requirements of Public Resources Section 21081.6, the City hereby adopts each of the mitigation measures expressly set forth herein as conditions of approval for the Project including the Alternate Site Plan.
9. The custodian of the documents or other material which constitute the record of proceedings upon which the City's decision is based is the City of Tehachapi, Development Services, Planning Department.
10. The City finds and declares that substantial evidence for each and every finding made herein is contained in the EIR, which is incorporated herein by this reference, or is in the record of proceedings in the matter.
11. The City is certifying an EIR for, and is approving and adopting findings for, the entirety of the actions described in these Findings and in the EIR as comprising the Project including the Alternate Site Plan.
12. The EIR is a Project EIR for purposes of environmental analysis of the Project including the Alternate Site Plan. A Project EIR examines the environmental effects of a specific project. The EIR serves as the primary environmental compliance document for entitlement decisions regarding the Project including the Alternate Site Plan by the City and other regulatory jurisdictions.
13. The City finds that none of the public comments to the Draft EIR or subsequent public comments or other evidence in the record, include or constitute substantial evidence that would require recirculation of the Final EIR prior to its certification and that there is no substantial evidence elsewhere in the record of proceedings that would require substantial revision of the Final EIR prior to its certification, and that the Final EIR need not be recirculated prior to its certification.

XI. STATEMENT OF OVERRIDING CONSIDERATIONS

As described in Section I through VIII of these CEQA Findings of Fact, the City has considered all potentially feasible mitigation measures to substantially lessen or avoid the Project's significant and unavoidable impacts including the Alternate Site Plan. Where feasible, mitigation measures have been adopted as part of the Project, which by extension are applicable to the Alternate Site Plan. As discussed in Section VIII, the imposition of these measures will reduce all impacts to a less than significant level, with the exception of the identified Air Quality (daily operational mobile source NO_x emissions generated during the completed Project by motor vehicles), and Transportation/Traffic (operational impacts to intersections outside the City's jurisdiction during both phases of development and in both the existing and future conditions) impacts. The City finds that it is not feasible to fully mitigate these Project impacts including the Alternate Site Plan.

Section 21081 of the California Public Resources Code and Section 15093(b) of the CEQA Guidelines provide that when the decisions of the public agency allows the occurrence of significant impacts identified in the EIR that are not substantially lessened or avoided, the lead agency must state in writing the reasons to support its action based on the EIR and/or other information in the record. Article I of the City's CEQA Guidelines incorporates all of the State CEQA Guidelines contained in Title 15, California Code of Regulations, Sections 15000 et seq. and thereby requires, pursuant to Section 15093 (b) of the CEQA Guidelines, that the decision maker adopt a Statement of Overriding Considerations at the time of approval of a project if it finds that significant adverse environmental effects identified in the Final EIR cannot be substantially lessened or avoided. These findings and the Statement of Overriding Considerations are based on substantial evidence in the record, including but not limited to the EIR, the source references in the EIR, and other documents and material that constitute the record of proceedings.

After review of the entire administrative record, including, but not limited to, the EIR, the City finds that specific economic, social, region-wide environmental benefits, and other anticipated benefits of the Project (identified below) including the Alternate Site Plan outweigh the significant and unavoidable impacts and therefore, justify the approval. These benefits, goals, and objectives of the Project provide the rationale for approval of the proposed Project including the Alternate Site Plan. Any one of the overriding considerations of economic, social, aesthetic and environmental benefits individually would be sufficient to outweigh the significant unavoidable impacts of the Project including the Alternate Site Plan and justify the approval, adoption or issuance of all of the required permits, approvals and other entitlements for the Project including the Alternate Site Plan and the certification of the completed EIR. Despite the unavoidable air quality and transportation/traffic impacts caused by operation of the Project including the Alternate Site Plan, the City approves the Project including the Alternate the Site Plan based on the following contributions of the Project to the community:

1. Implementation of the Project including the Alternate Site Plan will result in the redevelopment of a currently underutilized site, currently mostly vacant with the

exception of sheds, out-buildings and some foundations of former buildings as well as two open water wells, into a cohesive, internally integrated, retail center development.

2. Implementation of the Project including the Alternate Site Plan will provide restaurant and retail uses along Tucker Road Corridor, characterized by the General Plan as a center for regional services and goods.
3. Implementation of the Project including the Alternate Site Plan will be consistent with the General Plan and the zoning ordinance designation for the site. Implementation of the Project including the Alternate Site Plan would realize infill development for the Project Site as envisioned by the planning document and zoning ordinance.
4. Implementation of the Project including the Alternate Site Plan will generate community benefits by maximizing land use opportunities and providing a vibrant and dynamic retail center.
5. Implementation of the Project including the Alternate Site Plan will maximize the development potential of the Project Site through high-quality design that ensures a unified and cohesive development that will (i) improve the aesthetic quality of the Project Site, and (ii) will provide new, efficient buildings that are sensitive to, and enhance, adjacent and nearby uses.
6. Implementation of the Project including the Alternate Site Plan will incorporate various sustainability measures and features to enhance air quality, energy efficiency, and water efficiency compliant with the California Green Building Standards and the California Energy Code/Title 24 requirements.
7. Implementation of the Project including the Alternate Site Plan will generate a broad range of both construction and permanent jobs.
8. Implementation of the Project including the Alternate Site Plan will provide the City with needed improvements and upgrades to utility and transportation infrastructure where feasible, including, but not limited to, restriping of Tehachapi Boulevard and installation of a traffic signal at Green Street and Tehachapi Boulevard (MM A-1 and MM H-1 through MM H-4).

Finding:

For all any and all of the foregoing reasons, the City finds that the benefits of the Project including the Alternate Site Plan, as approved, outweigh and override the significant and unavoidable impacts identified above. Accordingly, the City adopts the following Statement of Overriding Considerations. The City recognizes that significant and unavoidable impacts will result from

implementation of the Project including the Alternate Site Plan. Having (i) adopted all feasible mitigation measures, (ii) rejected as infeasible alternatives to the Project, (iii) recognized all significant, unavoidable impacts, and (iv) balanced the benefits of the Project including the Alternate Site Plan against the Project's significant and unavoidable impacts including the Alternate Site Plan, the City hereby finds that each of the Project's benefits including the Alternate Site Plan, as listed above, outweighs and overrides the significant unavoidable impacts of the Project including the Alternate Site Plan.