

# Memorandum

**To:** CHAIR AND COMMISSIONERS

**Date:** June 10, 2010

**From:** BIMLA G. RHINEHART  
Executive Director

**File:** Book Item 2.2c (15)  
Action

**Ref:** **Final Environmental Impact Report for the Highland Fairview Corporate Park (Resolution E-10-56)**

**ISSUE:** Should the Commission, as a Responsible Agency, accept the Final Environmental Impact Report (FEIR), Findings of Fact and Statement of Overriding Considerations for the Highland Fairview Corporate Park (project) in Riverside County and approve the project for future consideration of funding?

**RECOMMENDATION:** Staff recommends that the Commission accept the FEIR, Findings of Fact and Statement of Overriding Considerations and approve the project for future consideration of funding.

**BACKGROUND:** The City of Moreno Valley (City) is the CEQA lead agency for the project. The project includes a tentative parcel map to subdivide a 158 gross acre site (265.3 acres including offsite improvements and drainage) into four buildable parcels and two primary parcels dedicated for freeway improvement purposes.

The Eucalyptus Avenue Project is an element of the overall project and is programmed in the Proposition 1B State and Local Partnership Program (SLPP). The Eucalyptus Avenue Project includes the construction of two full travel lanes, raised landscaped median, a landscaped parkway, sidewalk and public access improvements between Redlands Blvd and Theodore Avenue on Eucalyptus Avenue.

The City Council certified the FEIR on February 10, 2009 and adopted Findings, a Statement of Overriding Considerations and a Mitigation Monitoring Program for the project. Impacts related to aesthetics, agriculture, air quality, noise as well as climate change and greenhouse gas emissions are considered significant and unavoidable. The City Council determined that the benefits of the project outweigh these impacts.

The Eucalyptus Avenue Project is estimated to cost \$6,265,915 and is programmed with SLPP (\$1,000,000) and Local (\$5,265,915) funds. Construction is estimated to begin in fiscal year 2009/10. On June 1, 2010 the City provided written confirmation that the preferred alternative set forth in the final environmental document is consistent with the project scope of work programmed by the Commission in the SLPP and included in the Regional Transportation Plan.

#### Attachments

- Resolution E-10-56
- Statement of Overriding Considerations
- Project Location

**CALIFORNIA TRANSPORTATION COMMISSION**

**Resolution for Future Consideration of Future Funding  
08 – Riverside County  
Resolution E-10-56**

- 1.1 WHEREAS**, the City of Moreno Valley (City) has completed a Final Environmental Impact Report pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines for the following project:
- Highland Fairview Corporate Park
- 1.2 WHEREAS**, the City has certified that the Final Environmental Impact Report has been completed pursuant to CEQA and the State CEQA Guidelines for its implementation; and
- 1.3 WHEREAS**, the project includes a tentative parcel map to subdivide a 158 gross acre site into four buildable parcels and two primary parcels dedicated for freeway improvement purposes; and
- 1.4 WHEREAS**, the California Transportation Commission, as a Responsible Agency, has considered the information contained in the Final Environmental Impact Report; and
- 1.5 WHEREAS**, Findings of Fact made pursuant to CEQA guidelines indicate that specific unavoidable significant impacts related to aesthetics, agriculture, air quality, noise, climate change and greenhouse gas emissions make it infeasible to avoid or fully mitigate to a less than significant level the effects associated with the project; and
- 1.6 WHEREAS**, the City adopted a Statement of Overriding Considerations for the project; and
- 1.7 WHEREAS**, the City adopted a Mitigation Monitoring Program for the project; and
- 1.8 WHEREAS**, the above significant effects are acceptable when balanced against the facts as set forth in the Statement of Overriding Considerations.
- 2.1 NOW, THEREFORE, BE IT RESOLVED** that the California Transportation Commission does hereby accept the Final Environmental Impact Report, Findings of Fact and Statement of Overriding Considerations and approve the above referenced project to allow for future consideration of funding.

*Excerpt From:*

RESOLUTION NO. 2009-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (P07-157), ADOPTION OF THE FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVAL OF THE MITIGATION MONITORING PROGRAM FOR THE HIGHLAND FAIRVIEW CORPORATE PARK PROJECT, GENERALLY LOCATED ADJACENT TO AND SOUTH OF HIGHWAY 60 ALONG FUTURE EUCALYPTUS AVENUE (FIR AVENUE) BETWEEN REDLANDS BOULEVARD AND THEODORE STREET

WHEREAS, on February 3, 2009, the City Council of the City of Moreno Valley held a public hearing to consider the proposed project, which includes a tentative parcel map to subdivide a 158 gross acre site (265.3 acres including offsite improvements and drainage) into four buildable parcels and two primary parcels dedicated for freeway improvement purposes (thirteen parcels overall to include lettered lots for public access and dedication) with a first phase plot plan for an approximately 1,820,000 square foot warehouse industrial building on approximately 83 acres, and a total of approximately 2,620,000 square foot of building for all phases of development. The project also includes related offsite improvements and drainage. The project site currently lies within the BP (Business Park) and CC (Community Commercial) land use districts and will require a change of zone to LI (Light Industrial) to allow the proposed industrial structures and a General Plan Amendment to move a planned multi-use trail from the south side to the north side of future Eucalyptus Avenue (Fir Avenue), eliminate a planned multi-use trail along the Sinclair Street alignment over Highway 60, and the adjustment of parcel lines and land use for two parcels located in the CC land use district, and to consider all environmental documentation;

WHEREAS, the project includes applications for a Change of Zone (PA07-0088), General Plan Amendment (PA07-0089), phasing (P08-057) tentative parcel map (PA07-0090) and a plot plan (PA07-0091). All are related but will be included in separate resolutions with individual findings and shall not be approved unless the Environmental Impact Report (P07-157) is certified and approved.

WHEREAS, a Draft Environmental Impact Report (DEIR) was initially prepared for this project. Said DEIR was initially circulated for review on August 5, 2008, while the review period ended on September 19, 2008. A Final EIR, (including the Draft EIR dated August 4, 2008, and responses to comments), has been completed and is being recommended for certification, prior to the approval of discretionary permits related to the project.

WHEREAS, on January 8, 2009, the Planning Commission conducted a public

hearing to consider the proposed project, or the Highland Fairview Corporate Park project consisting of a tentative parcel map to subdivide a 158 gross acre portion of land into four (4) separate buildable parcels and two primary parcels dedicated for freeway improvement purposes (thirteen parcels overall to include lettered lots for public access and dedication purposes.), and a first phase plot plan for an approximately 1,820,000 square foot warehouse industrial building on approximately 83 acres and a total of approximately 2,620,000 square foot of building for all phases of development, and a related Change of Zone and General Plan Amendment, and to consider environmental documentation in its final form;

WHEREAS, on January 15, 2009, the Planning Commission conducted a continued public meeting and forwarded the project to the City Council for consideration;

WHEREAS on February 3, 2009 and February 10, 2009, the City Council reviewed in full the Final EIR, the Statement of Overriding Considerations and Mitigation Monitoring Program;

WHEREAS, the draft and final EIR concerning the proposed Highland Fairview Corporate Park Project were prepared in sufficient detail and duly circulated in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the City of Moreno Valley Rules and Procedures to Implement CEQA;

WHEREAS, the comment period for the draft Environmental Impact Report (EIR) for the Highland Fairview Corporate Park Project began on August 5, 2008, while said document was circulated for a 45 day period to the public and to responsible agencies for comments, concluding on September 19, 2008;

WHEREAS, on December 19, 2008, the City published a Notice of Availability in the local newspaper (Press Enterprise), posted the Notice of Availability at the Riverside County Clerk's office, and distributed copies of the draft Final EIR to the State Clearinghouse, local agencies and other interested parties;

WHEREAS, since August 5, 2008, copies of the draft EIR have been made available to the public at the City's offices, on the City's website and at the City's public library;

WHEREAS, the final public comment period closed on September 19, 2008, and the City has prepared responses, which have been included in the Final EIR, to all comments received by that date and through the month of October;

WHEREAS, the Final EIR recommended to the City Council includes all responses to comments thereon;

WHEREAS, the final EIR includes a review of potential impacts associated with the implementation of the Highland Fairview Corporate Park Project, including, but not limited to land use, traffic and circulation, air quality, noise and aesthetics, light and glare. A

statement of overriding considerations is provided for environmental impacts related to aesthetics, agriculture, air quality, noise as well as climate change and greenhouse gas emissions;

WHEREAS, a Mitigation Monitoring Program has been completed to ensure that all of the mitigation measures outlined in the final EIR are implemented, and

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

NOW, THEREFORE, the City Council of the City of Moreno Valley does hereby resolve as follows:

1. The Planning Commission hereby recommends that the City Council certify that the final Environmental Impact Report (EIR) for the Highland Fairview Corporate Park Project on file with the Community and Development Department, incorporated herein by this reference, has been completed in compliance with the California Environmental Quality Act, that the Planning Commission reviewed and considered the information contained in the final EIR and that the final EIR reflects the City's independent judgment and analysis; and
2. The Planning Commission recommends that the City Council hereby adopt the Findings and Statement of Overriding Considerations regarding the final EIR for the Highland Fairview Corporate Park Project, attached hereto as Exhibit A; and
3. The Planning Commission recommends that the City Council hereby approve the Mitigation Monitoring Program for the final EIR for the proposed Highland Fairview Corporate Park project, attached hereto as Exhibit B.

APPROVED AND ADOPTED this 10th day of February, 2009.

SIGNATURE PAGE FOLLOWS.

  
Mayor

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
City Attorney

**RESOLUTION JURAT**

STATE OF CALIFORNIA     )  
COUNTY OF RIVERSIDE    ) ss.  
CITY OF MORENO VALLEY    )

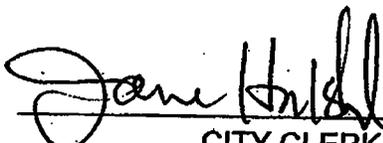
I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2009-08 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 10th day of February, 2009 by the following vote:

**AYES:**       Council Members Batey, Hastings, Molina, Mayor Pro Tem Flickinger and Mayor Stewart

**NOES:**       None

**ABSENT:**    None

**ABSTAIN:**   None

  
\_\_\_\_\_  
CITY CLERK

(SEAL)

**Resolution No. 2009-08  
Date Adopted: February 10, 2009**

**Facts, Findings and Statement of Overriding Considerations  
Regarding the Environmental Effects of the Approval of the  
Highland Fairview Corporate Park Project  
(State Clearinghouse No. 2007101132)**

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**I. INTRODUCTION**

The City Council of Moreno Valley (the "Council") in approving the Highland Fairview Corporate Park project (the "Project"), makes the Findings described below and adopts the Statement of Overriding Considerations presented at the end of the Findings. The Findings are based upon the entire record before the Council, as described in Section III below, including the Environmental Impact Report ("EIR") prepared for the Project by the City, acting as the lead agency under the California Environmental Quality Act ("CEQA").

**II. PROJECT SUMMARY**

**A. PROJECT DESCRIPTION**

The Project consists of the development of a corporate park in three phases comprising a 1,820,000 square foot ("sf") logistics (i.e., warehouse and distribution) building, which will be leased to Skechers, and 80,000 sf of commercial facilities in Phase 1; a second 600,000 sf logistics building in Phase 2; and 120,000 sf of commercial facilities in Phase 3. The Project will affect three different areas which, together, will contain approximately 265 acres: the Project Site which will contain approximately 125 acres which will be developed and approximately 33 acres which will be dedicated or improved for various improvements and utility extensions; and approximately 23 acres, located south of the Project Site, which will be used for drainage purposes in connection with the development of the Project Site. The Project Site is bounded on the north by State Route 60 ("SR-60"), on the east by Theodore Street, on the south by future Eucalyptus Avenue (approximately on the current alignment of Fir Avenue) and on the west by Redlands Boulevard.

The eastern and western portions of the Project Site are currently designated for Commercial uses in the City's General Plan and are zoned for Community Commercial uses. The center of the Project Site is designated for Business Park/Light Industrial use in the General Plan and is zoned for Business Park uses. The development of the Project requires a General Plan amendment to increase the commercial area on the western portion of the Project Site, to reduce the commercial area on the eastern portion of the Project Site, to amend the City's Master Plan of Trails and to amend the Circulation Element of its General Plan to make future Eucalyptus Avenue a four lane divided arterial street with a median; a zone change to reflect the changes in the areas designated for Commercial and Business Park uses; a change in the zoning in the center of the

Project Site from Business Park to Light Industrial; a tentative parcel map to create four parcels on which development will occur, three parcels which will be used for SR-60 improvements and six parcels which will serve as common areas; the approval of the Plot Plan for the development planned for Parcel 1; the approval of alternate work hours during the construction period; and future discretionary approvals needed to complete the development of the Project.

## **B. PROJECT OBJECTIVES**

The objectives for the Project are to:

1. Perform construction in an accelerated manner in order to meet Skechers' occupancy needs;
2. Provide additional employment opportunities;
3. Provide logistic facilities in a single building containing at least 1,800,000 sf to allow for the consolidation of several existing Skechers' logistics facilities into one;
4. Plan for, and entitle, the Project Site to allow for the possibility of adding another building containing up to 600,000 sf to account for future growth in the need for logistics facilities;
5. Provide logistics facilities on land with immediate access to State Route-60 to minimize the use of City streets;
6. Provide the City with new jobs and revenues from the construction and operation of the logistics facilities;
7. Construct the logistics facilities in a manner that maximizes the use of green technology; and
8. Develop the Project Site to ensure an adequate rate of return on the Project applicant's investment.

## **III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION**

The City has conducted an extensive environmental review of the Project to ensure that both the City's decision makers and the public are fully informed about potential significant environmental effects of the Project; to identify ways that environmental damage can be avoided or significantly reduced; to prevent significant, avoidable damage to the environment by requiring changes in the Project through the use of mitigation measures which have been found to be feasible; and to disclose to the public the reasons why the City has approved the Project in the manner chosen in light of the significant

environmental effects which have been identified in the EIR. In order to do this, the City, as the lead agency under CEQA, has done all of the following:

1. Prepared and distributed an Initial Study/Notice of Preparation, dated October 29, 2007, a copy of which was circulated the following day through the State Clearinghouse to various state agencies for their comments;
2. Sent the Initial Study/Notice of Preparation, which contained the notice of a scoping meeting to be held on November 26, 2007, to each of the governmental agencies, organizations and individuals shown on the distribution list for the Notice of Preparation/Initial Study, Appendix A to the Draft EIR, on October 29, 2007;
3. Held a public scoping meeting on November 26, 2007, to solicit comments from the public on what should be analyzed in the EIR;
4. Sent a Notice of Completion and a copy of the Draft EIR to the State Clearinghouse on August 4, 2008;
5. Filed a Notice of Availability with the Clerk of the Riverside County Board of Supervisors on August 4, 2008, informing the public that the Draft EIR was available for public review for a 45 day period beginning on August 6, 2008, and ending on September 19, 2008;
6. Mailed the Notice of Availability to all organizations and individuals who had previously requested the Notice on August 4, 2008;
7. Mailed the Notice of Availability to all residents and property owners within 300 feet of the Project Site on August 4, 2008;
8. Provided copies of the Draft EIR to 132 public agencies, organizations and individuals on August 4, 2008;
9. Placed copies of the Draft EIR on the City's website, at the City's Planning Department's public counter and at the public library located at 25480 Alessandro Boulevard on August 4, 2008;
10. Published the Notice of Availability on August 8, 2008, in the Press Enterprise, which is the newspaper of general circulation which has the largest circulation in the areas affected by the Project;
11. Prepared responses to comments on the Draft EIR received during and after the 45 day comment period on the Draft EIR, which have been included in the Final EIR;

12. Published a Notice on December 19, 2008, in the Press Enterprise, a newspaper of general circulation which has the largest circulation in the areas affected by the Project, that the City's Planning Commission would hold a public hearing on January 8, 2009, to consider the Final EIR and the Project in order to provide recommendations to the Council;
13. Sent copies of the Final EIR on December 19, 2008, to all public agencies, organizations and individuals who had submitted comments;
14. Held a public hearing of the City's Planning Commission to consider the adequacy of the Final EIR on January \_\_, 2009, and, at the conclusion of the hearing, recommended that the Council certify that the Final EIR had been prepared in full compliance with CEQA;
15. Published a notice on January \_\_, 2009, in the Press Enterprise, a newspaper of general circulation which has the largest circulation in the areas affected by the Project, that the Council would hold a public hearing on January \_\_, 2009, to consider certification of the Final EIR as having been prepared in compliance with CEQA and the approval of the Project;
16. Mailed notice of the Council's hearing to all residents and property owners within 300 feet of the Project Site on January \_\_, 2009;
17. Sent notice of the Council's hearing to all organizations and individuals who had previously requested notification of anything having to do with the Project on January \_\_, 2009; and
18. Held a public hearing of the Council on January \_\_, 2009, and, after full consideration of all comments, written and oral, certified that the Final EIR had been completed in compliance with CEQA and approval of the Project.

All of the documents identified above and all of the documents which are required to be part of the record pursuant to Public Resources Code § 21167.6(e) are on file with the City's Community Development Department, Planning Division, located at 14177 Frederick Street, Moreno Valley, CA 92552-0805. Questions should be directed to Mark Gross, AICP, Senior Planner, in the Division.

#### A. INDEPENDENT JUDGMENT FINDING

**Finding:** The Final EIR for the Project reflects the City's and the Council's independent judgment and analysis.

**Factual Basis for the Finding:** The EIR was prepared by Michael Brandman Associates, an independent consulting firm, under the supervision and direction of Planning Division staff of

the City's Community Development Department and was thoroughly reviewed by the Chambers Group, an expert consultant hired by the City to provide independent peer review and assure the exercise of thorough and independent review and judgment by the City. The Council, as the City's final decision making body for the Project, received and reviewed the Final EIR and the comments, both written and oral, provided by public agencies and members of the public prior to certifying that the Final EIR complied with CEQA. The participation of City Staff in selection and approval of Michael Brandman Associates as the EIR Consultant, the professional qualifications and reputation of the EIR Consultant, the supervision and direction of the EIR Consultant by the City Staff, the thorough and independent review of the Draft and Final EIRs, including comments and responses to comments, by both the City Staff and the Chambers Group and the review and careful consideration by the City Council of the Final EIR, comments and responses to comments all conclusively show that the Final EIR is the product of and reflects the independent judgment and analysis of the City as the Lead Agency, and of the City Council as its governing body.

**B. FINDING OF THE ABSENCE OF ANY NEED TO RECIRCULATE THE FINAL EIR**

**Finding:** The Council finds that the Final EIR does not add significant new information to the Draft EIR that would require recirculation of the Project EIR.

**Factual Basis for the Finding:** The Council recognizes that the Final EIR incorporates information obtained and produced after the Draft EIR was completed and that the Final EIR contains additions, clarifications and minor modifications to the Draft EIR. The Council has reviewed and considered the Final EIR and all of the information contained in it and has determined that the new information added to the Final EIR does not involve a new significant environmental impact, a substantial increase in the severity of an environmental impact nor a feasible

mitigation measure or an alternative considerably different from others previously analyzed that the Project applicant declined to adopt and that would clearly lessen the significant environmental impacts of the Project. No information provided to the Council indicates that the Draft EIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR.

### C. GENERAL TREATMENT OF MITIGATION MEASURES

It is the Council's intention to adopt all mitigation measures recommended by the Final EIR. If a measure has been omitted from the Conditions of Approval, from the Findings or from the Mitigation Monitoring Program (the "MMP"), a copy of which is attached as Exhibit A and which is hereby adopted, that mitigation measure shall be deemed to be adopted pursuant to this paragraph.

In addition, all Conditions of Approval and the MMP repeating or rewording mitigation measures recommended in the Final EIR are intended to be substantially similar to the mitigation measures as stated in the Final EIR and are found to be equally effective in avoiding or lessening the identified environmental impact.

### IV. ENVIRONMENTAL IMPACTS AND FINDINGS

Based on the Initial Study, Appendix A.2 to the Draft EIR, and the responses to the Notice of Preparation, the EIR analyzed 16 potential areas where significant environmental impacts could result from the development of the Project. Five of those, aesthetics, agricultural resources, air quality, noise and global climate change and greenhouse gases, were found to have significant and unavoidable environmental impacts after the imposition of all feasible mitigation measures. The remaining 11 areas, biology, cultural resources, geology, hazards and hazardous materials, hydrology, land use and planning, mineral resources, population, housing and employment, public services, transportation and traffic and utilities and service systems were found to have either no significant and unavoidable environmental impacts or that the environmental impacts could be mitigated into a level of insignificance. The description of each environmental area, the potential impacts and the feasible mitigation measures are set forth in Sections 5 and 6 of the Draft EIR together with the changes and additions set forth in Section 4 of the Final EIR.

**C. IMPACTS IDENTIFIED IN THE EIR AS BEING SIGNIFICANT AND UNAVOIDABLE EVEN AFTER THE IMPOSITION OF ALL FEASIBLE MITIGATION MEASURES**

**1. AESTHETICS**

- a. Significant Unavoidable Impact:** Substantial adverse effect on a scenic vista (Impact 5.1-1)

**Finding:** The development of the Project will have a substantial adverse effect on a significant scenic vista and there are no feasible mitigation measures which will reduce the impact to less than significant.

**Factual Basis for the Finding:** As shown and discussed on pages 5.1-4-25 of the Draft EIR and Appendix M to the Draft EIR, the Project Site is currently vacant except for a single structure and thus is part of a scenic open space vista. In addition, the Project Site as it now exists is somewhat obscured by existing trees and vegetation but does not completely interfere with the views of mountains and foothills to the north, east and south. The development of the Project will block views of these scenic vistas from SR-60, Redlands Boulevard, future Eucalyptus Avenue and Theodore Street along the full length of each of these roadways adjacent to the Project Site. Further, the buildings to be constructed on the Project Site will be visible from higher elevations to the north, the east and the south and will alter the expansive view of the undeveloped property now evidenced from these areas.

These impacts are significant and unavoidable and there are no feasible mitigation measures which will reduce the impact to less than significant which would feasibly attain most of the basic objectives of the Project.

- b. Significant Unavoidable Impact:** Cumulative aesthetic impacts

**Finding:** The development of the Project, in conjunction with related projects and that authorized by the Moreno Highlands Specific Plan, will result in significant and unavoidable cumulative impacts on scenic vistas and there are no feasible mitigation measures which will reduce the impact to less than significant.

**Factual Basis for the Finding:** As discussed on pages 6-5-6 of the Draft EIR, the development of land in the vicinity of the Project Site will add to the loss of scenic vistas which will occur because of the development of the Project. There are no mitigation measures which will reduce the impacts to less than significant which would feasibly attain most of the basic objectives of the Project. Given the similarity of impacts of other likely uses for the Project Site, only prohibiting any development would mitigate the impacts to less than significant.

## 2. AGRICULTURAL RESOURCES

- a. **Significant Unavoidable Impact:** Conversion of farmland to non-agricultural use (Impact 5.2-1)

**Finding:** The development of the Project will have a significant and unavoidable impact on 24.1 acres of Prime Farmland, 98.8 acres of Farmland of Local Importance and 35.5 acres of Other Land which will be converted from agricultural uses into commercial and industrial uses. There are no feasible mitigation measures which will reduce the impact to less than significant which would feasibly attain most of the basic objectives of the Project. Given the similarity of impacts of other likely uses for the Project Site, only prohibiting any development would mitigate the impacts to less than significant.

**Factual Basis for the Finding:** As discussed on pages 5.2-1 and -6-7 of the Draft EIR and in the Agricultural Resources Report and Land Evaluation and Site Assessment and the Agricultural Impact Evaluation, Appendices B.1 and B.2 to the Draft EIR, the City's General Plan recognizes that farming has become less economically viable because of the high cost of water, the cost of land and property taxes, conflicts with surrounding urban uses and the lack of agri-business support in the area. Although the Project Site does contain land which has been identified by the California Department of Conservation as suitable for farming, the absence of an agricultural "infrastructure" – crop managers, labor, farm implements and processing facilities – in the vicinity, the cost of bringing suitable water to the Project Site, the cost of the water itself and the fact that the sale of the products which could be grown if water were available would not cover the costs of

production means that the Project Site cannot be realistically considered as an agricultural resource.

There are no feasible mitigation measures which could reduce the loss of the farmland. There is a finite amount of land that is suitable for agricultural use. The purchase of fee title or of agricultural conservation easements over other parcels used for agriculture would not avoid, reduce or compensate for the impact of converting the Project Site from agricultural to commercial and industrial uses because it would not offset the loss of agricultural land caused by the development of the Project, i.e., there would still be a net reduction in the total amount of land suitable for agricultural use. Further, no City policy requires the acquisition of replacement agricultural land, either in fee or through the use of a conservation easement, and no program to oversee such acquisitions exist.

**b. Significant Unavoidable Impact: Cumulative loss of farmland**

**Finding:** The development of the Project, in conjunction with related projects and that authorized by the Moreno Highlands Specific Plan, will result in significant and unavoidable cumulative impacts on farming. There are no mitigation measures which will reduce the impact to less than significant other than prohibiting development on sites now used for agriculture.

**Factual Basis for the Finding:** As discussed on pages 5-2-5-7 and 6-6-7 of the Draft EIR and in the Agricultural Resources Report and Land Evaluation and Site Assessment and the Agricultural Impact Evaluation, Appendices B.1 and B.2 to the Draft EIR, the City's General Plan recognizes that farming has become less economically viable because of the high cost of water, the cost of land and property taxes, conflicts with surrounding urban uses and the lack of agri-business support in the area. Although the Project Site does contain land which has been identified by the California Department of Conservation as suitable for farming, the absence of an agricultural "infrastructure" – crop managers, labor, farm implements and processing facilities – in the vicinity, the cost of bringing suitable water to the Project Site, the cost of the water itself and the fact that the sale of the products which could

be grown if water were available would not cover the costs of production means that the Project Site cannot be realistically considered as an agricultural resource.

There are no feasible mitigation measures which could reduce the loss of the farmland. There is a finite amount of land that is suitable for agricultural use. The purchase of fee title or of agricultural conservation easements over other parcels used for agriculture would not avoid, reduce or compensate for the impact of converting the Project Site from agricultural to commercial and industrial uses because it would not offset the loss of agricultural land caused by the development of the Project, i.e., there would still be a net reduction in the total amount of land suitable for agricultural use. Further, no City policy requires the acquisition of replacement agricultural land, either in fee or through the use of a conservation easement, and no program to oversee such acquisitions exist.

### 3. AIR QUALITY

- a. **Significant Unavoidable Impact:** Violation of an air quality standard or substantial contribution to an existing or projected air quality violation (Impact 5.3-2)

**Finding:** The construction and operation of the Project will not violate any air quality standards for localized impacts with two exceptions: those promulgated by the South Coast Air Quality Management District for the emission of coarse and fine particulate matter ("PM<sub>10</sub>" and "PM<sub>2.5</sub>") during the construction of the Project. The imposition of Mitigation Measures AQ-1 through AQ-10, which require the control of fugitive dust, the acquisition of Tier II level construction equipment, to the extent available, the proper maintenance of construction equipment, the turning off of construction equipment when not in use and prohibiting idling for more than five minutes, the control of traffic around the Project Site, the use of low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, the encouragement of construction workers to carpool, the provision of on-site electrical hook-ups during construction, the reduction of the amount of dust which will be tracked off-site and limiting off-site construction improvements to an eight hour day during daylight hours will reduce the impact of the emission of PM<sub>10</sub>, to less than significant. There are no mitigation measures which will reduce the emission of PM<sub>2.5</sub> to less than

significant which would feasibly attain most of the basic objectives of the Project.

**Factual Basis for the Finding:** As discussed on pages 5.3-22-40 of the Draft EIR, as modified on pages 4-40-44 of the Final EIR, and in the Air Quality and Health Risk Report, Appendix D.1 to the Draft EIR, the grading of the Project Site and the operation of the Project will result in the emission of pollutants - nitrogen dioxide ("NO<sub>2</sub>"), carbon monoxide ("CO"), PM<sub>10</sub> and PM<sub>2.5</sub>. The South Coast Air Quality Management District has established localized significance thresholds to determine whether the emission of any of the pollutants will have a significant adverse effect on those nearby, both residents and workers. None of the thresholds will be exceeded after the construction of the buildings on the Project Site has been completed and operations begun. The same thing is true for NO<sub>2</sub> and CO during the construction Phases of the Project. However, without mitigation, the thresholds will be exceeded for both PM<sub>10</sub> and PM<sub>2.5</sub>. Requiring the control of fugitive dust, acquiring Tier II level construction equipment, to the extent available, properly maintaining construction equipment, turning off construction equipment when not in use and prohibiting idling for more than five minutes, controlling traffic around the Project Site, using low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, encouraging construction workers to carpool, providing on-site electrical hook-ups during construction, reducing the amount of dust which will be tracked off-site and limiting off-site construction improvements to an eight hour day during daylight hours will ensure that the emission of PM<sub>10</sub> will be mitigated into insignificance. Accordingly, Mitigation Measures AQ-1 through AQ-10, as set forth on pages 5.3-38-39 of the Draft EIR, as modified on pages 4-2-5 of the Final EIR, have been imposed as conditions of approval of the Project. However, there are no feasible mitigation measures which will reduce the emissions of PM<sub>2.5</sub> to less than significant which would feasibly attain most of the basic objectives of the Project.

- b. **Significant Unavoidable Impact:** Cumulatively significant net increase of any criteria pollutant for which the Project area is non-attainment under an applicable federal or state ambient air quality standard (Impact 5.3-3)

**Finding:** The Project Site is located in a non-attainment area for ozone, PM<sub>10</sub> and PM<sub>2.5</sub>. The grading of the Project Site and the construction of Phase 1 of the Project on the Site could result in emissions of volatile organic compounds ("VOC"), nitrogen oxides ("NO<sub>x</sub>"), PM<sub>10</sub> and PM<sub>2.5</sub> in excess of the thresholds promulgated by the South Coast Air Quality Management District. The imposition of Mitigation Measures AQ-1 through AQ-10, which require the control of fugitive dust, the acquisition of Tier II level construction equipment, to the extent available, the proper maintenance of construction equipment, the turning off of construction equipment when not in use and prohibiting idling for more than five minutes, the control of traffic around the Project Site, the use of low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, the encouragement of construction workers to carpool, the provision of on-site electrical hook-ups during construction, the reduction of the amount of dust which will be tracked off-site and limiting off-site construction improvements to an eight hour day during daylight hours will reduce the impact of the emission of PM<sub>10</sub>, will ensure that the daily amount of PM<sub>10</sub> and PM<sub>2.5</sub> emitted during the grading and construction Phase 1 of the Project will reduce their impacts to less than significant and will reduce the daily amount of the emission of VOC and NO<sub>x</sub> but not to less than significant.

The grading and construction associated with Phase 2 of the Project will result in the daily amount of emissions of VOC and NO<sub>x</sub> in excess of the thresholds promulgated by the South Coast Air Quality Management District; the daily amount of emissions of PM<sub>10</sub> and PM<sub>2.5</sub> will be less than those thresholds. The imposition of Mitigation Measures AQ-1 through AQ-10, described above, will reduce the daily amount of emissions of VOC and NO<sub>x</sub> but not to less than significant.

The grading and construction associated with Phase 3 of the Project will result in the daily amount of emissions of VOC exceeding the threshold promulgated by the South Coast Air Quality Management District; the daily amount of emissions of NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> will not exceed those thresholds. The imposition of Mitigation Measures AQ-1 through AQ-10, described above, will reduce the daily amount of emissions of VOC but not to less than significant.

The daily amount of emissions of VOC, NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> associated with the operation of the Project during all Project Phases will exceed the thresholds promulgated by the South Coast Air Quality Management District. The imposition of Mitigation Measures AQ-11 through AQ-21, which require off-site construction be limited to day light hours, signs be posted stating that diesel trucks not idle for more than three minutes, the provision of electricity and electrical hooks-ups for transportation refrigeration, the prohibition against trucks not using electrically powered refrigeration units the prohibition of the establishment of sensitive receptors near the Project Site, the encouragement of the use of "clean" trucks and vehicles, the design of the Project Site to diminish queuing of trucks, the provision of food service on-site, the provision of incentives for employees to carpool and the maximization of electrical electrically powered equipment for landscape maintenance, and GCC-5(a), which requires the provision of facilities designed to encourage the use of bicycles, GCC-5(e), which requires preferential parking for carpools, vanpools and alternatively fueled vehicles, GCC-9, which requires LEED credit in a number of areas, and GCC-11, which prohibits access of heavy trucks to the Project Site for heavy trucks which do not have an Engine Certification label, will reduce the daily amount of emissions slightly but in no case will they cause the emissions to be less than significant.

In no case will the daily amount of the emission of CO exceed the threshold promulgated by the South Coast Air Quality Management District during either the grading of the Project Site or the construction of buildings on the Site. The daily amount of emissions of CO will exceed the threshold for CO promulgated by the South Coast Air Quality Management District during all of the three operational Phases of the Project. The imposition of Mitigation Measures AQ-11 through AQ-21 and GCC-5(a), GCC-5(e), GCC-9 and GCC-11, all as described above, will reduce the daily amount of emissions slightly but not to less than significant.

There are no further mitigation measures which will reduce the foregoing impacts to insignificant which would feasibly attain most of the basic objectives of the Project.

The daily amount of emissions of SO<sub>x</sub> will be less than the thresholds promulgated by the South Coast Air Quality Management District throughout the grading of the Project Site, the construction of buildings on the Site and the operation of the Project.

**Factual Basis for the Finding:** As discussed on Section 5.3 of the Draft EIR, as modified on pages 4.40-4.46 of the Final EIR, and in the Air Quality and Health Risk Report, Appendix D.1

to the Draft EIR, the development of the Project has the potential of emitting criteria pollutants, except for  $\text{SO}_x$ , in excess of the thresholds promulgated by the South Coast Air Quality Management District during the grading of the Project Site, construction of buildings on the Site and the operation of the Project. Requiring the control of fugitive dust, acquiring Tier II level construction equipment, to the extent available, properly maintaining construction equipment, turning off construction equipment when not in use and prohibiting idling for more than five minutes, controlling traffic around the Project Site, using low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, encouraging construction workers to carpool, providing on-site electrical hook-ups during construction, reducing the amount of dust which will be tracked off-site and limiting off-site construction improvements to an eight hour day during daylight hours will ensure that the daily amount of emissions of  $\text{PM}_{10}$  and  $\text{PM}_{2.5}$  during the grading and construction associated with Phase 1 of the Project will be mitigated into insignificance. Accordingly, Mitigation Measures AQ-1 through AQ-10, set forth on pages 5.3-38-39 of the Draft EIR, as modified on pages 4-2-5 of the Final EIR, have been imposed as conditions of approval of the Project. The same conditions will reduce the daily amount of emissions of  $\text{NO}_x$  during the grading and construction associated with Phase 2 of the Project to less than significant but will reduce the daily amount of emissions of VOC only slightly and not below the threshold promulgated by the South Coast Air Quality Management District. The daily amount of emissions of the other criteria pollutants will be below the thresholds promulgated by the South Coast Air Quality Management District.

The daily amount of emissions of VOC associated with the grading and construction of Phase 3 of the Project will exceed the threshold promulgated by the South Coast Air Quality Management District. The imposition of Mitigation Measures AQ-1 through AQ-10, as described above, will reduce the daily amount of

emissions of VOC slightly but not to less than significant. The daily amount of emissions of the remaining criteria pollutants will all be below the thresholds promulgated by the South Coast Air Quality Management District.

The daily amount of emissions for all three operational phases of the Project, with the exception of SO<sub>x</sub>, will exceed the thresholds promulgated by the South Coast Air Quality Management District. The imposition of Mitigation Measures AQ-11 through AQ-13, as set forth on page 5.3-52 of the Draft EIR, as modified on pages 4-5-6 of the Final EIR, AQ-14 through AQ-21, set forth on pages 4-6-6 of the Final EIR, GCC-5(a), GCC-5(e) and GCC-9, set forth on pages 5.16-11-13, as modified on pages 4-19-20 of the Final EIR, and GCC-11, set forth on page 4-21 of the Final EIR, all as described above, will reduce the daily amount of emissions of each of the other five criteria pollutants slightly but not to less than significant.

There are no further mitigation measures which will reduce the emissions of the criteria pollutants to less than significant which would feasibly attain most of the basic objectives of the Project. The emissions of VOC and NO<sub>x</sub> are associated with the grading of the Project Site and the asphalt, building and architectural coatings for those buildings. The operational emissions are due almost entirely to mobile sources – cars and trucks – over which the City has no control because the Legislature has vested all authority to deal with the emissions from cars and trucks in the California Air Resources Board.

- c. **Significant Unavoidable Impact:** Exposure of sensitive receptors to substantial pollutant concentrations (Impact 5.3-4)

**Finding:** The development of the Project has the potential to expose sensitive receptors to emissions of PM<sub>10</sub> and PM<sub>2.5</sub> in excess of local significance thresholds promulgated by the South Coast Air Quality Management District and to the risk of cancer from the operation of the Project in excess of the significance threshold of 10 in 1,000,000. The imposition of Mitigation Measures AQ-1 through AQ-21, which require the control of fugitive dust, the acquisition of

Tier II level construction equipment, to the extent available, the proper maintenance of construction equipment, the turning off of construction equipment when not in use and prohibiting idling for more than five minutes, the control of traffic around the Project Site, the use of low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, the encouragement of construction workers to carpool, the provision of on-site electrical hook-ups during construction, the reduction of the amount of dust which will be tracked off-site, limiting off-site construction improvements to an eight hour day during daylight hours, off-site construction be limited to day light hours, signs be posted stating that diesel trucks not idle for more than three minutes, the provision of electricity and electrical hooks-ups for transportation refrigeration, the prohibition against trucks not using electrically powered refrigeration units the prohibition of the establishment of sensitive receptors near the Project Site, the encouragement of the use of "clean" trucks and vehicles, the design of the Project Site to diminish queuing of trucks, the provision of food service on-site, the provision of incentives for employees to carpool and the maximization of electrical electrically powered equipment for landscape maintenance, and GCC-5(a), which requires the provision of facilities designed to encourage the use of bicycles, GCC-5(e), which requires preferential parking for carpools, vanpools and alternatively fueled vehicles, GCC-9, which requires LEED credit in a number of areas, and GCC-11, which prohibits access of heavy trucks to the Project Site for heavy trucks which do not have an Engine Certification label will reduce the impacts of PM<sub>10</sub> and the risk of cancer to less than significant but the risk associated with the emissions of PM<sub>10</sub> during the grading and construction associated with Phase 1 of the Project will remain significant and unavoidable. There are no mitigation measures which will reduce the impacts to less than significant which would feasibly attain most of the basic objectives of the Project.

**Factual Basis for the Finding:**

As discussed in Section 5.3 of the Draft EIR, as modified on pages 4-2-5 of the Final EIR, in the Air Quality and Health Risk Report, Appendix D.1 to the Draft EIR, as amplified and clarified in the Supplemental Health Risk Assessment Report, Appendix D.1 to the Final EIR, and in subsection IV.C.3.a above, the grading, construction and operation associated with the Project has the potential to exceed localized significance thresholds and cancer risks for sensitive receptors near the Project Site. Controlling fugitive dust, acquiring Tier II level construction equipment, to the extent available,

properly maintaining construction equipment, turning off construction equipment when not in use and prohibiting idling for more than five minutes, controlling traffic around the Project Site, using low volatile organic compound paints applied using either high-volume low-pressure spray equipment or by hand, encouraging construction workers to carpool, providing on-site electrical hook-ups during construction, reducing the amount of dust which will be tracked off-site, limiting off-site construction improvements to an eight hour day during daylight hours, providing bicycle parking spaces and on-site showers, preferential parking for carpools and alternatively fueled vehicles, obtaining LEED, or if not available an approved program to achieve the same level of environmental benefit, certification for the Project, prohibiting access to trucks over 10,000 pounds which do not have an Engine Certification Label and establishing a buffer area on land immediately south of future Eucalyptus Avenue through a deed restriction will ensure that the risks associated with PM<sub>2.5</sub> and cancer will be mitigated into insignificance. Accordingly, The imposition of Mitigation Measures AQ-1 through AQ-13, as set forth on pages 5.3-38-39 and -52 of the Draft EIR, as modified on pages 4-2-6 of the Final EIR, AQ-14 through AQ-21, set forth on pages 4-6-6 of the Final EIR, GCC-5(a), GCC-5(e) and GCC-9, set forth on pages 5.16-11-13, as modified on pages 4-19-20 of the Final EIR, Mitigation measures AQ-1 through AQ-21, GCC-5(a), GCC-5(e) and GCC-9, set forth on pages 5.3-38-39 and -52 of the Draft EIR, as modified on pages 4-2-5 and -19-20 of the Final EIR, have been imposed as conditions of approval of the Project. However, as set forth in the factual basis for the finding in subsection IV.C.3.a above, there are no feasible mitigation measures which will reduce the emissions of PM<sub>10</sub> associated with the grading and construction of Phase 1 of the Project to less than significant.

- d. **Significant Unavoidable Impact:** Cumulative contribution to air quality impacts

**Finding:** The development of the Project, in conjunction with related projects and that authorized by the Moreno Highlands Specific Plan, will result in significant and unavoidable cumulative impacts on VOC, NO<sub>x</sub>, CO, PM<sub>10</sub> and PM<sub>2.5</sub>. There are no mitigation measures which will reduce the impacts to less than significant.

**Factual Basis for the Finding:** As discussed on pages 6-8-10 of the Draft EIR, in the Air Quality and Health Risk Analysis Report, Appendix D.1 to the Draft EIR, Response 10-2, page 3-99 of the Final EIR and in subsections IV.C.3.a-c above, the air quality pollutants emitted during the operation of the Project, alone or in conjunction with those emitted by surrounding development, will be cumulatively significant. All feasible mitigation measures have been imposed as conditions of approval of the Project. The City will impose feasible mitigation measures on projects seeking approval within the future. However, the air quality problems that exist in the area of the Project are, in most cases, problems affecting the entirety of the South Coast air basin and, as such, are beyond the City's control.

**4. NOISE**

**a. Significant Unavoidable Impact: Cumulative adverse noise impacts**

**Finding:** The development of the Project, in conjunction with the development of related projects and that authorized by the Moreno Highlands Specific Plan will result in significant and unavoidable cumulative noise impacts on houses located near SR-60. There are no feasible mitigation measures which will reduce the impacts to less than significant.

**Factual Basis for the Finding:** As discussed on pages 6-17-23 of the Draft EIR and in the Noise Assessment, Appendix I to the Draft EIR, the increase in noise due to the operation of the Project will be small. However, when added to that which can be expected by the use of vehicles on SR-60 from both related projects and the development of the Moreno Highlands Specific Plan area, the result will be that at least one residence east of Theodore Street and several residences located west of Redlands Boulevard will experience a noise increase of more than 3 dB with a future noise level above 65 CNEL, the City's noise level for residential areas. There are no mitigation

measures which will reduce the impacts to less than significant.

5. **GLOBAL CLIMATE CHANGE AND GREENHOUSE GASES**

- a. **Significant Unavoidable Impact:** Hindrance or delay of California's ability to meet the climate reduction targets contained in AB32 (Impact GCC-1)

**Finding:** The grading and construction associated with the Project will, after the application of all feasible mitigation measures, result in approximately 6,500 metric tons of carbon dioxide equivalent ("CO<sub>2e</sub>"). The operation of the Project, after the imposition of all feasible mitigation measures, will produce approximately 81,800 metric tons of CO<sub>2e</sub> per year. In the absence of any quantitative or qualitative threshold of significance for the emissions of CO<sub>2e</sub>, it must be assumed that the amount of the emissions of CO<sub>2e</sub>, both during the grading and construction associated with the Project and the operation of the Project will, individually and cumulatively, be a significant and unavoidable impact. There are no feasible mitigation measures which will reduce the impacts to less than significant.

**Factual Basis for the Finding:** As discussed in Section 5.16 and pages 6-40-41 of the Draft EIR and in the Climate Change Analysis, Appendix N to the Draft EIR, the grading and construction associated with the Project and the operation of the Project will generate substantial amounts of CO<sub>2e</sub> emissions. There is, currently, neither a quantitative nor a qualitative threshold to be used to determine whether the amount of CO<sub>2e</sub> emissions is significant. Various thresholds, ranging from no new contributions to over 40,000 metric tons per year, have been proposed. The staff of the South Coast Air Quality Management District has suggested a possible threshold of 10,000 tons of CO<sub>2e</sub> per year for industrial projects but has not suggested a numerical threshold for non-industrial projects; the District has not yet acted on the proposal. However, the California Air Resources Board and the Office of Planning and Research are considering the adoption of a threshold of significance for CO<sub>2e</sub> emissions but have not yet decided on that threshold. AB32 requires a reduction of approximately 30% in CO<sub>2e</sub> emissions over business as usual by 2020 in order to reach the levels emitted in California in 1990. Irrespective of

when or what standards will be adopted by the California Air Resources Board all feasible measures have been implemented in this project in compliance with AB-32.

Incorporating water conservation requirements, properly maintaining construction equipment, turning off construction equipment when not in use and prohibiting construction equipment from idling for more than five minutes, controlling traffic around the Project Site, encouraging construction workers to carpool, prohibiting truck idling for more than three minutes per day per truck, providing electricity in the loading area for transportation refrigeration units, designing the Project to meet 2008 Title 24 energy efficiency requirements, using "cool roofs" and "cool paints," installing renewable energy generation on-site to meet the Project's Phase 1 office electricity needs, using ENERGY STAR-qualified energy efficient appliances, providing bicycle storage parking and showers for employees, installing Light Emitting Diodes in any traffic lights which are a part of the Project, providing pedestrian and bicycle connections to surrounding areas, establishing a Transportation Management Association to encourage and coordinate carpooling by occupants of the Project, providing preferential parking for carpools, vanpools and alternatively fueled vehicles, obtaining LEED certification or, if not available, a similar program to achieve the same level of environmental benefit, designing loading docks which will accommodate trucks utilizing "SmartWay Truck Efficiency" emission reduction features, and prohibiting access to trucks over 10,000 pounds which do not have an Engine Certification Label will ensure reduction in the amount of emissions of CO<sub>2e</sub>. Accordingly, Mitigation Measures AQ-1, AQ-3, AQ-4, AQ-5, AQ-7, AQ-11, AQ-12 and GCC-1 through 10, set forth on pages 5.16-9-13 of the Draft EIR, as modified on pages 4-2-6 and -18-21 of the Final EIR, and GCC-11, set forth on page 4-21 of the Final EIR, have been imposed as conditions of approval of the Project. However, there

are no additional feasible mitigation measures which would reduce the impact to less than significant.

**b. Significant Unavoidable Impact: Impacts of climate change on the Project (Impact GCC-2)**

**Finding:** Potential impacts of climate change include the exacerbation of air quality problems, reduction in the quality and supply of water from the Sierra snow pack, damage to the natural environment, reduction of in-state electricity production, and an increase in wildfires, all of which could adversely affect the Project. The imposition of Mitigation Measures W-1, which requires the preparation of a planting and irrigation plan for the City's review and approval, GCC-1 through GCC-4, which require increased energy efficiency, the use of "cool" roofs and paints, the production of energy on-site through the use of alternate, renewable energy sources and the use of energy efficient appliances and systems, and GCC-9, which requires LEED credit in a number of areas, will reduce the Project's need for energy and water slightly but the impact of global climate change on the Project will continue to be significant and unavoidable. There are no mitigation measures which will reduce the impacts to less than significant.

**Factual Basis for the Finding:** As discussed on pages 5.16-16-18 of the Draft EIR and the Climate Change Analysis, Appendix N to the Draft EIR, global climate change will affect the Project in various ways. Imposing the mitigation measures discussed in subsection IV.C.5 above will decrease the amounts of water and energy required by the Project after it is in operation but it, like all other projects in California, will be subject to the deleterious impacts of climate change.

**V. PROJECT ALTERNATIVES**

**A. ALTERNATIVE SITES**

**Finding:** There exists no reasonably feasible and available alternative site for the Project which would avoid or substantially lessen the significant impacts of the Project or to allow it to feasibly attain most of the Project's basic objectives.

**Factual Basis for the Finding:** As discussed on pages 9-2-3 and -33-34 of the Draft EIR and in the letters from Darla Longo dated January 18, 2008; and October 7, 2008, Appendices O to the Draft and Final EIRs, an extensive search for

reasonably feasible and available alternative sites was conducted. While eight potential sites were considered, six of the eight were found to be infeasible for failure to meet, at the initial threshold, one or more of Skechers's requirements for its business and logistics models, including, but not limited to, the ability to host a 1,800,000 sf facility together with the possibility of expansion later on a site immediately adjacent to a major freeway and within the geographic service area needed. One other potential site, in San Bernardino, met the threshold and was studied for feasibility, but it was concluded after study that the site could not be built in an efficient configuration for Skechers's operations. Therefore, no reasonably feasible and available alternative site in the Inland Empire could be found. Moreover, even if an alternative site could be found, the significant and unavoidable impacts, individually and cumulatively, on, at least, air quality and global climate change would not be reduced. Significant and unavoidable noise impacts, individually and cumulatively, are also unlikely to be reduced for any otherwise feasible site that would satisfy Skechers's needs.

**B. NO PROJECT — NO DEVELOPMENT ALTERNATIVE**

**Finding:** The No Project — No Development Alternative is environmentally superior to the Project but would not attain any of the objectives for the Project.

**Factual Basis for the Finding:** As discussed on pages 9-3-9 and -36 of the Draft EIR, leaving the Project Site in its current condition would result in no impacts to the environment with the exception that the existing General Plan's designation of the Project Site for development with commercial and industrial uses would not be satisfied. None of the Project's objectives would be met.

**C. EXISTING GENERAL PLAN ALTERNATIVE**

**Finding:** Developing the Project Site under the existing General Plan designation and zoning would allow for the development of 1,715,000 sf of business park and 410,000 sf of community commercial uses. The impacts on the environment of development pursuant to the existing General Plan designation and zoning would be roughly comparable to those which would result from the

development of the Project. However, it would not meet any of Skechers's needs nor would it allow Skechers to have the logistics facility available in the very near future at any other reasonably feasible and available site. In addition, due to market conditions, development under the existing General Plan designation and zoning would not currently be feasible and therefore would delay any benefits that development of the Project Site would bring to the City, such as jobs and revenues. Likewise, it would not provide the Project applicant with an adequate rate of return on its investment because there is no market available for development of the Project Site consistent with the existing General Plan designation and zoning.

**Factual Basis for the Finding:** As discussed on pages 9-9-19 and -36 of the Draft EIR and in the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, there is currently no market for the development of the Project Site consistent with the existing General Plan designation and zoning. The environmental impacts of development of the Project Site consistent with the existing General Plan designation and zoning are roughly comparable to those of the Project with the impacts on aesthetics, noise, public services and utilities being slightly less and those on air quality, geology and soils, hazards and hazardous materials and global climate change being slightly more. Developing the Project Site consistent with the existing General Plan designation and zoning would not allow the Project applicant to achieve its objectives, because it would not be able to provide logistics facilities to Skechers, resulting in delay or denial of providing the City with new jobs and revenues from the development of the Project Site and precluding an adequate rate of return on its investment because there is simply no existing market for development of the Project Site consistent with the General Plan designation and zoning.

#### **D. REDUCED DENSITY ALTERNATIVE**

**Finding:** Developing the Project Site with 1,000,000 sf of logistics use and 200,000 sf of community commercial uses would result in environmental impacts which would be slightly less than those which would result from the development of the Project. However, a reduced density alternative would not allow the Project to attain a number of its basic objectives and would not reduce any

significant unavoidable environmental impact of the Project to a level of insignificance or to a level capable of mitigation to a level of insignificance and is therefore not significantly environmentally superior to the Project.

**Factual Basis for the Finding:** As discussed on pages 9-19-26 and -36 of the Draft EIR, the environmental impacts of the reduced project would be marginally less than, or equal to, those of the Project. In particular, impacts on Agricultural Resources, Biological Resources, Cultural Resources Hydrology and Water Quality, Mineral Resources, and Population, Housing and Employment would be the same for the Reduced Density Alternative as for the Project, except that employment opportunities would be reduced. Reductions in most other impacts would be marginal to modest. Only reductions in impacts on Air Quality would be likely to be substantial. However, no significant unavoidable impact of the Project would be reduced to or made capable of mitigation to a level of insignificance. Also, the reduced density alternative would prevent achieving some of the Project's basic objectives. In particular, Skechers would not be provided the size and expandability required by its business objectives. Current market conditions would render the Reduced Density Alternative not reasonably feasible and therefore preclude the Project applicant from obtaining an adequate rate of return on its investment.

#### **E. NORMAL CONSTRUCTION SCHEDULE ALTERNATIVE**

**Finding:** The normal construction alternative would have moderately fewer environmental impacts than the Project. However, it would not allow the Project to attain a number of its basic objectives and would not reduce any significant unavoidable environmental impact of the Project to a level of insignificance or to a level capable of mitigation to a level of insignificance and is therefore not significantly environmentally superior to the Project.

**Factual Basis for the Finding:** As discussed on pages 9-27-33 and -36 of the Draft EIR, the normal construction schedule would have a moderately lesser environmental impact on aesthetics, air quality and noise during the construction phase but would otherwise be comparable to the impacts which would result from the development of the Project and make no difference in any impacts during the

operation of the Project. However, Skechers would be delayed in consolidating its operations in a single logistics facility and the City would also be delayed in obtaining the jobs and revenues which the construction and operation of the Project will generate. Therefore, development of the Project Site with a normal construction schedule would delay achievement of most of the basic objectives of the Project and would not be significantly environmentally superior to the Project.

#### **F. ADEQUACY OF THE RANGE OF ALTERNATIVES**

**Finding:** Alternatives consisting of development consistent with the existing General Plan designation and zoning, reduced density and a normal construction schedule represent a reasonable range of alternatives.

**Factual Basis for the Finding:** As discussed on pages 9-2-3 and -33-34 of the Draft EIR and in the letters from Darla Longo dated January 18, 2008, and October 7, 2008, Appendices O to the Draft and Final EIRs, an extensive search for reasonably feasible and available alternative sites was conducted. While eight potential sites were considered, six of the eight were found to be infeasible for failure to meet, at the initial threshold, one or more of Skechers requirements for its business and logistics models, including, but not limited to, the ability to host a 1,800,000 sf facility together with the possibility of expansion later on a site immediately adjacent to a major freeway and within the geographic service area needed. One other potential site, in San Bernardino, met the threshold and was studied for feasibility, but it was concluded after study that the site could not be built in an efficient configuration for Skechers's operations. Therefore, no reasonably feasible and available alternative site in the Inland Empire could be found. Moreover, even if an alternative site could be found, the significant and unavoidable impacts, individually and cumulatively, on, at least, air quality and global climate change would not be reduced. Significant and unavoidable noise impacts, individually and cumulatively, are also likely to not be

reduced for any site truly feasible for Skechers's objectives.

Because, there are no reasonably feasible and available alternative sites, development consistent with the existing General Plan designation and zoning, reduced density and a normal construction schedule represent a reasonable range of alternatives. The purpose of the Guidelines requirements of studying a reasonable range of alternatives would not be met by constructing additional alternatives that would not meet the basic objectives of the Project. Because Skechers needs are specific as to size, expandability, location and transport accessibility, and without alternative sites as an option, no other alternatives appear feasible which would not defeat at least one basic Project objective.

## **VI. LOGISTIC MODIFIED GENERAL PLAN CONCEPT**

Section 8.3 of the Draft EIR discusses a modification of the Moreno Highlands Specific Plan which would substantially decrease the residential, commercial and business park/light industrial uses of the Specific Plan area and allow the development of substantial logistic facilities, a use not contemplated in the existing Specific Plan. No application for any modification of the Specific Plan has been submitted to the City and there is no guarantee that any application will be submitted. Any modification of the Specific Plan is independent of the development of the Project. Its only connection is that the Project applicant owns both the Project Site and the land which would be affected by a modification of the Specific Plan.

This information was provided solely because the project applicant, the owner of a substantial portion of the land subject to the Specific Plan, is considering the possibility of seeking an amendment of the Specific Plan so that, consistent with CEQA's purpose of providing full information to decision makers and the public, the discussion was included in the Draft EIR.

Specifically, any such amendment to the Specific Plan would require compliance with all of the City's approval process including, but not limited to, a development application, environmental review and new and separate Planning Commission and City Council public hearing. Nothing in the Draft or Final EIR nor in this set of Findings constitutes approval of, or any commitment to approve, any such future application.

## VII. STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth in Section IV. above, most of the Project's impacts on the environment will either be insignificant or, through the imposition of mitigation measures as conditions of approval of the Project, can be reduced to less than significant. However, as set forth in subsection VI.C. above, impacts to aesthetics, agricultural resources, air quality, noise and climate change and greenhouse gases will remain significant and unavoidable even after the imposition of all feasible mitigation measures. Further, as set forth in Section V. above, there are no feasible alternatives to the Project which would mitigate or avoid those environmental impacts. Nevertheless, as set forth below, the Council has determined that the benefits which will accrue from the development of the Project outweigh the significant and unavoidable impacts which the Project will produce.

### A. AESTHETICS

**Finding:** Notwithstanding the significant unavoidable impacts to aesthetics discussed in subsection IV.C.1 above, the development of otherwise unusable land, the creation of jobs by the Project, the multiplier effect which will create secondary jobs to support the Project and those who work in it, the demonstration that the City is eager to attract new business opportunities and the fact that the Project will be LEED certified or, if LEED certification is not available, a similar program to achieve the same level of environmental benefit, will also demonstrate the City's commitment to green technology constitutes benefits which outweigh the unavoidable adverse environmental impacts to aesthetics. Each of the benefits, individually, constitutes a sufficient basis for approving the Project notwithstanding the significant and unavoidable impact on aesthetics which will result.

**Factual Basis for the Finding:** As set forth in the Project Objectives on pages 3-2 and 5.12-2 of the Draft EIR the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, the Fiscal Impact Study dated October 23, 2008, and the Economic Impact Study dated October 24, 2008, the approval of the Project will allow the conversion of vacant, marginally productive agricultural land, into a job and revenues producing facility. It will allow Skechers to consolidate its operations from five existing buildings in Ontario into one building in the City which will, in the short run, generate approximately 600 construction jobs and over 1,050 new jobs in the City in Phase 1 operation of the project and, in the long run, the development of the Project will generate approximately 2,000 new jobs in the City associated with the Project, all of which will help

adjust the unfavorable jobs/housing balance which currently exists. Further, the construction of Phase I of the Project will generate approximately 250 secondary jobs in the City while the operation of the Project will, generate approximately 530 secondary jobs in the City and over additional 1,000 secondary jobs in the County providing goods and services to the Project and to those who work on the Project Site. Once in operation, the Project will generate over \$900,000 annually in net revenues to the City.

## **B. AGRICULTURAL RESOURCES**

**Finding:** Notwithstanding the significant unavoidable impacts to agricultural resources discussed in subsection IV.C.2. above, the development of otherwise unusable land, the creation of jobs by the Project, the multiplier effect which will create secondary jobs to support the Project and those who work in it, the demonstration that the City is eager to attract new business opportunities and the fact that the Project will be LEED certified or, if LEED certification is not available, a similar program to achieve the same level of environmental benefit, will also demonstrate the City's commitment to green technology constitutes benefits which outweigh the unavoidable adverse environmental impacts to agricultural resources. Each of the benefits, individually, constitutes a sufficient basis for approving the Project notwithstanding the significant and unavoidable impact on agricultural resources which will result.

**Factual Basis for the Finding:** As set forth in the Project objectives on pages 3-2 and 5.12-2 of the Draft EIR the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, the Fiscal Impact Study dated October 23, 2008, and the Economic Impact Study dated October 24, 2008, the approval of the Project will allow the conversion of vacant, marginally productive agricultural land, into a job and revenues producing facility. It will allow Skechers to consolidate its operations from five existing buildings in Ontario into one building in the City which will, in the short run, generate approximately 600 construction jobs and over 1,050 new jobs in the City in Phase I operation of the project and, in the long run, the development of the Project will generate approximately 2,000 new jobs in the City associated with the Project, all of which will help

adjust the unfavorable jobs/housing balance which currently exists. Further, the construction of Phase 1 of the Project will generate approximately 250 secondary jobs in the City while the operation of the Project will, generate approximately 530 secondary jobs in the City and over additional 1,000 secondary jobs in the County providing goods and services to the Project and to those who work on the Project Site. Once in operation, the Project will generate over \$900,000 annually in net revenues to the City.

### **C. AIR QUALITY**

**Finding:** Notwithstanding the significant unavoidable impacts to air quality discussed in subsection IV.C.3. above, the development of otherwise unusable land, the creation of jobs by the Project, the multiplier effect which will create secondary jobs to support the Project and those who work in it, the demonstration that the City is eager to attract new business opportunities and the fact that the Project will be LEED certified or, if LEED certification is not available, a similar program to achieve the same level of environmental benefit, will also demonstrate the City's commitment to green technology constitutes benefits which outweigh the unavoidable adverse environmental impacts to air quality. Each of the benefits, individually, constitutes a sufficient basis for approving the Project notwithstanding the significant and unavoidable impact on air quality which will result.

**Factual Basis for the Finding:** As set forth in the Project objectives on pages 3-2 and 5.12-2 of the Draft EIR the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, the Fiscal Impact Study dated October 23, 2008, and the Economic Impact Study dated October 24, 2008, the approval of the Project will allow the conversion of vacant, marginally productive agricultural land, into a job and revenues producing facility. It will allow Skechers to consolidate its operations from five existing buildings in Ontario into one building in the City which will, in the short run, generate approximately 600 construction jobs and over 1,050 new jobs in the City in Phase 1 operation of the project and, in the long run, the development of the Project will generate approximately 2,000 new jobs in the City associated with the Project, all of which will help

adjust the unfavorable jobs/housing balance which currently exists. Further, the construction of Phase 1 of the Project will generate approximately 250 secondary jobs in the City while the operation of the Project will, generate approximately 530 secondary jobs in the City and over additional 1,000 secondary jobs in the County providing goods and services to the Project and to those who work on the Project Site. Once in operation, the Project will generate over \$900,000 annually in net revenues to the City.

#### **D. NOISE**

**Finding:** Notwithstanding the significant unavoidable noise impacts discussed in subsection IV.C.4. above, the development of otherwise unusable land, the creation of jobs by the Project, the multiplier effect which will create secondary jobs to support the Project and those who work in it, the demonstration that the City is eager to attract new business opportunities and the fact that the Project will be LEED certified or, if LEED certification is not available, a similar program to achieve the same level of environmental benefit, will also demonstrate the City's commitment to green technology constitutes benefits which outweigh the unavoidable adverse noise impacts. Each of the benefits, individually, constitutes a sufficient basis for approving the Project notwithstanding the significant and unavoidable impact on noise which will result.

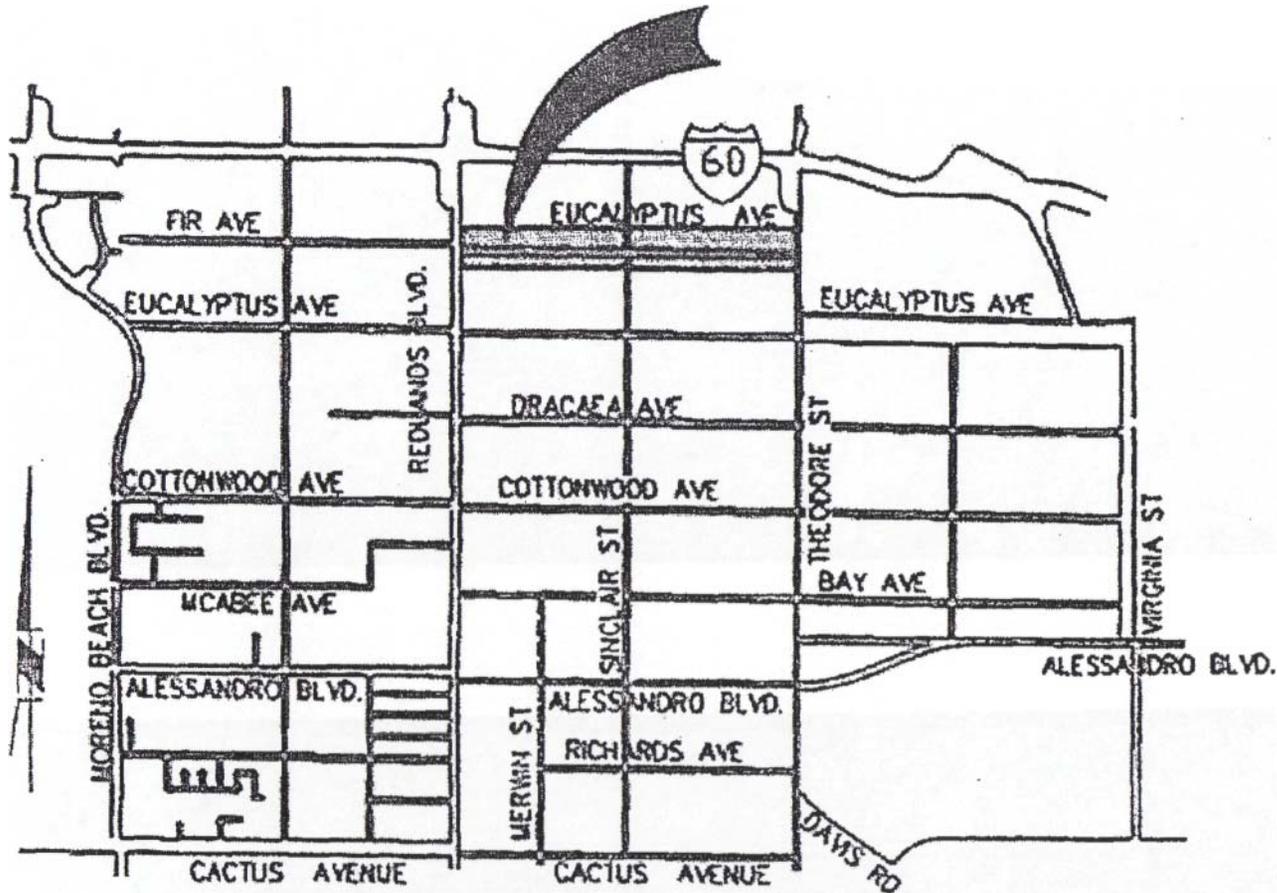
**Factual Basis for the Finding:** As set forth in the Project objectives on pages 3-2 and 5.12-2 of the Draft EIR the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, the Fiscal Impact Study dated October 23, 2008, and the Economic Impact Study dated October 24, 2008, the approval of the Project will allow the conversion of vacant, marginally productive agricultural land, into a job and revenues producing facility. It will allow Skechers to consolidate its operations from five existing buildings in Ontario into one building in the City which will, in the short run, generate approximately 600 construction jobs and over 1,050 new jobs in the City in Phase 1 operation of the project and, in the long run, the development of the Project will generate approximately 2,000 new jobs in the City associated with the Project, all of which will help adjust the unfavorable jobs/housing balance which

currently exists. Further, the construction of Phase 1 of the Project will generate approximately 250 secondary jobs in the City while the operation of the Project will generate approximately 530 secondary jobs in the City and over additional 1,000 secondary jobs in the County providing goods and services to the Project and to those who work on the Project Site. Once in operation, the Project will generate over \$900,000 annually in net revenues to the City.

#### **E. CLIMATE CHANGE AND GREENHOUSE GASES**

**Finding:** Notwithstanding the significant unavoidable climate change and greenhouse gases impacts discussed in subsection IV.C.5. above, the development of otherwise unusable land, the creation of jobs by the Project, the multiplier effect which will create secondary jobs to support the Project and those who work in it, the demonstration that the City is eager to attract new business opportunities and the fact that the Project will be LEED certified or, if LEED certification is not available, a similar program to achieve the same level of environmental benefit, will also demonstrate the City's commitment to green technology constitutes benefits which outweigh the unavoidable adverse impact on global climate change. Each of the benefits, individually, constitutes a sufficient basis for approving the Project notwithstanding the significant and unavoidable impact on climate change and greenhouse gases which will result.

**Factual Basis for the Finding:** As set forth in the Project objectives on pages 3-2 and 5.12-2 of the Draft EIR the letter from Darla Longo dated February 12, 2008, Appendix O to the Final EIR, the Fiscal Impact Study dated October 23, 2008, and the Economic Impact Study dated October 24, 2008, the approval of the Project will allow the conversion of vacant, marginally productive agricultural land, into a job and revenues producing facility. It will allow Skechers to consolidate its operations from five existing buildings in Ontario into one building in the City which will, in the short run, generate approximately 600 construction jobs and over 1,050 new jobs in the City in Phase I operation of the project and, in the long run, the development of the Project will generate approximately 2,000 new jobs in the City associated with the Project, all of which will help adjust the unfavorable jobs/housing balance which



## VICINITY MAP

NOT TO SCALE

SEC. 2, 11 T3S, R3W. THE THOMAS GUIDE. 2006 EDITION,  
SAN BERNARDINO AND RIVERSIDE COUNTIES - PAGE 718,

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