CITY COUNCIL RESOLUTION
AND ORDINACE

**RESOLUTION NO. 2018-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, APPROVING THE CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH # 2017121037), AND ADOPTION OF FINDINGS OF FACT AND A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTION OF A MITIGATION MONITORING AND REPORTING PLAN FOR THE TRINITY PROPERTY COMPANY, LLC., FOR THE ESTABLISHMENT OF A CANNIBIS CULTIVATION AND MANUFACTURING FACILITY PROJECT**

WHEREAS, Trinity Property Company, LLC has filed four applications for the Trinity Cannabis Cultivation and Manufacturing Facility project. The facilities are proposed on Industrial land with the Cannabis Overlay Zone located at 2421 Enterprise Boulevard.

WHEREAS, the Trinity Development Agreement comprises the "project" as defined by Section 21065 of the California Environmental Quality Act (CEQA), Cal. Public Resources Code Section 21000 et seq., which is defined as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and which includes the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies; and

WHEREAS, the Environmental Impact Report (SCH #2017121037) has been prepared to evaluate environmental impacts resulting with the project; and

WHEREAS, the Planning Commission of the City of Calexico has been delegated with the responsibility of making recommendations to the City Council for certifying the Environmental Impact Report (SCH #2017121037); and

WHEREAS, on August 6, 2018, the Planning Commission conducted a duly-noticed public hearing at which time interested persons had an opportunity to testify in support of or against, and during which the Planning Commission considered the Environmental Impact Report and Development Agreement for the Trinity Cannabis Cultivation and Manufacturing Facility for a recommendation to the City Council; and

WHEREAS, the Planning Commission, after carefully considering all pertinent testimony and the staff report offered in the case as presented at the public hearing, adopted a resolution to recommend that the City Council approve the Environmental Impact Report and Development Agreement for the Trinity Cannabis Cultivation and Manufacturing Facility; and

WHEREAS, on August 22, 2018, the City Council conducted a duly-noticed public hearing to consider the Environmental Impact Report and Development Agreement for the Trinity Cannabis Cultivation and Manufacturing Facility project at which hearing members of the public were afforded an opportunity to comment.

NOW THEREFORE, the City Council of the City of Calexico DOES HEREBY RESOLVE as follows:

**SECTION 1.** The City Council has considered proposed Final Environmental Impact Report (SCH #2017121037), prior to making a decision. The City Council finds and determines that the Final Environmental Impact Report (SCH #2017121037) is adequate and prepared in accordance with the requirements of the California Environmental Quality Act (CEQA) which analyzes environmental effects of the project, based upon the following findings and determinations:

**SECTION 2.** That in accordance with State Planning and Zoning law and the City of Calexico the following findings for the certification of the Final Environmental Impact Report (SCH #2017121037) have been made as follows:

a) The Environmental Impact Report has been prepared, submitted and reviewed in accordance with requirements of the California Environmental Quality Act and the City's CEQA requirements and is complete and adequate in its evaluation of all environmental effects of the project and associated discretionary approvals.

*The EIR was prepared in accordance with provisions contained in the California Environmental Quality Act (CEQA), Public Resources Code (PRC) Section 21000 et seq, the CEQA Guidelines (Section 15000 et seq.), and the City's CEQA requirements. The EIR is complete and adequate in its evaluation of project impacts.*

b) The proposed project will have impacts that are individually limited but cumulatively considerable.

*The EIR concluded that the proposed project will result in cumulative unavoidable adverse impacts related to Green House Gas (GHG). To offset the adversity of the foregoing impacts, the City will need to approve a Statement of Overriding Considerations in accordance with Section 15093 of the CEQA Guidelines. The City has determined that the benefits of the proposed project "outweigh" the resultant unavoidable adverse environmental impacts and therefore, these particular adverse impacts will be considered "acceptable".*

c) The proposed project does have the potential to adversely affect humans, either directly or indirectly.

*The EIR concluded that the proposed project will result in project-specific and cumulative unavoidable adverse impacts related to Green House Gas (GHG). To offset the adversity of the foregoing impacts, the City will need to approve a Statement of Overriding Considerations in accordance with Section 15093 of the CEQA Guidelines. The City has determined that the benefits of the proposed project "outweigh" the resultant unavoidable adverse environmental impacts and therefore, these particular adverse impacts will be*

*considered "acceptable".*

**SECTION 3.** The Proposed Project is approved despite the existence of certain significant environmental effects identified in the Final EIR and, pursuant to Public Resources Code section 21081 and CEQA Guidelines section 15091, the City Council hereby makes and adopts the findings with respect to each significant environmental effect as set forth in the Findings of Fact appended hereto as Exhibit "A-1" and made part hereof by this reference, and declares that it considered the evidence described in connection with each such finding.

**SECTION 4.** The Proposed Project is approved despite the existence of certain significant environmental effects identified in the Final EIR and, pursuant to Public Resources Code section 21081(b) and CEQA Guidelines section 15093, the City Council hereby makes and adopts the Statement of Overriding Considerations appended hereto as Exhibit "A-2" and made part hereof by this reference, and finds that such effects are considered acceptable because of benefits that outweigh the unavoidable environmental effects.

**SECTION 5.** Pursuant to Public Resources Code section 21081.6 and CEQA Guidelines section 15091(d), the City Council hereby adopts and approves the Mitigation Monitoring and Reporting Program, which is appended hereto as Exhibit "A-3" and is made a part hereof by this reference, with respect to the significant environmental effects identified in the Final EIR, and hereby makes and adopts the provisions of the Mitigation Monitoring and Reporting Program as conditions of approval for the Proposed Project.

**NOW, THEREFORE**, based on the above findings, the City Council of the City of Calexico DOES HEREBY APPROVE the certification of the Trinity Cannabis Cultivation and Manufacturing Facility Final Environmental Impact Report (SCH #2017121037).

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Calexico, California, at a regular meeting of the City Council held on the 22nd day of August, 2018 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF CALEXICO

Luis Pacheco
Mayor

# CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS (PUBLIC RESOURCE CODE §21081, CEQA GUIDELINES §15091) FOR THE FINAL ENVIRONMENTAL IMPACT REPORT TRINITY CANNABIS CULTIVATION AND MANUFACTURING FACILITY (SCH NO. 2017121037)

## 1.0 INTRODUCTION

The following Findings are made for the Environmental Impact Report (EIR) for the proposed Trinity Cannabis Cultivation and Manufacturing Facility ("Project"). The EIR analyzes the significant and potentially significant environmental impacts which may occur as a result of the Project.

### 1.1 PURPOSE OF CEQA FINDINGS; TERMINOLOGY

CEQA Findings play an important role in the consideration of projects for which an EIR is prepared. Under Public Resources Code (PRC) §21081 and California Environmental Quality Act (CEQA) Guidelines §15091, where a Final EIR identifies one or more significant environmental effects, a project may not be approved until the public agency makes written findings supported by substantial evidence in the administrative record regarding each of the significant effects. In turn, the three possible findings specified in CEQA Guidelines §15091(a) are:

1. Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the Mitigation Measures or project alternatives identified in the Final EIR.

CEQA Guidelines §15092(b) provides that no agency shall approve a project for which an EIR was prepared unless either:

1. The project approved will not have a significant effect on the environment; or

2. The agency has:

   A. Eliminated or substantially lessened all significant effects where feasible as shown in the findings under §15091, and;

   B. Determined that any remaining significant effects on the environment found to be unavoidable under §15091 are acceptable due to overriding concerns as described in §15093.

### 1.2 ENVIRONMENTAL IMPACT REPORT PROCESS

After the City reviewed the application for the proposed Project, it concluded that although the proposed Trinity Cannabis Cultivation and Manufacturing Facility is consistent with existing zoning, general plan land use and surrounding industrial uses, an EIR would be required as part of a good faith effort to address any concerns from the community or general public regarding development of a cannabis cultivation and

manufacturing use. The City prepared an Initial Study (Code of California Regulations [CCR] §15063b (1)(A)) and subsequently issued a NOP for the preparation of an EIR (SCH. No. 2017121037) on December 13, 2017. The NOP was distributed to city, county, state and federal agencies, and other public agencies to define the scope of the EIR. The NOP was also published in the Imperial Valley Press on Monday, December 11, 2017. Circulation of the NOP ended on January 11, 2018. A public scoping meeting was held on December 19, 2017 at 6:00 p.m. at the Fernando "Nene" Torres Council Chambers, 608 Heber Avenue, Calexico, CA. No members of the public were in attendance and no public comments were received at the meeting. Three comment letters were received during the 30-day NOP review period. A copy of the NOP and written comments received in response to the NOP are included in Appendix A of the Draft EIR.

Based upon comments the City received in response to the NOP, it was determined that the Draft EIR should analyze project-related environmental impacts relative to the following eleven substantive potential impact areas:

- Land Use
- Air Quality
- Biological Resources
- Cultural and Paleontological Resources
- Geology and Soils
- Greenhouse Gas Emissions and Climate Change
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Noise
- Public Services and Facilities
- Transportation and Circulation

Additionally, the Draft EIR included other CEQA substantive sections including an Executive Summary, Introduction, Project Description (Proposed Project and Alternatives), Cumulative Impacts Summary, Alternatives, and Other CEQA Required Considerations.

## 2.0 PROJECT DESCRIPTION

The proposed Trinity Cannabis Cultivation and Manufacturing Facility would be constructed in two phases over a period of 30 months. In total, the Project would occupy 8.44 acres with 167,241 square feet (sq. ft.) and have 263 parking spaces. Each of the two phases of the proposed Project is described in detail below.

### PHASE 1

**Building A, 2421 Enterprise Boulevard - Trinity 341, LLC**

The existing 33,112 sq. ft. building is located on a single parcel (APN 05-343-018) approximately two acres in size fronting on Enterprise Boulevard to the east. The Applicant proposes tenant improvements to accommodate cannabis cultivation and manufacturing within the existing structure. The site would include 53 parking spaces as well as a 2,200 sq. ft. administration building and a 323 sq. ft. guard shack. The application requests a Lot Line Adjustment and Parcel Carve-out to create a new parcel for the Transportation and Distribution Facility immediately to the north of 2421 Enterprise Boulevard. Demolition of interior is anticipated to occur around April 15, 2018. Tenant Improvements will begin within two weeks of the receipt of a Building Permit and take approximately five months. The improvements are anticipated to be completed in 2018.

**Transportation and Distribution Facility – Calexico Distribution Company, LLC**

The Transportation and Distribution Facility is a proposed on 0.23 acres to be carved out from APN 059-343-018. A new APN would be created for the Transportation and Distribution Facility which is proposed

immediately north of 2421 Enterprise Boulevard and fronts on Enterprise Boulevard to the east. The Facility would be surrounded by an 8-foot tall steel fence and 8-foot tall concrete masonry unit fence and a 1,056 sq. ft. transportation office. The site would include 15 parking spaces. The action proposed by the application is to be determined upon approval of the parcel map. The Transportation and Distribution Facility would be constructed concurrent with the tenant improvements at 2421 Enterprise Boulevard.

**PHASE 2**

**Building B, Parcel 1 - Barrington Consulting, LLC**

Building B is a 38,500-sq. ft. structure proposed on two parcels (APNs 059-343-003 and 059-343-014) totaling 2.21 acres. The parcel fronts on Sunset Boulevard to the west. Building B includes a 29,000 square foot ground-floor and 9,500 sq. ft. mezzanine. The site would include 76 parking spaces. The application requests a Lot Merger for the two parcels to create Parcel 1. Construction of Building B is anticipated to begin in the fourth quarter of 2018 with completion by September 2019.

**Building C, Parcel 2 – Cole Boulevard Advisors, LLC**

Building C is a 48,300-square-foot structure proposed on a single parcel (APN 059-343-006) totaling 2.0 acres. The parcel fronts on Sunset Boulevard to the west. Building C includes a ground-floor and mezzanine. The site would include 57 parking spaces. The application requests a Lot Line Adjustment. Construction of Building C is projected to begin in the fourth quarter of 2018 with completion estimated by September 2019.

**Building D, Parcel 3 – Desert Valley Partners, LLC**

Building D is a 43,750-square-foot structure proposed on a single parcel (APN 059-343-016) totaling 2.0 acres. The parcel fronts on Sunset Boulevard to the west. Building B includes a ground-floor and mezzanine. The site would include 62 parking spaces. The application requests a Lot Line Adjustment. Construction of Building D is projected to begin around February 2020 with targeted completion of October 2020.

## 2.1 PROJECT OBJECTIVES

Section 15124 of the CEQA Guidelines requires that the EIR include a statement of objectives sought by the proposed project. These objectives identify the underlying purpose of the project and provide a basis for identification of alternatives evaluated in the EIR. A clearly written statement of objectives allows the lead agency to develop a reasonable range of alternatives to evaluate in the EIR and aids the decision-makers in preparing findings or a statement of overriding considerations, if necessary.

The proposed Trinity Cannabis Cultivation and Manufacturing Facility has the following objectives:

1. To set the standard for cannabis cultivators.
2. To be responsible civic and corporate citizens.
3. To bring a sustainable and expandable model of commerce to Calexico.
4. To diversify Calexico's economic and industrial base.
5. To bring economic growth to Calexico including employment, taxes and associated multiplier effect.
6. To provide a legal holistic option to patients and ultimately consumers as an alternative to opioids and the Black Market.
7. To cultivate and manufacture pesticide free, top-tier cannabis and cannabis products from an environmentally conscious, state-of-the art, sophisticated, agri-business campus.

## 2.2 DISCRETIONARY ACTIONS/APPROVALS BY THE CITY OF CALEXICO

In conformance with Sections 15050 and 15367 of the State CEQA Guidelines, the City of Calexico has been designated the "lead agency," defined as, "the public agency which has the principal responsibility

for carrying out or approving a project." The following identifies the discretionary actions and approvals by the City of Calexico Planning Commission and/or City Council for the proposed Project.

- Certification of the EIR
- Adoption of a project MMRP
- Approval of CEQA Findings pursuant to CEQA Guidelines Section 15091
- Development Agreement
- Commercial Cannabis Activity Regulatory Permit Application
- Environmental Information Application
- Uniform Application
- Site Plan Review
- Approval of Project Site Plan
- Building Permits
- Occupancy Permits
- Business License

## 2.3 Discretionary Actions and Approvals by Other Agencies

Responsible Agencies are those agencies that have discretionary approval over one or more actions involved with development of the proposed Project. Trustee Agencies are state agencies that have discretionary approval or jurisdiction by law over natural resources affected by a project. These agencies may include, but are not limited to the following:

### A. State

Effective January 1, 2018, three newly formed State agencies began issuing licenses for cannabis retailers, distributors, testing labs, micro-businesses, manufacturers and cultivators. In order to operate, the proposed Project will require three licenses from three State licensing authorities identified below.

**CalCannabis**

CalCannabis is part of the California Department of Food & Agriculture. This agency is responsible for issuing licenses to cannabis cultivators. CalCannabis also manages the track-and-trace system for cannabis facilities. The proposed Project will require a permit from CalCannabis for license to cultivate cannabis.

**Bureau of Cannabis Control**

The Bureau of Cannabis Control is under the purview of the Department of Consumer Affairs. The Bureau is the lead agency for retailers, distributors, testing labs and microbusiness. The proposed Project will require a permit from the Bureau in order to distribute cannabis.

**Manufactured Cannabis Safety Branch**

The Manufactured Cannabis Safety Branch (MCSB) is housed within the Department of Public Health. The MCSB is responsible for licensing manufacturers of cannabis products. This includes all non-flower products including tinctures and oils. The proposed Project will require a permit from the MCSB in order to manufacture cannabis.

**California Regional Water Quality Control Board (RWQCB), Colorado River Basin Region 7**

The California Regional Water Quality Control Board (RWQCB), Colorado River Basin Region 7 is responsible for regulating water quality. Construction of the Project would be covered under a General Permit for Discharges of Storm Water Associated with Construction Activity (NPDES No. CAS000002) (Construction General Permit Order 2010-2014-DWQ, effective February 14, 2011). The permit requires the Applicants to file a public Notice of Intent (NOI) to discharge stormwater and to prepare and implement a Stormwater Pollution Prevention Plan (SWPPP).

### California Department of Toxic Substances Control (DTSC)

The California Department of Toxic Substances Control (DTSC) oversees toxic substances procedures and remediation. If the Project is required to submit a Hazardous Materials Management Plan, a Spill Containment, Countermeasure, and Control (SPCC) Plan and/or Hazardous Materials Transportation Plans, DTSC would be responsible for review of these documents.

### California Environmental Protection Agency

The California Environmental Protection Agency (CalEPA) oversees various aspects of environmental protection throughout the State. CalEPA will be among the agencies that will be noticed during the public review period and have the opportunity to comment on the Project.

### California Native American Heritage Commission

The California Native American Heritage Commission (NAHC) strives for the preservation and protection of Native American human remains and associated grave goods. The NAHC received a copy of the Notice of Preparation and provided a standard response letter.

## LOCAL

### Imperial County Air Pollution Control District

The Imperial County Air Pollution Control District (ICAPCD) is responsible for enforcing air emission requirements to protect public health in the County. These requirements apply to various activities including construction, and operational activities associated with various land uses. The Project will be required to prepare a Dust Control Plan to comply with ICAPCD Regulation VIII – Fugitive Dust Rules. The Project would also be subject to the ICAPCD's Rule 310 Operational and Development Fees.

### Calexico Fire Department

The Calexico Fire Department would provide fire protection service to the Project. The Department received a copy of the NOP and was consulted during preparation of this EIR. The Department will review the Project including the final design of the proposed fire safety system.

### Calexico Police Department

The Calexico Police Department would provide law enforcement service to the Project. The Department received a copy of the NOP and will review the Project, including the final design, for adequate emergency access. The Department was also consulted for input during preparation of this EIR.

# 3.0 PROJECT LOCATION

The Project is located at 2421 Enterprise Boulevard, Calexico, CA 92231 as well as four surrounding parcels to the east. The Project parcels are located in the industrial area of the City of Calexico within the Cannabis Overlay Zone (COZ). This COZ area is generally bounded by the railroad tracks on the west; the Adler Canal on the north; West Van De Graff Avenue and Scaroni Avenue on the east; and Weakly Street and Camacho Road on the south.

# 4.0 ISSUES ADDRESSED IN THE EIR

The EIR contains an environmental analysis of the potential impacts associated with implementing the Project. These issues include land use, air quality, biological resources, cultural and paleontological resources, geology and soils, greenhouse emissions and climate change, hazards and hazardous materials, hydrology and water quality, noise, public services and facilities, and transportation and circulation.

## 5.0 MITIGATION MONITORING & REPORTING PROGRAM

Pursuant to Public Resources Code (PRC) §21081.6, the City has adopted a detailed mitigation monitoring and reporting program prepared under the City's direction. The program is designed to ensure that all Mitigation Measures and Conditions of Approval as hereafter required are in fact implemented on a timely basis as the Project is implemented.

## 6.0 RECORD OF PROCEEDINGS

For all purposes of CEQA compliance, including these Findings, the administrative record of all City proceedings and decisions regarding the environmental analysis of the Project include but are not limited to:

- The Draft and Final EIR for the Project, together with all appendices and technical reports referred to therein, whether separately bound or not, or on a CD;
- All reports, letters, applications, memoranda, maps or other planning and engineering documents prepared by the City, its planning consultant and environmental consultant, the Applicant or others and presented to or before the decision-makers or staff;
- Any letters, reports or other documents or evidence submitted into the record at any public meetings or hearings; and
- Matters of common general knowledge to the City which it may consider, including applicable state or local laws, ordinances and policies, the General Plan and all applicable planning programs and policies of the City.

Documents or other materials that constitute the record of proceedings upon which these Findings are made are located at the City of Calexico Planning Department, 608 Heber Avenue, Calexico, California 92231.

## 7.0 FINDINGS OF POTENTIALLY SIGNIFICANT IMPACTS, REQUIRED MITIGATION MEASURES AND SUPPORTING FACTS

The City of Calexico City Council, having reviewed and considered the information contained in the Draft EIR, and in the administrative record before it, finds pursuant to PRC §21081(a)(1) and CEQA Guidelines §15091(a)(1) that changes or alterations have been required in, or incorporated into, the Project which would mitigate, avoid, or substantially lessen to below a level of significance, the following potential significant environmental effects identified in the Draft EIR. The City further finds that all of the mitigation measures adopted in the Mitigation Monitoring and Reporting Program (MMRP) are feasible.

### 7.1 AIR QUALITY

#### 7.1.1 - Impact 4.2.1 - Conflict with or Obstruct Air Quality Plan / Violate Air Quality Standard

A. **Potential Impact.** Implementation of the proposed Project would increase air pollutant emissions during Project construction and operation. No criteria pollutant thresholds were calculated to be exceeded during either Project construction or operations. However, both construction and operational emissions could contribute to localized pollutant concentrations that could conflict with or obstruct the implementation of applicable air quality plans and exceed applicable air quality standards. This is considered a **potentially significant impact.**

B. **Facts in Support of Finding.** Uncontrolled emissions from construction of the proposed Project would not exceed the ICAPCD's significance thresholds. However, construction emissions could contribute to localized pollutant concentrations that could exceed applicable air quality

standards. Implementation of the proposed Project would also not result in long-term increases in emissions that would exceed applicable ICAPCD-recommended thresholds of significance for regional air quality impacts. However, operational emissions could contribute to localized pollutant concentrations that could exceed applicable air quality standards. Therefore, implementation of the Project could result in conflicts with or obstruct the implementation of applicable air quality plans.

The measures included in Mitigation Measure MM 4.2.1a (which are applicable to construction emissions) and Mitigation Measure MM 4.2.1b (which are applicable to operational emissions) consist of ICAPCD-recommended standard mitigation measures that are required for all development projects. Upon implementation of these mitigation measures, both short-term construction emission impacts and long-term operational emissions would be reduced to a level that would not contribute to localized pollutant concentrations that could conflict with or obstruct the implementation of applicable air quality plans and exceed applicable air quality standards. Therefore, with implementation of Mitigation Measure MM 4.2.1a and 4.2.1b of the Final EIR, the Project's potentially significant impact regarding conflicts with applicable air quality plans would be mitigated to below a level of significance.

**Mitigation Measure MM 4.2.1a**

**MM 4.2.1a** The following mitigation measures shall be implemented to reduce short-term construction emissions:

a. All disturbed areas, including bulk material storage which is not being actively utilized, shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps or other suitable material such as vegetative ground cover.

b. All on site and off site unpaved roads will be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.

c. All unpaved traffic areas one (1) acre or more with 75 or more average vehicle trips per day will be effectively stabilized and visible emission shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.

d. The transport of bulk materials shall be completely covered unless six inches of freeboard space from the top of the container is maintained with no spillage and loss of Bulk Material. In addition, the cargo compartment of all Haul Trucks is to be cleaned and/or washed at delivery site after removal of Bulk Material.

e. All Track-Out or Carry-Out will be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an Urban area.

f. Movement of Bulk Material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient water, chemical stabilizers or by sheltering or enclosing the operation and transfer line.

g. The construction of any new Unpaved Road is prohibited within any area with a population of 500 or more unless the road meets the definition of a Temporary Unpaved Road. Any temporary unpaved road shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emission by paving,

chemical stabilizers, dust suppressants and/or watering.

h. Water exposed soil with adequate frequency for continued moist soil.

i. Replace ground cover in disturbed areas as quickly as possible

j. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.

k. Use of alternative fueled or catalyst equipped diesel construction equipment, including all off-road and portable diesel-powered equipment, to the extent available locally.

l. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes as a maximum.

m. Limit, to the extent feasible, the hours of operation of heavy-duty equipment and/or the amount of equipment in use

n. To the extent locally available, use newer heavy-duty construction equipment meeting, at a minimum, U.S. EPA Tier 3 emission standards.

o. Replace fossil fueled equipment with electrically driven equivalents to the extent available locally (provided they are not run via a portable generator set).

**Mitigation Measure MM 4.2.1b**

**MM 4.2.1b** The following mitigation measures shall be implemented to reduce long-term operational emissions:

a. Provide on-site bicycle lockers and/or racks;

b. Provide on-site heating, refrigeration and food vending facilities to reduce lunchtime trips;

c. Provide shower and locker facilities to encourage employees to bike and/or walk to work;

d. Provide for paving a minimum of 100 feet from the property line for commercial driveways that access County paved roads as per County Standard Commercial Driveway Detail 410B (formerly SW-131A).

e. Incorporate measures which meet mandatory, prescriptive and/or performance measures as required by Title 24.

f. The use of volatile solvents for the manufacturing of cannabis shall be prohibited.

**7.1.2 - Impact 4.2.2 - Result in a Cumulatively Considerable Net Increase of Any Criteria Pollutant**

A. **Potential Impact.** Implementation of the proposed Project would generate operational emissions that could contribute, on a cumulative basis, to localized and/or regional air quality impacts. This is considered a **potentially significant impact.**

B. **Facts in Support of Finding.** Although no criteria thresholds would be exceeded during Project construction or operation, Project-generated emissions of $NO_X$ and fugitive PM could contribute to localized pollutant concentrations that, when considered on a cumulative basis, could contribute to localized and/or regional air quality impacts. Implementation of Mitigation

Measures MM 4.2.1a and MM 4.2.1b would reduce maximum daily emissions of criteria pollutants as follows: 69 lbs/day of ROG; 19 lbs/day of $NO_X$; 24 lbs/day of CO; 25 lbs/day of $PM_{10}$; and 5 lbs/day of $PM_{2.5}$. Following implementation of Mitigation Measures MM 4.2.1a and MM 4.2.1b, Project contributions to localized and regional air quality impacts would be reduced would be mitigated to below a level of significance.

**Mitigation Measures**

Implement Mitigation Measures MM 4.2.1a and MM 4.2.1b.

**Mitigation Measure MM 4.2.1a**

**MM 4.2.1a** The following mitigation measures shall be implemented to reduce short-term construction emissions:

a. All disturbed areas, including bulk material storage which is not being actively utilized, shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps or other suitable material such as vegetative ground cover.

b. All on site and off site unpaved roads will be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.

c. All unpaved traffic areas one (1) acre or more with 75 or more average vehicle trips per day will be effectively stabilized and visible emission shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.

d. The transport of bulk materials shall be completely covered unless six inches of freeboard space from the top of the container is maintained with no spillage and loss of Bulk Material. In addition, the cargo compartment of all Haul Trucks is to be cleaned and/or washed at delivery site after removal of Bulk Material.

e. All Track-Out or Carry-Out will be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an Urban area.

f. Movement of Bulk Material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient water, chemical stabilizers or by sheltering or enclosing the operation and transfer line.

g. The construction of any new Unpaved Road is prohibited within any area with a population of 500 or more unless the road meets the definition of a Temporary Unpaved Road. Any temporary unpaved road shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emission by paving, chemical stabilizers, dust suppressants and/or watering.

h. Water exposed soil with adequate frequency for continued moist soil.

i. Replace ground cover in disturbed areas as quickly as possible

j. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.

k. Use of alternative fueled or catalyst equipped diesel construction equipment, including all off-road and portable diesel-powered equipment, to the extent available

locally.

l. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes as a maximum.

m. Limit, to the extent feasible, the hours of operation of heavy-duty equipment and/or the amount of equipment in use

n. To the extent locally available, use newer heavy-duty construction equipment meeting, at a minimum, U.S. EPA Tier 3 emission standards.

o. Replace fossil fueled equipment with electrically driven equivalents to the extent available locally (provided they are not run via a portable generator set).

**Mitigation Measure MM 4.2.1b**

**MM 4.2.1b** The following mitigation measures shall be implemented to reduce long-term operational emissions:

a. Provide on-site bicycle lockers and/or racks;

b. Provide on-site heating, refrigeration and food vending facilities to reduce lunchtime trips;

c. Provide shower and locker facilities to encourage employees to bike and/or walk to work;

d. Provide for paving a minimum of 100 feet from the property line for commercial driveways that access County paved roads as per County Standard Commercial Driveway Detail 410B (formerly SW-131A).

e. Incorporate measures which meet mandatory, prescriptive and/or performance measures as required by Title 24.

f. The use of volatile solvents for the manufacturing of cannabis shall be prohibited.

**7.1.3 - Impact 4.2.3 - Expose Sensitive Receptors to Substantial Pollutant Concentrations**

A. **Potential Impact.** Implementation of the proposed Project could expose construction workers and nearby land uses to emissions and dust. Exposure of sensitive receptors to substantial pollutant concentrations is considered a **potentially significant impact.**

B. **Facts in Support of Finding.** Valley Fever is an infection caused by the fungus *Coccidioides*. Spores of *Coccidioides* can become airborne after contaminated soil and dust are disturbed. Construction activities would include ground-disturbing activities which could result in an increased potential for exposure of nearby residents and on-site construction workers to these airborne spores. Temporary increases in emissions of DPM associated with the use of off-road diesel equipment also could occur. In addition, both construction and the long-term operation of the Project may also result in emissions of fugitive dust associated with vehicle travel on unpaved surfaces. Increases of uncontrolled fugitive dust may result in increased localized concentrations of PM that could adversely impact occupants of nearby land uses. Implementation of Mitigation Measures MM 4.2.1a and MM 4.2.1b would reduce maximum daily emissions of criteria pollutants as follows: 69 lbs/day of ROG; 19 lbs/day of $NO_X$; 24 lbs/day of CO; 25 lbs/day of $PM_{10}$; and 5 lbs/day of $PM_{2.5}$. Therefore, with implementation of Mitigation Measure MM 4.2.1a and MM 4.2.1b of the Final EIR, the Project's potentially significant impacts regarding exposure of sensitive receptors to contaminants would be mitigated to below a level of significance.

**Mitigation Measures**

Implement Mitigation Measures MM 4.2.1a and MM 4.2.1b.

**Mitigation Measure MM 4.2.1a**

**MM 4.2.1a** The following mitigation measures shall be implemented to reduce short-term construction emissions:

a. All disturbed areas, including bulk material storage which is not being actively utilized, shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps or other suitable material such as vegetative ground cover.
b. All on site and off site unpaved roads will be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.
c. All unpaved traffic areas one (1) acre or more with 75 or more average vehicle trips per day will be effectively stabilized and visible emission shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.
d. The transport of bulk materials shall be completely covered unless six inches of freeboard space from the top of the container is maintained with no spillage and loss of Bulk Material. In addition, the cargo compartment of all Haul Trucks is to be cleaned and/or washed at delivery site after removal of Bulk Material.
e. All Track-Out or Carry-Out will be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an Urban area.
f. Movement of Bulk Material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient water, chemical stabilizers or by sheltering or enclosing the operation and transfer line.
g. The construction of any new Unpaved Road is prohibited within any area with a population of 500 or more unless the road meets the definition of a Temporary Unpaved Road. Any temporary unpaved road shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emission by paving, chemical stabilizers, dust suppressants and/or watering.
h. Water exposed soil with adequate frequency for continued moist soil.
i. Replace ground cover in disturbed areas as quickly as possible
j. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.
k. Use of alternative fueled or catalyst equipped diesel construction equipment, including all off-road and portable diesel-powered equipment, to the extent available locally.
l. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes as a maximum.
m. Limit, to the extent feasible, the hours of operation of heavy-duty equipment and/or the amount of equipment in use
n. To the extent locally available, use newer heavy-duty construction equipment meeting, at a minimum, U.S. EPA Tier 3 emission standards.
o. Replace fossil fueled equipment with electrically driven equivalents to the extent available locally (provided they are not run via a portable generator set).

**Mitigation Measure MM 4.2.1b**

**MM 4.2.1b** The following mitigation measures shall be implemented to reduce long-term operational emissions:

a. Provide on-site bicycle lockers and/or racks;

b. Provide on-site heating, refrigeration and food vending facilities to reduce lunchtime trips;

c. Provide shower and locker facilities to encourage employees to bike and/or walk to work;

d. Provide for paving a minimum of 100 feet from the property line for commercial driveways that access County paved roads as per County Standard Commercial Driveway Detail 410B (formerly SW-131A).

e. Incorporate measures which meet mandatory, prescriptive and/or performance measures as required by Title 24.

f. The use of volatile solvents for the manufacturing of cannabis shall be prohibited.

**7.1.4 - Impact 4.2.5 - Violate Air Quality Standard/Cause Air Quality Violation - Cumulative**

A. **Potential Impact.** The proposed Project would generate criteria pollutant emissions during construction. However, the short-term construction emissions exceedances of ICAPCD thresholds would be mitigated with implementation of mitigation measures. Project generated operational emissions could contribute, on a cumulative basis, to localized and/or regional air quality impacts. Therefore, the proposed Project's contribution to violating an air quality standard is **considered cumulatively considerable.**

B. **Facts in Support of Finding.** The construction phase of the proposed Project may contribute to a net increase in criteria pollutants $PM_{10}$. The Imperial Valley is classified as non-attainment for federal and state $PM_{10}$ standards. Thus, the Project's contribution to existing criteria pollutants could be cumulatively considerable without mitigation. However, implementation of Mitigation Measure MM 4.2.1a would reduce construction-phase NOx and $PM_{10}$ emissions to less than significant levels resulting in a less than cumulatively considerable contribution to existing criteria pollutants.

Project-generated operational emissions could result in a cumulatively considerable contribution to localized and/or regional air quality impacts. Mitigation Measure MM 4.2.1b would reduce long-term operational emissions by providing on-site amenities for employees to reduce off-site trips, ensuring surrounding roadways are paved and complying with Title 24. With implementation of Mitigation Measure MM 4.2.1b, the proposed Project would result in a less than cumulatively considerable contribution to air quality standard violations during operations.

In addition, all other cumulative projects are required to comply with Regulation VIII and would also be assumed to implement mitigation measures to reduce their individual construction and operation air quality emissions. In this way, each individual cumulative project would reduce emissions on a project-by-project basis, and contributions to existing criteria pollutants would be reduced to a level of less than cumulatively considerable.

**Mitigation Measures**

Implement Mitigation Measures MM 4.2.1a and MM 4.2.1b.

**Mitigation Measure MM 4.2.1a**

**MM 4.2.1a** The following mitigation measures shall be implemented to reduce short-term construction emissions:

a. All disturbed areas, including bulk material storage which is not being actively utilized, shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps or other suitable material such as vegetative ground cover.

b. All on site and off site unpaved roads will be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.

c. All unpaved traffic areas one (1) acre or more with 75 or more average vehicle trips per day will be effectively stabilized and visible emission shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.

d. The transport of bulk materials shall be completely covered unless six inches of freeboard space from the top of the container is maintained with no spillage and loss of Bulk Material. In addition, the cargo compartment of all Haul Trucks is to be cleaned and/or washed at delivery site after removal of Bulk Material.

e. All Track-Out or Carry-Out will be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an Urban area.

f. Movement of Bulk Material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient water, chemical stabilizers or by sheltering or enclosing the operation and transfer line.

g. The construction of any new Unpaved Road is prohibited within any area with a population of 500 or more unless the road meets the definition of a Temporary Unpaved Road. Any temporary unpaved road shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emission by paving, chemical stabilizers, dust suppressants and/or watering.

h. Water exposed soil with adequate frequency for continued moist soil.

i. Replace ground cover in disturbed areas as quickly as possible

j. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.

k. Use of alternative fueled or catalyst equipped diesel construction equipment, including all off-road and portable diesel-powered equipment, to the extent available locally.

l. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes as a maximum.

m. Limit, to the extent feasible, the hours of operation of heavy-duty equipment and/or the amount of equipment in use

n. To the extent locally available, use newer heavy-duty construction equipment meeting, at a minimum, U.S. EPA Tier 3 emission standards.

o. Replace fossil fueled equipment with electrically driven equivalents to the extent available locally (provided they are not run via a portable generator set).

**Mitigation Measure MM 4.2.1b**

**MM 4.2.1b** The following mitigation measures shall be implemented to reduce long-term operational emissions:

a. Provide on-site bicycle lockers and/or racks;

b. Provide on-site heating, refrigeration and food vending facilities to reduce lunchtime trips;

c. Provide shower and locker facilities to encourage employees to bike and/or walk to work;

d. Provide for paving a minimum of 100 feet from the property line for commercial driveways that access County paved roads as per County Standard Commercial Driveway Detail 410B (formerly SW-131A).

e. Incorporate measures which meet mandatory, prescriptive and/or performance measures as required by Title 24.

f. The use of volatile solvents for the manufacturing of cannabis shall be prohibited.

## 7.2 BIOLOGICAL RESOURCES

### 7.2.1- Impact 4.3.2 - Impacts to Nesting and Migratory Birds

**A.** **Potential Impact.** The proposed Project could result in direct impacts to nesting and migratory birds protected under CDFG Code and the MBTA. This is considered a **potentially significant impact.**

**B.** **Facts in Support of Finding.** The landscape and ornamental vegetation surrounding 2421 Enterprise Boulevard as well as disturbed lands on the vacant Project parcels represent potential nesting habitat for raptors and other birds. Two California Species of Special Concern were identified in the CNDDB search conducted for the Project parcels: burrowing owl (*Athene cunicuaria*) and yellow warbler (*Setophaga petechia*). While neither was observed during the Biological Resources Survey, both species have potential to occur based on the nesting and foraging habitat present. In addition, birds protected under the federal MBTA have the potential to nest on the Project parcels. Loss of an active nest is considered a violation of the MBTA. Implementation of Mitigation Measures MM 4.3.2a and MM 4.3.2b would reduce potential impacts to nesting and migratory birds by limiting vegetation removal to non-breeding season or requiring a pre-construction nesting bird survey. If nesting birds are identified, a buffer would be established and construction activities must avoid disturbance within the buffer zone. With implementation of these measures, impacts to nesting and migratory birds would be mitigated to below a level of significance.

**Mitigation Measure MM 4.3.2a**

**MM 4.3.2a** Vegetation removal should occur outside the migratory bird breeding and raptor breeding season (January 15 – September 15). Alternatively, pre-construction surveys for the presence of nesting raptors or other birds will be required to ensure that active nests are not removed.

**Mitigation Measure MM 4.3.2b**

**MM 4.3.2b** If construction or other Project activities are scheduled to occur during the bird breeding season (January 15 – September 15), a pre-construction nesting bird survey shall be conducted by a qualified biologist. The focus of the survey will be detecting nesting activities of bird and raptor species on the Project parcels. The survey shall be completed no more than 3 days prior to grading activities. The nesting bird survey shall include the Project parcels and adjacent areas where construction activities have the potential to cause nest failure. If an active nest is identified, a qualified biologist shall establish an appropriate disturbance limit buffer around the nest using flagging or staking. Construction activities shall avoid disturbance within the buffer zones until the nest is deemed no longer active by the biologist.

## 7.3 CULTURAL AND PALEONTOLOGICAL RESOURCES

### 7.3.1 - Impact 4.4.2 - Impacts to Unknown Subsurface Archaeological Resources

A. **Potential Impact.** Unrecorded subsurface archaeological resources if present within the boundaries of the Project parcels could be damaged during earth-moving activities. This is considered a **potentially significant impact.**

B. **Facts in Support of Finding.** While the Project parcels have been disturbed by past agricultural activities as well as more recent development of the Portico Industrial Park, the possibility exists for archaeological resources to be present and buried beneath the Project parcels. If archaeological resources are present, construction activities such as earthmoving, trenching and excavation could potentially uncover subsurface archaeological deposits. Mitigation Measure MM 4.4.2 requires construction activities to be halted within a reasonable distance in the event that potential subsurface archaeological resources are discovered during construction. The halt on construction would remain in effect until after an assessment of the resource by a Registered Professional Archaeologist (RPA) has been made. In addition, the data recovery plan would preserve any historical resource through appropriate recordation/deposition of data/materials with the local California Historic Resources Information System (CHRIS). Following implementation of Mitigation Measure MM 4.4.2, impacts to unrecorded subsurface archaeological resources would be mitigated to below a level of significance.

**Mitigation Measure MM 4.4.2**

**MM 4.4.2** Due to the extensive disturbance by past farming and the limited depth of disturbance for the proposed Project, archaeological monitoring is not required on the Project parcels. If subsurface resources are discovered by construction workers, a Registered Professional Archeologist (RPA) shall be called to the site to investigate and monitor subsurface excavations within 100 feet of the potential resource. Monitoring activities shall be supervised by an RPA who shall have the authority to determine the duration, intensity and inspection timing (from full-time to as-needed). The RPA shall be empowered to temporarily halt or divert construction operations within a reasonable distance from a find or resource exposure in order to determine if significant archaeological resources are present, and if such resource would be adversely affected by continuing construction operations. Per CEQA Guidelines Section 15126.4(b)(3)(A), preservation in place is the preferred method of mitigating impacts to archaeological sites. The RPA shall immediately notify the City of Calexico Planning Department of such discoveries/decisions.

Work shall not continue at the discovery site until the RPA, in coordination with City of Calexico Planning Department, conducts sufficient research and data collection to make a determination that the resource is either not cultural in origin; or not potentially significant or eligible for listing on the NRHP or CRHR. If a potentially-eligible resource is encountered, then the RPA, lead agency, and Project proponent shall arrange for either 1) total avoidance of the resource, if possible; or 2) test excavations to evaluate eligibility for the CRHR and, if eligible, data recovery as mitigation. The data recovery plan shall identify methods for recovering the scientifically consequential information from and about the historical resource, and recordation/deposition of data/materials with the local California Historical Resources Information Center (CHRIS). Any recovered artifacts would be curated with a local museum. This will enable the collection of information that may be important to the prehistory or history of the local area, California, or the nation.

### 7.3.2 - Impact 4.4.3 - Impacts to Nonrenewable Fossil (Paleontological) Remains

A. **Potential Impact.** Fossil remains if present beneath the Project parcels could be destroyed by excavation and other earth-moving activities. This is considered a potentially significant impact.

B. **Facts in Support of Finding.** All of the Project parcels are located on the former bed of Lake Cahuilla. Lakebed sediments have been proven to contain fossils or fossil remains (i.e. paleontological resources) such as invertebrates, small vertebrates, and extinct larger mammals (EGI 2014, p. 4.7-19). Due to the disturbed nature of the surface soils from agricultural practices dating back to 1937 (EMG 2017a, p. 18; 2017b, p. 3), the upper layers of soil are unlikely to contain intact paleontological remains. The absence of fossils on the surface does not preclude the possibility of fossil presence at deeper depths beneath the soil. Although deep excavations are not proposed in association with construction of the Project, if paleontological resources were encountered during earthmoving, trenching or excavation activities a potentially significant impact could occur. Mitigation Measure MM 4.4.3 requires that an RPA be present to monitor certain excavation construction activities. The RPA would be empowered to determine the level of monitoring necessary; to halt or divert construction away from large specimens; and to curate fossil specimens. With implementation of Mitigation Measure MM 4.4.3, impacts to nonrenewable fossil remains would be mitigated to below a level of significance.

### Mitigation Measure MM 4.4.3

**MM 4.4.3** Earth-moving operations impacting the soils five feet and deeper within the Project parcels shall be "spot-checked" up to two days per week by a RPA to determine whether undisturbed lakebed sediments have been encountered. If within that period no paleontological findings are discovered, no further monitoring will be required. If paleontologically sensitive soils are being impacted, the RPA would have discretion to increase monitoring to full-time within a radius of 100 meters of the find.

Paleontological monitors shall be equipped to salvage fossils as they are unearthed (to help avoid construction delays) and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates. Monitors shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens. Recovered specimens shall be prepared to a point of identification and permanent preservation, including washing of sediments to recover small invertebrates and vertebrates. Fossil specimens shall be curated by accessioning into an established, accredited museum repository with permanent retrievable paleontological storage. A report of findings with an appended itemized inventory of specimens shall be prepared.

Submittal of the report and inventory to the City of Calexico Planning Department along with confirmation of the curation of recovered specimens into an established, accredited museum repository, shall signify completion of the program to mitigate impacts to paleontological resources.

### 7.3.3 - Impact 4.4.4 - Impacts to Subsurface Human Remains

A. **Potential Impact.** It is unknown whether there are human remains buried within the boundaries of the Project parcels that could be discovered during construction. Therefore, impacts to subsurface human remains are considered a **potentially significant impact.**

B. **Facts in Support of Finding.** Based on the Records Search conducted at the SCIC, as well as the standard historical sources reviewed as part of the Phase I ESA (e.g. Aerial Photographs, Fire insurance [Sanborn] Maps) (EMG 2017a and 2017b), the Project parcels are not known to be a formal cemetery or contain any humans remains. Though unlikely, there is a possibility that unknown human remains could be present beneath the ground surface which could be exposed during construction. Mitigation measure MM 4.4.4 requires construction activities to be halted or diverted in the event that human remains are discovered. The County Coroner and NAHC will be notified as appropriate. Therefore, following implementation of Mitigation Measure MM 4.4.4, impacts to subsurface human remains would be mitigated to below a level of significance.

### Mitigation Measure MM 4.4.4

MM 4.4.4 In the event that evidence of human remains is discovered, construction activities within 200 feet of the discovery shall be halted or diverted and the City of Calexico Planning Department and the Imperial County Coroner shall be notified (Section 7050.5 of the Health and Safety Code). If the Coroner determines that the remains are Native American, the Coroner will notify the NAHC which will designate a Most Likely Descendant (MLD) for the Project (Section 5097.98 of the Public Resources Code). The designated MLD then has 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains (AB 2641). If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (Section 5097.94 of the Public Resources Code). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (Section 5097.98 of the Public Resources Code). This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a document with the county in which the property is located (AB 2641).

## 7.4 GEOLOGY AND SOILS

### 7.4.1 - Impact 4.5.1 - Strong Seismic Ground Shaking

A. **Potential Impact.** The Project parcels have the potential to be exposed to strong ground shaking during an earthquake along several faults. This is considered a **potentially significant impact**.

B. **Facts in Support of Finding.** The Project area is located in the seismically active Imperial Valley of Southern California. The primary seismic hazard at the Project parcels is the potential for strong groundshaking during an earthquake. The Project parcels would be exposed to groundshaking along the Superstition Hills, Imperial, Cerro Prieto, and Laguna Salada Faults. Imperial County is classified as Seismic Zone 4 by the Uniform Building Code Developments within in Seismic Zone 4 (highest risk on a scale of 0 to 4) are required to incorporate the most stringent earthquake resistant measures. Ground motions are dependent primarily upon the earthquake magnitude

and distance to the seismogenic (rupture) zone. Ground accelerations are dependent upon attenuation by rock and soil deposits, direction of rupture and type of fault. The Project parcels have a peak ground acceleration (PGAM) value (i.e. Ground Acceleration Value) of 0.50 g (refer to EIR **Appendix E**; LandMark 2018, p. 5). This would result in a severe perceived shaking with moderate to heavy damage. However, Mitigation Measure MM 4.5.1 reiterates the Project's mandatory adherence to and enforcement of the appropriate provisions of the 2016 CBC, ASCE 7-10 Seismic Parameters and the California Building Code (CBC) to reduce potential structural damage caused by strong seismic ground shaking. Upon adherence to applicable codes and standards, impacts related to strong seismic ground shaking would be mitigated to below a level of significance.

**Mitigation Measure 4.5.1**

MM 4.5.1 Project structures shall be designed and constructed in accordance with the 2016 California Building Code (CBC) for Soil Site Class D (stiff soil profile), ASCE 7-10 Seismic Parameters, and CBC as appropriate.

### 7.4.2 - Impact 4.5.2 - Liquefaction/Seismic Settlement

A. **Potential Impact.** Silty clays and clay are the predominant soils on the Project parcels. Liquefaction is a potential design consideration because of possible saturated sandy substrata underlying the Project parcels which could result in seismic settlement. Therefore, liquefaction and seismic settlement are considered a **potentially significant impact.**

B. **Facts in Support of Finding.** Liquefaction is a potential design consideration because of possible saturated sandy substrata underlying the Project parcels. Liquefaction occurs when granular soil below the water table is subjected to vibratory motions such as produced by earthquakes. Liquefaction can produce excessive settlement, ground rupture, lateral spreading, or failure of shallow bearing foundations. Four conditions are generally required for liquefaction to occur, all of which may exist to some degree at the Project parcels. Liquefaction settlement and ground fissures were not noted in the area of the Project parcels after the April 4, 2010 magnitude 7.2 Mw El Mayor-Cucapah Earthquake (EIR **Appendix E**; LandMark 2018, p. 3). Nevertheless, based on soil conditions and the Project parcels' location within a seismically active area, the risk of liquefaction and seismic settlement remains potentially significant. However, as reiterated in Mitigation Measure MM 4.5.1, the Project is subject to mandatory adherence to and enforcement of the appropriate provisions of the 2016 CBC, ASCE 7-10 Seismic Parameters and CBC to reduce potential structural damage caused by liquefaction and seismic settlement. Upon adherence to applicable codes and standards, impacts related to liquefaction and seismic settlement would be mitigated to below a level of significance.

**Mitigation Measure**

Refer to Mitigation Measure MM 4.5.1.

### 7.4.3 - Impact 4.5.4 - Expansive Soils

A. **Potential Impact.** The near surface soils in the Project parcels are silty clays and clays. These soils have a moderate to high expansion potential. Therefore, expansive soils present a **potentially significant impact.**

B. **Facts in Support of Finding.** Expansive soils are primarily comprised of clay particles and can damage building foundations, concrete flatwork, and asphaltic concrete pavements as a result of swelling forces that reduce soil strength. Soils on the Project parcels include Imperial and Glenbar soils. According to the Imperial County Soil Survey (USDA 1981, p. 106), Imperial soils have a high

shrink-swell potential and Glenbar soils have a moderate shrink-swell potential due to the high clay content. Foundations placed within these soils require extra strength to withstand the stresses of shrinking and swelling. Mitigation Measure MM 4.5.4 requires that a site specific geotechnical investigation be prepared for the Project parcels to determine the extent and effect of expansive soils. This would ensure that the Project is designed and constructed to withstand the stresses of shrinking and swelling potentially occurring in association with on-site soils. Therefore, upon implementation of Mitigation Measure MM 4.5.4, potential impacts resulting from expansive soils would be mitigated to below a level of significance.

**Mitigation Measure MM 4.5.4**

MM 4.5.4 A site specific geotechnical investigation shall be prepared for the Project parcels to determine the extent and effect of expansive soils. The proposed buildings shall be designed in accordance with the recommendations of the geotechnical investigation addressing expansive soils.

### 7.4.4 - Impact 4.5.5 - Soil Corrosivity

A. **Potential Impact.** Soils within the Project parcels consist of lakebed deposits which are known to be corrosive. This is considered a **potentially significant impact.**

B. **Facts in Support of Finding.** The Imperial Valley, including the City of Calexico and the Project parcels, is directly underlain by lacustrine (lake bed) deposits, which are considered corrosive soils. Corrosive soils can damage concrete foundations and metal infrastructure. Proposed Project slabs-on-grade and concrete sidewalks would come in contact with these soils, exposing foundations and other concrete building features to corrosion. Mitigation Measure MM 4.5.5 requires the Project be design and constructed to protect concrete against corrosion from contact with on-site soils. Therefore, upon implementation of Mitigation Measure MM 4.5.5, potential impacts resulting from soil corrosivity would be mitigated to below a level of significance.

**Mitigation Measure MM 4.5.5**

MM 4.5.5 To protect against corrosive soils, high cement contents (6 sacks Type V Portland cement) shall be mixed with low water-cement ratios (0.45 water to cement ratio). Additionally, steel post corrosion protection shall be required for metal features that come in contact with soil. The protection shall consist of zinc coatings (galvanizing) or increasing structural sections to compensate for metal loss due to corrosion.

## 7.5 CLIMATE CHANGE AND GREENHOUSE GASES

### 7.5.1 - Impact 4.6.1 - Generation of GHG Emissions/Conflict with Applicable Plan, Policy or Regulation Reducing GHGs

A. **Potential Impact.** Implementation of the proposed Project would produce both short-term construction and long-term operational GHGs. Operational GHG emissions would exceed the threshold of 900 $MTCO_2e$/year. Generation of GHGs in excess of the threshold could conflict with GHG-reduction planning efforts. This is considered a **potentially significant impact.**

B. **Facts in Support of Finding.** Long-term operation of the proposed Project would result in emissions predominantly associated with energy use and, to a lesser extent, vehicle trips, water use, and solid waste generation. Annual operational GHG emissions generated by the proposed Project would total approximately 28,769 $MTCO_2e$/year. As indicated, a majority of the emissions generated (roughly 99.7%) would be attributable to energy usage. GHG emissions from mobile sources constitute a majority of the remaining operational GHG emissions. Operational GHG emissions associated with non-stationary sources (excluding the generators) would exceed the

threshold of 900 $MTCO_2e$/year and would be considered to have a potentially significant impact on the environment, which could conflict with GHG-reduction planning efforts.

Mitigation measure MM 4.2.1a items j – o (from EIR Section 4.2 Air Quality) would require actions that would minimize diesel-exhaust emissions from off-road equipment thereby reducing short-lived GHG emissions of black carbon. With implementation of mitigation measure MM 4.6.1a thru MM 4.6.1f and MM 4.2.1b, GHG emissions associated with Project operations would be significantly reduced. GHG reductions would be achieved through the implementation of measures to reduce energy use, such as the installation of energy-efficient lighting and alternative/renewable energy sources (e.g., solar photovoltaic (PV) and wind-power systems.) With installation of energy-efficient lighting, annual operational GHG emissions associated with electricity use would be reduced to approximately 26,269 $MTCO_2e$. The amount of energy demand provided by on-site renewable energy sources, such solar PV systems, would vary depending largely on building and site design constraints. Based on preliminary information provided by the Project Applicant, it is estimated that on-site solar PV systems could reduce on-site electricity demand by roughly 16 percent. Based on this estimate, operational GHG emissions associated with electricity use could be further reduced to approximately 22,066 $MTCO_2e$ with installation of solar PV systems. With the inclusion of GHG emissions associated with natural gas use, combined energy-related GHG emissions with mitigation would total 22,084 $MTCO_2e$/year. Measures would also be implemented to reduce waste generation as well as water and motor vehicle use. Implementation of these additional measures would reduce operational GHG emissions by roughly 20 $MTCO_2e$/year, or more. In total, implementation of the proposed mitigation measures would reduce operational emissions by roughly 6,098 $MTCO_2e$/year, or more. With the inclusion of amortized construction emissions, mitigated operational emissions would total approximately 22,671 $MTCO_2e$/year. Mitigated operational emissions, particularly emissions associated with energy use, would continue to exceed the GHG significance threshold of 900 $MTCO_2e$/year. As a result, even with available mitigation measures, increases in project-related GHG emissions could have a significant impact on the environment, which could conflict with GHG-reduction planning efforts. This impact is considered significant and unavoidable.

**Mitigation Measures**

Implement Mitigation Measure MM 4.2.1a and MM 4.2.1j thru o.

Implement Mitigation Measure MM 4.2.1b.

**Mitigation Measure MM 4.2.1a**

**MM 4.2.1a** The following mitigation measures shall be implemented to reduce short-term construction emissions:

a. All disturbed areas, including bulk material storage which is not being actively utilized, shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps or other suitable material such as vegetative ground cover.

b. All on site and off site unpaved roads will be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.

c. All unpaved traffic areas one (1) acre or more with 75 or more average vehicle trips per day will be effectively stabilized and visible emission shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.

d. The transport of bulk materials shall be completely covered unless six inches of freeboard space from the top of the container is maintained with no spillage and loss of Bulk Material. In addition, the cargo compartment of all Haul Trucks is to be cleaned and/or washed at delivery site after removal of Bulk Material.

e. All Track-Out or Carry-Out will be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an Urban area.

f. Movement of Bulk Material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient water, chemical stabilizers or by sheltering or enclosing the operation and transfer line.

g. The construction of any new Unpaved Road is prohibited within any area with a population of 500 or more unless the road meets the definition of a Temporary Unpaved Road. Any temporary unpaved road shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emission by paving, chemical stabilizers, dust suppressants and/or watering.

h. Water exposed soil with adequate frequency for continued moist soil.

i. Replace ground cover in disturbed areas as quickly as possible

j. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.

k. Use of alternative fueled or catalyst equipped diesel construction equipment, including all off-road and portable diesel-powered equipment, to the extent available locally.

l. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes as a maximum.

m. Limit, to the extent feasible, the hours of operation of heavy-duty equipment and/or the amount of equipment in use

n. To the extent locally available, use newer heavy-duty construction equipment meeting, at a minimum, U.S. EPA Tier 3 emission standards.

o. Replace fossil fueled equipment with electrically driven equivalents to the extent available locally (provided they are not run via a portable generator set).

**Mitigation Measure MM 4.2.1b**

**MM 4.2.1b** The following mitigation measures shall be implemented to reduce long-term operational emissions:

a. Provide on-site bicycle lockers and/or racks;

b. Provide on-site heating, refrigeration and food vending facilities to reduce lunchtime trips;

c. Provide shower and locker facilities to encourage employees to bike and/or walk to work;

d. Provide for paving a minimum of 100 feet from the property line for commercial driveways that access County paved roads as per County Standard Commercial Driveway Detail 410B (formerly SW-131A).

e. Incorporate measures which meet mandatory, prescriptive and/or performance measures as required by Title 24.

f. The use of volatile solvents for the manufacturing of cannabis shall be prohibited.

**Mitigation Measure MM 4.6.1a**

**MM 4.6.1a** Incorporate water-reducing features into building and landscape design exceeding current building standards. Such measures shall include, at a minimum, the following:

- Installation of xeriscape landscaping.
- Installation of automated water-efficient irrigation systems and building fixtures.

**Mitigation Measure MM 4.6.1b**

**MM 4.6.1b** Incorporate energy-reducing features into building and site design exceeding current building standards. Such measures shall include, at a minimum, the use of high-efficiency HVAC & dehumidification systems.

**Mitigation Measure MM 4.6.1c**

**MM 4.6.1c** Incorporate energy-reducing practices to minimize peak energy loads. Such measures may include the staggering of grow room schedules over a 24-hour period so the minimum number of rooms run concurrently. Similarly, other energy-intensive processes such as extraction, cleaning or electric heating should be staggered and scheduled carefully with lighting cycles to minimize peak power demands. Scheduling overlapping or high-energy demand activities during the nighttime when outdoor air temperatures are lower can reduce the cooling load during peak energy demand time.

**Mitigation Measure MM 4.6.1d**

**MM 4.6.1d** Incorporate the use of alternative/renewable energy sources (e.g., solar photovoltaic, wind-power systems) to the maximum extent achievable through site and building design.

**Mitigation Measure MM 4.6.1e**

**MM 4.6.1e** Light colored "cool" roofs and cool pavements shall be included in building and site designs to the extent practical.

**Mitigation Measure MM 4.6.1f**

**MM 4.6.1f** To the extent practical, on-site plant waste shall be diverted for composting or recycling. Recycling of other materials (e.g., paper, plastic, glass, etc.) shall comply with current regulatory requirements.

## 7.6 HAZARDS AND HAZARDOUS MATERIALS

### 7.6.1 - Impact 4.7.1 - Hazardous Materials Transport, Use, Disposal and Accidental Release

A. **Potential Impact.** The proposed Project does not involve the use of large quantities of hazardous materials during construction or operation. However, each of the four cultivation and manufacturing facilities would be equipped with a diesel generator that would require occasional refueling which presents the possibility of leaks and spills. This is considered a **potentially significant impact.**

B. **Facts in Support of Finding.** Each of the four cannabis manufacturing facilities will operate without the use of any harmful hazardous materials. A method using low heat and pressure will be implemented to extract cannabis oil rather than using other volatiles such as butane or propane. A hydraulic press using electricity may also be used to extract oils from the cannabis. Another non-hazardous extraction method uses a chilled alcohol rinse. Non-hazardous plant growing medium known as "rockwool cubes" would be used during the cultivation process.

Each of the four cannabis cultivation and manufacturing facilities would be outfitted with a diesel generator to provide back-up emergency electricity in case of a power outage. Each generator includes a 524-gallon capacity tank approximately 15.5 feet long, 52-inches wide and 23 inches in height. The tank would be double-walled and filled by a mobile diesel fueling service. The diesel fuel tank proposed at each of the four cannabis cultivation and manufacturing facilities presents a potential for leaks as well as spills during refueling. Implementation of Mitigation Measure MM 4.7.1 requires installation of features to reduce and avoid the potential for diesel leaks and spills. Therefore, upon implementation of Mitigation Measure MM 4.7.1, impacts associated with accidental release during hazardous materials transport, use, and disposal would be mitigated to below a level of significance.

**Mitigation Measure MM 4.7.1**

**MM 4.7.1** To reduce and avoid the potential for leaks from the diesel fuel tanks and spills during the re-fueling process at each cultivation and manufacturing facility, the City of Calexico Planning Department shall require one or more of the following measures:

- Install a 5-gallon spill/fill catch basin
- Install a high-level fill switch
- Install an alarm for Hi, Low, Leak, Full Fuel
- Install an overfill protection valve
- Install a fuel supply check valve

## 7.7 HYDROLOGY AND WATER QUALITY

### 7.7.1- Impact 4.8.1 - Violate Water Quality Standards or Waste Discharge Requirements

A. **Potential Impact.** Implementation of the proposed Project would increase runoff during construction as well as during operation through the introduction of buildings and impervious surfaces. Pollutants would be introduced to the site that could be transported offsite in stormwater runoff. Therefore, the Project's potential to violate water quality standards or waste discharge requirements is considered a **potentially significant impact.**

B. **Facts in Support of Finding.** The Project parcels are relatively flat and require minimal grading to accommodate construction on Parcels 1, 2 and 3. No soil import or export is proposed. During construction, the area to be disturbed (exclusive of the existing parcel developed with 2421 Enterprise Boulevard) is 6.23 acres. Construction site stormwater management is enforced by the Colorado River Basin RWQCB in accordance with the State's Water Quality Order 99-08-DWQ/NPDES General Permit No. CAS000002 (General Construction Permit). The RWQCB requires an NPDES permit for construction activities that disturb 5 or more acres. Without an NPDES permit, Stormwater Pollution Prevention Plan (SWPPP) or implementation of BMPs, construction activities associated with the project would result in a potentially significant impact to water quality standards and discharge requirements.

The NDPES permit compliance process requires preparation and implementation of a SWPPP that specifies Best Management Practices (BMPs) to prevent construction-related pollutants from being exposed to runoff that can transport pollutants into nearby receiving waters. In addition, the BMPs must eliminate or reduce non-stormwater discharges to storm sewer systems and waters of the U.S. The Project would be required to comply with the requirements of the SWRCB Order No. 2009-0009, NPDES General Permit No. CAS000002, "General Permit for Stormwater

Discharges Associated with Construction Activity". Compliance with the Permit would reduce impacts associated with the Project's potential to violate water quality standards or waste discharge requirements to below a level of significance.

During Project operations, the Project parcels will be developed with parking lots, trash enclosures and outfitted with a back-up diesel generator (one for each cultivation and manufacturing facility). Drainage from the Project parcels will flow to the north and west along the existing streets to an existing retention basin located on the north side of the Portico Industrial Park area. Stormwater runoff from impervious surfaces on the Project parcels could transport contaminants such as diesel and other pollutants off-site. Without implementation of measures to capture pollutants, stormwater discharge could result in a potentially significant impact to water quality standards and discharge requirements during Project operations.

Mitigation measures MM 4.8.1a thru MM 4.8.1c reiterate the requirements that the Project comply with RWQCB requirements to obtain a NPDES permit, prepare and implements a SWPPP and SSMP. Obtaining an NPDES permit, preparing a SWPPP and implementing BMPs would address possible off-site transport of pollutants during construction. During operation, implementation of the City Standard Stormwater Mitigation Plan (SWMP), as well as Mitigation Measures MM 4.8.1.d and MM 4.8.1e would protect water quality by containing any leak from dumpsters and possible diesel spill. Following implementation of these measures, construction and operation impacts to water quality standards and discharge requirements would be mitigated to below a level of significance.

**Mitigation Measure MM 4.8.1a**

**MM 4.8.1a** The Project shall be designed and constructed in compliance with the NPDES permit and all applicable State and local water quality requirements prior to the commencement of construction.

**Mitigation Measure MM 4.8.1b**

**MM 4.8.1b** A Storm Water Pollution Prevention Plan (SWPPP) shall be developed and implemented for the Project parcels. The SWPPP shall identity pollutant sources that may affect storm water quality discharges during construction. The SWPPP shall include various pollution prevention measures such as erosion and dust control. The SWPPP shall also include a comprehensive Best Management Practices (BMPs) Guide for contractors during construction.

**Mitigation Measure MM 4.8.1c**

**MM 4.8.1c** The Applicant of each cultivation and manufacturing facility and the Applicant responsible for the Transportation and Distribution Facility shall comply with the local Standard Stormwater Mitigation Plan (SSMP) for parking lots and commercial development.

**Mitigation Measure MM 4.8.1d**

**MM 4.8.1d** Outside trash container areas shall have leak proof covers on dumpsters, a screened enclosure, and drainage routed around the area.

**Mitigation Measure MM 4.8.1e**

**MM 4.8.1e** Each diesel generator shall be outfitted with secondary containment to prevent spilled diesel from being carried off site by stormwater runoff.

### 7.7.2 - Impact 4.8.2 - Result in Substantial Erosion or Siltation On- or Off-Site

A. **Potential Impact.** The Project would develop approximately 6.23 acres of vacant land. Implementation of the proposed Project could generate erosion during construction in association with disturbance of on-site soils. Therefore, the project's potential to result in substantial erosion or siltation on- or off-site considered a **potentially significant impact.**

B. **Facts in Support of Finding.** Project construction involves earthwork in association with site preparation and construction of three new buildings on Parcels 1, 2 and 3. Soil erosion, sedimentation and pollutants in runoff (e.g. grease, oils, sediment, and heavy metals) would be controlled during construction in accordance with the Construction General Stormwater Permit which regulates stormwater discharges from construction sites that disturb one or more acres of land. Mitigation Measure MM 4.8.1a requires that a SWPPP be prepared by a Qualified SWPPP Developer (QSD) and implemented by a Qualified SWPPP Practitioner (QSP). The SWPPP must be designed to ensure the following requirements are met:

- All pollutants and their sources including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity, are controlled;
- Where not otherwise required to be under a RWQCB permit, all non-stormwater discharges are identified and either eliminated, controlled, or treated;
- Site BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges from construction activity;
- Calculations and design details as well as BMP controls for site run-on are complete and correct, and;
- Stabilization BMPs installed to reduce or eliminate pollutants after construction is completed.

The SWPPP should also contain a site map(s) showing the construction site perimeter; existing and proposed buildings, lots, roadways, stormwater collection and discharge points; general topography both before and after construction; and, drainage patterns across the proposed project. The SWPPP must list BMPs to protect stormwater runoff and the placement of the BMPs. Typical soil erosion and sedimentation BMPs expected to be used in the SWPPP include, but are not limited to: straw wattles, check dams, fabric blankets, and silt fencing. Additionally, the SWPPP must contain a visual monitoring program; a chemical monitoring program for "non-visible" pollutants to be implemented if there is a failure of BMPs; and a sediment monitoring plan if the site discharges directly to a water body listed on the 303(d) list for sediment (SWRCB 2011). The SWPPP should be implemented by a QSP.

During operation of the four cannabis cultivation and manufacturing facilities and the Transportation and Distribution Facility, soil erosion and sedimentation will be controlled in accordance with the Waste Discharge Requirements for Discharges of Stormwater Associated with Industrial Activities Excluding Construction Activities (currently Order No. 97-03-DWQ; NPDES No. CAS000001, referred to herein as the "General Industrial Permit").

Implementation of Mitigation Measures MM 4.8.1a and MM 4.8.1b would ensure that the Project contractor complies with the requirements of the NPDES permit and SWPPP and applies BMPs to reduce off-site soil erosion during construction. In addition, Mitigation Measure MM 4.8.2 would require the Project contract to install erosion barriers and apply soil stabilizers during construction. With implementation of Mitigation Measures MM 4.8.1a and MM 4.8.1b, erosion or siltation on- or off-site would be mitigated to below a level of significance.

**Mitigation Measures**

Implement Mitigation Measures MM 4.8.1a and MM 4.8.1b.

**Mitigation Measure MM 4.8.1a**

**MM 4.8.1a** The Project shall be designed and constructed in compliance with the NPDES permit and all applicable State and local water quality requirements prior to the commencement of construction.

**Mitigation Measure MM 4.8.1b**

**MM 4.8.1b** A Storm Water Pollution Prevention Plan (SWPPP) shall be developed and implemented for the Project parcels. The SWPPP shall identity pollutant sources that may affect storm water quality discharges during construction. The SWPPP shall include various pollution prevention measures such as erosion and dust control. The SWPPP shall also include a comprehensive Best Management Practices (BMPs) Guide for contractors during construction.

**Mitigation Measure MM 4.8.2**

**MM 4.8.2** The Project contractor shall install erosion barriers and apply soil stabilizers on exposed soil during site preparation and grading.

## 7.8 NOISE

### 7.8.1- Impact 4.9.3 - Substantial Permanent Increase in Ambient Noise Levels

A. **Potential Impact.** Long-term operation of the proposed Trinity Cannabis Cultivation and Manufacturing Facility would result in a substantial permanent increase in ambient noise levels in the project vicinity above existing levels. This impact is considered **potentially significant.**

B. **Facts in Support of Finding.** Long-term operational noise impacts would be considered significant if the proposed Project would result in non-transportation noise levels that would exceed applicable City noise standards at nearby noise-sensitive land uses. Noise generated by Project operations would be associated with employee traffic to and from the Project and the operation of the electrical motors used to power the "SKYPLUME" exhaust system (fans). Long-term operational traffic noise is deemed not to exceed the City of Calexico Noise Ordinance threshold for Industrial zones. Modeling of the exhaust fans indicates that nighttime ambient noise levels in the parcels zoned for Industrial use also would not be exceeded. For the parcel zoned Commercial Highway the nighttime ambient noise level of 50 dBA could be exceeded by 7.5 dBA Lmax and 4.4 dBA $L_{10}$. Thus, this impact would be considered potentially significant. Mitigation Measure MM 4.9.3 requires installation of shielding around exhaust fans and motors in each cultivation and manufacturing facility to reduce the noise level to within the City's standards for nighttime noise. With installation of noise shields, impacts associated with a substantial permanent increase in noise would be mitigated to below a level of significance.

**Mitigation Measure MM 4.9.3**

**MM 4.9.3** Each cultivation and manufacturing facility in areas zoned Industrial shall install noise shielding equal to 10 dBA around fans and motors. The cultivation and manufacturing facility zoned Commercial Highway shall install shielding equal to 18 dBA around fans and motors.

### 7.8.2 - Impact 4.9.4 - Substantial Temporary or Periodic Increase in Ambient Noise Levels

A. **Potential Impact.** Substantial temporary or periodic increases in ambient noise levels would occur in the Project vicinity above levels existing without the Project. This impact would be considered **potentially significant.**

B. **Facts in Support of Finding.** Temporary noise impacts from construction activities would result in an increase in the ambient noise level in the Project vicinity above levels existing without the Trinity Cannabis Cultivation and Manufacturing Facility. The parcel on which 2421 Enterprise Boulevard (and the proposed parcel carve-out for the Transportation and Distribution Facility) is located is zoned Industrial and would experience noise levels in excess of the City standard. The City Noise Standard would be exceeded for several pieces of equipment (All Other Equipment > 5 HP as well as for concrete saw, man lift, paver and scraper). The "SKYPLUME" exhaust system uses diesel generators for backup power. These generators have sound levels of 70 dBA at a distance of 23 feet when installed with a Level 3 Hospital Silencer. Based on modeling using the FWS Noise Model for generators with similar sound profiles, the Level 2 (dB) at the property line for Buildings A and C would be 56 dB (see Appendix H). This would exceed the night time noise standard at the property line if the generator was run continuously. However, this is a backup generator that would only run if the primary power were interrupted. The City of Calexico allows for brief exceedances of the noise limit and it is unlikely the backup power supply would exceed these durations. Due to the exceedances of the City noise standard outlined above, this impact would be considered potentially significant.

Mitigation Measure MM 4.9.4a requires the installation of a heavy vinyl noise curtain to reduce sounds during construction. Mitigation Measure MM 4.9.4b requires that noise measurements be taken intermittently during construction to ensure that the City's noise standards are not exceeded. Upon implementation of Mitigation Measure MM 4.9.4a and MM 4.9.4b, impacts related to Project-generated noise would be mitigated to below a level of significance.

**Mitigation Measures MM 4.9.4a**

**MM 4.9.4a** The Project contractor shall install a heavy vinyl noise curtain around the Project parcels during construction to reduce sound levels.

**Mitigation Measures MM 4.9.4b**

**MM 4.9.4b** Noise measurements shall be taken intermittently during construction to ensure that the City's noise standards are not exceeded beyond durations allowed by the City's Municipal Code.

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## 7.9 PUBLIC SERVICES AND UTILITIES

### 7.9.1 - Impact 4.10.12 - Impacts to Electrical Service and Infrastructure

A. **Potential Impact.** The proposed Project would require approximately 12.63 MW of electricity per day for Phase 1 and 2. Adequate capacity is available to serve Phase 1. IID will need to construct a new substation in order to have sufficient capacity to serve Phase 2. The increase in power demand and the expansion of existing infrastructure associated with Project operation is considered a **potentially significant impact.**

B. **Facts in Support of Finding.** Phase 1 of the Project will be served with electricity from the IID. The Applicant for Trinity 341 has meet with IID and secured a Will Serve letter indicating the Utility has power available to serve Building A at 2421 Enterprise Boulevard (Phase 1).

The Applicant for Trinity 341, LLC is currently working towards procuring electricity for Phase 2 of the Project from IID. In order for the IID to provide electricity to Phase 2, a new 25-MW substation must be built. The City of Calexico has offered a site appropriately suited for the potential construction of a new substation. The site consists of a single parcel (APN 058-010-010) approximately 40 acres in size located southeast of the intersection of Kloke Road and Maddox Road.

Once the development of the substation has been approved by the IID Board of Directors and documented with the Applicant for Trinity 341 construction and commissioning is anticipated to take nine months (Irwin, pers. comm., 2018a). Construction of new infrastructure a is considered a **potentially significant impact.**

Mitigation Measure MM 4.10.12 would address potential impacts to new electrical infrastructure and expansion of IID electrical facilities that would occur during Project construction and operation. Following implementation of MM 4.10.12, impacts to electrical facilities would be mitigated to below a level of significance.

**Mitigation Measure 4.10.12**

**MM 4.10.12** The additional power requirements of the proposed project for Phase 2 or subsequent phases will require a new Distribution Substation with 2-25 MVA transformer banks 92/ 13.2 kV, starting with 1-25 MVA transformer. In addition, 92 kV "ED" transmission line extensions, associated distribution feeders/ backbones and distribution line extensions will be required. It is anticipated that the additional power load requirement of the proposed Project and projects in the area will require the acquisition and construction of a new substation (in the vicinity of Kloke and Cole Road). A minimum-dimensioned substation site of 2.25 acres that is satisfactory to IID will be required from the developer(s) in the area. The site location to be in proximity to the existing 92 kV "ED" line. All setbacks, rights-of-ways, sidewalks, berms, public utility easements, catch basins, etc.; are considered off-site improvements, and shall not be within the substation set aside area. It is estimated they would take another 9.75 acres. A new transmission corridor with 2-92 kV lines might need to be extended from existing 92 kV "ED" line to the proposed substation site. IID will require that additional rights-of-way be provided for the said transmission line corridor. IID would assume responsibility for all environmental compliance. Upon completion of distribution substation, IID can accommodate an estimated 7 .2 MW connected load and 6.12 MW with time of use as submitted for phase 2 (buildings 1, 2 and 3), by adding one (1) breaker and one (1) feeder/ backbone line extension from new substation location to the proposed Project.

# CALIFORNIA ENVIRONMENTAL QUALITY ACT
# STATEMENT OF OVERRIDING CONSIDERATIONS
FOR
# UNAVOIDABLE SIGNIFICANT ENVIRONMENTAL IMPACTS
# IDENTIFIED IN THE FINDINGS AND THE FINAL ENVIRONMENTAL IMPACT REPORT
FOR THE
# TRINITY CANNABIS CULTIVATION AND MANUFACTURING FACILITY
# (SCH NO. 2017121037)

(Public Resource Code §21081, CEQA Guidelines §15093)

**CITY OF CALEXICO**

**July 2018**

The Final EIR has identified and discussed significant environmental impacts which will occur as a result of the proposed Trinity Cannabis Cultivation and Manufacturing Facility. With implementation of the mitigation measures discussed in the EIR, these impacts can be mitigated to levels considered less than significant except for project-related significant, unavoidable adverse project-specific and/or cumulative impacts in the area of greenhouse gas (GHG) emissions and climate change (Impact 4.6.1 Generation of GHG Emissions/Conflict with Applicable Plan, Policy or Regulation Reducing GHGs).

CEQA Section 21081 provides that no public agency shall approve or carry out a project for which an EIR has been certified which identifies one of more significant effects on the environment that would occur if the project were carried out unless the agency makes specific findings with respect to those significant environmental effects. Where a public agency finds that economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, makes infeasible the mitigation measures or alternatives identified in the EIR, and thereby leave significant unavoidable effects, the public agency must also find that "specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment." In making this determination, the Lead Agency is guided by CEQA Guidelines Section 15093, which provides as follows:

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project, which will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The Statement of Overriding Considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition, findings required pursuant to [CEQA] Section 15091.

Having considered the unavoidable adverse impacts of the Trinity Cannabis Cultivation and Manufacturing Facility, the Calexico City Council hereby determines that all feasible mitigations have been adopted to reduce or avoid the potentially significant impacts identified in the EIR, and that no additional feasible mitigation is available to further reduce significant impacts. Further, the Calexico City Council finds that economic, social and other considerations of the Trinity Cannabis Cultivation and Manufacturing Facility outweigh the unavoidable adverse impacts. In making this finding, the Calexico City Council has balanced the benefits of the Trinity Cannabis Cultivation and Manufacturing Facility against its unavoidable environmental impacts and has indicated its willingness to accept those risks. The following statements are in support of the City's action based on the EIR and/or other information in the record. The benefits from approving the Trinity Cannabis Cultivation and Manufacturing Facility include those related the economy and the City's fiscal vitality. The Trinity Cannabis Cultivation and Manufacturing Facility is appropriate because:

1. The Project will bring economic growth to Calexico including employment, taxes and associated multiplier effect. Short-term construction jobs will be created as well as long-term jobs associated with operation of the facility.

2. The Project will diversify Calexico's economic and industrial base. As an indoor cultivation facility, the Project represents an emerging sector of agribusiness that is well suited to an industrial portion of the City. The Project is the first of its kind and will bring a sustainable and expandable model of commerce to the Calexico.

3. The Project will enhance the local community through involvement with various community events/causes/charities. In addition to excise taxes, revenue is generated by the Project will be used to fund various charities and organizations with a focus on education and the youth of the Calexico.

In light of the foregoing, and in recognition of additional information contained within the Final Program EIR and other portions of the Project record, the Calexico City Council concludes that implementation of the Trinity Cannabis Cultivation and Manufacturing Facility will result in the development of a beneficial project as outlined above. The Calexico City Council further concludes that these benefits outweigh the significant, unavoidable environmental impact associated with development of the Trinity Cannabis Cultivation and Manufacturing Facility and, accordingly, adopts this Statement of Overriding Considerations.

# CHAPTER 5.0

# MITIGATION MONITORING AND REPORTING PROGRAM

## 5.1 INTRODUCTION

This document is the Final Mitigation Monitoring and Reporting Program (FMMRP) for the Trinity Cannabis Cultivation and Manufacturing Facility. This FMMRP has been prepared pursuant to California Public Resources Code §21081.6, which requires public agencies to "adopt a reporting and monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment." An FMMRP is required for the proposed Project because the Draft EIR identified significant adverse impacts and mitigation measures have been identified to address these impacts. The numbering of the individual mitigation measures follows the numbering sequence as found in the Draft EIR. All staff-initiated revisions to correct minor typographical or grammatically errors have been incorporated into this FMMRP.

## 5.2 MITIGATION MONITORING AND REPORTING PROGRAM

The FMMRP, as outlined in the following table, describes mitigation timing, monitoring responsibilities, and compliance verification responsibility for all mitigation measures identified in this Final EIR. The City of Calexico (City) will be the primary agency, but not the only agency, responsible for implementing the mitigation measures. In some cases, other public agencies will implement measures. In other cases, the project applicant will be responsible for implementation of measures and the City's role is exclusively to monitor the implementation of the measures. In such cases, the project applicant may choose to require the construction contractor to implement specific mitigation measures prior to and/or during construction. The City will continue to monitor mitigation measures that are required to be implemented during the operation of the project.

The FMMRP is presented in tabular form on the following pages. The components of the FMMRP are described briefly below:

**Mitigation Measures:** The mitigation measures are copied from the Draft EIR, in the same order that they appear in the Draft EIR. The FMMRP contains minor revisions to mitigation measures to correct minor typographical or grammatically errors.

**Mitigation Timing:** Identifies at which stage of the project the mitigation must be completed.

**Monitoring Responsibility:** Identifies the department within the City, project applicant, or consultant responsible for mitigation monitoring.

**Compliance Verification Responsibility:** Identifies the department of the City or other State agency responsible for verifying compliance with the mitigation. In some cases, verification will include contact with responsible state and federal agencies.

| MM # | Mitigation Measure | Monitoring Responsibility | Timing | Verification (Date and Initials) |
|---|---|---|---|---|
| **AIR QUALITY** | | | | |
| **MM 4.2.1a** | The following mitigation measures shall be implemented to reduce short-term construction emissions:<br>a. All disturbed areas, including bulk material storage which is not being actively utilized, shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps or other suitable material such as vegetative ground cover.<br>b. All on site and off site unpaved roads will be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.<br>c. All unpaved traffic areas one (1) acre or more with 75 or more average vehicle trips per day will be effectively stabilized and visible emission shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.<br>d. The transport of bulk materials shall be completely covered unless six inches of freeboard space from the top of the container is maintained with no spillage and loss of Bulk Material. In addition, the cargo compartment of all Haul Trucks is to be cleaned and/or washed at delivery site after removal of Bulk Material.<br>e. All Track-Out or Carry-Out will be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an Urban area.<br>f. Movement of Bulk Material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient water, chemical stabilizers or by sheltering or enclosing the operation and transfer line.<br>g. The construction of any new Unpaved Road is prohibited within any area with a population of 500 or more unless the road meets the definition of a Temporary | City of Calexico Planning Department. | During construction. | |

| MM # | Mitigation Measure | Monitoring Responsibility | Timing | Verification (Date and Initials) |
|---|---|---|---|---|
| | Unpaved Road. Any temporary unpaved road shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emission by paving, chemical stabilizers, dust suppressants and/or watering.<br>h. Water exposed soil with adequate frequency for continued moist soil.<br>i. Replace ground cover in disturbed areas as quickly as possible<br>j. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.<br>k. Use of alternative fueled or catalyst equipped diesel construction equipment, including all off-road and portable diesel-powered equipment, to the extent available locally. [fix double lettering in FEIR Errata]<br>l. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes as a maximum.<br>m. Limit, to the extent feasible, the hours of operation of heavy-duty equipment and/or the amount of equipment in use<br>n. To the extent locally available, use newer heavy-duty construction equipment meeting, at a minimum, U.S. EPA Tier 3 emission standards.<br>o. Replace fossil fueled equipment with electrically driven equivalents to the extent available locally (provided they are not run via a portable generator set). | | | |
| **MM 4.2.1b** | The following mitigation measures shall be implemented to reduce long-term operational emissions:<br>a. Provide on-site bicycle lockers and/or racks;<br>b. Provide on-site heating, refrigeration and food vending facilities to reduce lunchtime trips;<br>c. Provide shower and locker facilities to encourage employees to bike and/or walk to work; | City of Calexico Planning Department. | During construction. | |

| MM # | Mitigation Measure | Monitoring Responsibility | Timing | Verification (Date and Initials) |
|---|---|---|---|---|
| | d. Provide for paving a minimum of 100 feet from the property line for commercial driveways that access County paved roads as per County Standard Commercial Driveway Detail 410B (formerly SW-131A).<br>e. Incorporate measures which meet mandatory, prescriptive and/or performance measures as required by Title 24.<br>f. The use of volatile solvents for the manufacturing of cannabis shall be prohibited. | | | |
| **BIOLOGICAL RESOURCES** | | | | |
| **MM 4.3.2a** | Vegetation removal should occur outside the migratory bird breeding and raptor breeding season (January 15 – September 15). Alternatively, pre-construction surveys for the presence of nesting raptors or other birds will be required to ensure that active nests are not removed. | City of Calexico Planning Department. Qualified Biologist, if work to occur during breeding season. | During construction. | |
| **MM 4.3.2b** | If construction or other Project activities are scheduled to occur during the bird breeding season (January 15 – September 15), a pre-construction nesting bird survey shall be conducted by a qualified biologist. The focus of the survey will be detecting nesting activities of bird and raptor species on the Project parcels. The survey shall be completed no more than 3 days prior to grading activities. The nesting bird survey shall include the Project parcels and adjacent areas where construction activities have the potential to cause nest failure. If an active nest is identified, a qualified biologist shall establish an appropriate disturbance limit buffer around the nest using flagging or staking. Construction activities shall avoid disturbance within the buffer zones until the nest is deemed no longer active by the biologist. | City of Calexico Planning Department. Qualified Biologist, if work to occur during breeding season. | During construction. | |

| MM # | Mitigation Measure | Monitoring Responsibility | Timing | Verification (Date and Initials) |
|---|---|---|---|---|
| **CULTURAL AND PALEONTOLOGICAL RESOURCES** | | | | |
| **MM 4.4.2** | Due to the extensive disturbance by past farming and the limited depth of disturbance for the proposed Project, archaeological monitoring is not required on the Project parcels. If subsurface resources are discovered by construction workers, a Registered Professional Archeologist (RPA) shall be called to the site to investigate and monitor subsurface excavations within 100 feet of the potential resource. Monitoring activities shall be supervised by an RPA who shall have the authority to determine the duration, intensity and inspection timing (from full-time to as-needed). The RPA shall be empowered to temporarily halt or divert construction operations within a reasonable distance from a find or resource exposure in order to determine if significant archaeological resources are present, and if such resource would be adversely affected by continuing construction operations. Per CEQA Guidelines Section 15126.4(b)(3)(A), preservation in place is the preferred method of mitigating impacts to archaeological sites. The RPA shall immediately notify the City of Calexico Planning Department of such discoveries/decisions.<br><br>Work shall not continue at the discovery site until the RPA, in coordination with City of Calexico Planning Department, conducts sufficient research and data collection to make a determination that the resource is either not cultural in origin; or not potentially significant or eligible for listing on the NRHP or CRHR. If a potentially-eligible resource is encountered, then the RPA, lead agency, and Project proponent shall arrange for either 1) total avoidance of the resource, if possible; or 2) test excavations to evaluate eligibility for the CRHR and, if eligible, data recovery as mitigation. The data recovery plan shall identify methods for recovering the scientifically consequential information from and about the historical resource, and recordation/deposition of data/materials with the local California Historical Resources Information Center (CHRIS). Any recovered artifacts would be curated with a local museum. This will enable the collection of information that may be important to the prehistory or history of the local area, California, or the nation. | City of Calexico Planning Department. Registered Professional Archeologist (RPA), if necessary. | During construction. | |

| MM # | Mitigation Measure | Monitoring Responsibility | Timing | Verification (Date and Initials) |
|---|---|---|---|---|
| MM 4.4.3 | Earth-moving operations impacting the soils five feet and deeper within the Project parcels shall be "spot-checked" up to two days per week by a RPA to determine whether undisturbed lakebed sediments have been encountered. If within that period no paleontological findings are discovered, no further monitoring will be required. If paleontologically sensitive soils are being impacted, the RPA would have discretion to increase monitoring to full-time within a radius of 100 meters of the find.<br><br>Paleontological monitors shall be equipped to salvage fossils as they are unearthed (to help avoid construction delays) and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates. Monitors shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens. Recovered specimens shall be prepared to a point of identification and permanent preservation, including washing of sediments to recover small invertebrates and vertebrates. Fossil specimens shall be curated by accessioning into an established, accredited museum repository with permanent retrievable paleontological storage. A report of findings with an appended itemized inventory of specimens shall be prepared. Submittal of the report and inventory to the City of Calexico Planning Department along with confirmation of the curation of recovered specimens into an established, accredited museum repository, shall signify completion of the program to mitigate impacts to paleontological resources. | City of Calexico Planning Department. Registered Professional Archeologist (RPA). | During construction. | |

| MM # | Mitigation Measure | Monitoring Responsibility | Timing | Verification (Date and Initials) |
|---|---|---|---|---|
| MM 4.4.4 | In the event that evidence of human remains is discovered, construction activities within 200 feet of the discovery shall be halted or diverted and the City of Calexico Planning Department and the Imperial County Coroner shall be notified (Section 7050.5 of the Health and Safety Code). If the Coroner determines that the remains are Native American, the Coroner will notify the NAHC which will designate a Most Likely Descendant (MLD) for the Project (Section 5097.98 of the Public Resources Code). The designated MLD then has 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains (AB 2641). If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (Section 5097.94 of the Public Resources Code). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (Section 5097.98 of the Public Resources Code). This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a document with the county in which the property is located (AB 2641). | City of Calexico Planning Department.<br>County of Imperial Coroner, if necessary.<br>Native American Heritage Commission, if necessary. | During construction. | |
| **GEOLOGY AND SOILS** | | | | |
| MM 4.5.1 | Project structures shall be designed and constructed in accordance with the 2016 California Building Code (CBC) for Soil Site Class D (stiff soil profile), ASCE 7-10 Seismic Parameters, and CBC as appropriate. | City of Calexico Planning Department. | Prior to approval of final building plans; As part of Project design; and During construction. | |
| MM 4.5.4 | A site specific geotechnical investigation shall be prepared for the Project parcels to determine the extent and effect of expansive soils. The proposed buildings shall be designed in accordance with the recommendations of the geotechnical investigation addressing expansive soils. | City of Calexico Planning Department. City of Calexico Engineering Department. | Prior to approval of final building plans; and As part of Project design. | |

| MM # | Mitigation Measure | Monitoring Responsibility | Timing | Verification (Date and Initials) |
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| MM 4.5.5 | To protect against corrosive soils, high cement contents (6 sacks Type V Portland cement) shall be mixed with low water-cement ratios (0.45 water to cement ratio). Additionally, steel post corrosion protection shall be required for metal features that come in contact with soil. The protection shall consist of zinc coatings (galvanizing) or increasing structural sections to compensate for metal loss due to corrosion. | City of Calexico Planning Department. City of Calexico Engineering Department. | Prior to approval of final building plans; As part of Project design; and During construction. | |
| **CLIMATE CHANGE AND GREENHOUSE GASES** | | | | |
| MM 4.6.1a | Incorporate water-reducing features into building and landscape design exceeding current building standards. Such measures shall include, at a minimum, the following: Installation of xeriscape landscaping. Installation of automated water-efficient irrigation systems and building fixtures. | City of Calexico Planning Department. | Prior to approval of final building plans; As part of Project design; and During construction. | |
| MM 4.6.1b | Incorporate energy-reducing features into building and site design exceeding current building standards. Such measures shall include, at a minimum, the use of high-efficiency HVAC & dehumidification systems. | City of Calexico Planning Department. | Prior to approval of final building plans; As part of Project design; and During construction. | |
| MM 4.6.1c | Incorporate energy-reducing practices to minimize peak energy loads. Such measures may include the staggering of grow room schedules over a 24-hour period so the minimum number of rooms run concurrently. Similarly, other energy-intensive processes such as extraction, cleaning or electric heating should be staggered and scheduled carefully with lighting cycles to minimize peak power demands. Scheduling overlapping or high-energy demand activities during the nighttime when outdoor air temperatures are lower can reduce the cooling load during peak energy demand time. | City of Calexico Planning Department. | During construction and operation. | |

| MM # | Mitigation Measure | Monitoring Responsibility | Timing | Verification (Date and Initials) |
|---|---|---|---|---|
| **MM 4.6.1d** | Incorporate the use of alternative/renewable energy sources (e.g., solar photovoltaic, wind-power systems) to the maximum extent achievable through site and building design. | City of Calexico Planning Department. | Prior to approval of final building plans;<br>As part of Project design; and<br>During construction. | |
| **MM 4.6.1e** | Light colored "cool" roofs and cool pavements shall be included in building and site designs to the extent practical. | City of Calexico Planning Department. | Prior to approval of final building plans;<br>As part of Project design; and<br>During construction. | |
| **MM 4.6.1f** | To the extent practical, on-site plant waste shall be diverted for composting or recycling. Recycling of other materials (e.g., paper, plastic, glass, etc.) shall comply with current regulatory requirements. | City of Calexico Planning Department. | During construction and operation. | |
| **HAZARDS AND HAZARDOUS MATERIALS** | | | | |
| **MM 4.7.1** | To reduce and avoid the potential for leaks from the diesel fuel tanks and spills during the re-fueling process at each cultivation and manufacturing facility, the City of Calexico Planning Department shall require one or more of the following measures:<br>• Install a 5-gallon spill/fill catch basin<br>• Install a high-level fill switch<br>• Install an alarm for Hi, Low, Leak, Full Fuel<br>• Install an overfill protection valve<br>• Install a fuel supply check valve | City of Calexico Planning Department. | During construction and operation. | |

| MM # | Mitigation Measure | Monitoring Responsibility | Timing | Verification (Date and Initials) |
|---|---|---|---|---|
| **HYDROLOGY AND WATER QUALITY** | | | | |
| **MM 4.8.1a** | The Project shall be designed and constructed in compliance with the NPDES permit and all applicable State and local water quality requirements prior to the commencement of construction. | City of Calexico Planning Department. | Prior to approval of final building plans; As part of Project design; and During construction and operation. | |
| **MM 4.8.1b** | A Storm Water Pollution Prevention Plan (SWPPP) shall be developed and implemented for the Project parcels. The SWPPP shall identity pollutant sources that may affect storm water quality discharges during construction. The SWPPP shall include various pollution prevention measures such as erosion and dust control. The SWPPP shall also include a comprehensive Best Management Practices (BMPs) Guide for contractors during construction. | City of Calexico Planning Department. | During construction. | |
| **MM 4.8.1c** | The Applicant of each cultivation and manufacturing facility and the Applicant responsible for the Transportation and Distribution Facility shall comply with the local Standard Stormwater Mitigation Plan (SSMP) for parking lots and commercial development. | City of Calexico Planning Department. | During construction and operation. | |
| **MM 4.8.1d** | Outside trash container areas shall have leak proof covers on dumpsters, a screened enclosure, and drainage routed around the area. | City of Calexico Planning Department. | During construction and operation. | |
| **MM 4.8.1e** | Each diesel generator shall be outfitted with secondary containment to prevent spilled diesel from being carried off site by stormwater runoff. | City of Calexico Planning Department. | During construction and operation. | |
| **MM 4.8.2** | The Project contractor shall install erosion barriers and apply soil stabilizers on exposed soil during site preparation and grading. | City of Calexico Planning Department. | During construction. | |

| MM # | Mitigation Measure | Monitoring Responsibility | Timing | Verification (Date and Initials) |
|---|---|---|---|---|
| **NOISE** | | | | |
| **MM 4.9.3** | Each cultivation and manufacturing facility in areas zoned Industrial shall install noise shielding equal to 10 dBA around fans and motors. The cultivation and manufacturing facility zoned Commercial Highway shall install shielding equal to 18 dBA around fans and motors. | City of Calexico Planning Department. | During operational lifespan. | |
| **MM 4.9.4a** | The Project contractor shall install a heavy vinyl noise curtain around the Project parcels during construction to reduce sound levels. | City of Calexico Planning Department. | During construction. | |
| **MM 4.9.4b** | Noise measurements shall be taken intermittently during construction to ensure that the City's noise standards are not exceeded beyond durations allowed by the City's Municipal Code. | City of Calexico Planning Department. | During construction. | |

| MM # | Mitigation Measure | Monitoring Responsibility | Timing | Verification (Date and Initials) |
|---|---|---|---|---|
| **PUBLIC SERVICES AND UTILITIES** | | | | |
| **MM 4.10.12** | The additional power requirements of the proposed project for Phase 2 or subsequent phases will require a new Distribution Substation with 2-25 MVA transformer banks 92/ 13.2 kV, starting with 1-25 MVA transformer. In addition, 92 kV "ED" transmission line extensions, associated distribution feeders/ backbones and distribution line extensions will be required. It is anticipated that the additional power load requirement of the proposed Project and projects in the area will require the acquisition and construction of a new substation (in the vicinity of Kloke and Cole Road). A minimum-dimensioned substation site of 2.25 acres that is satisfactory to IID will be required from the developer(s) in the area. The site location to be in proximity to the existing 92 kV "ED" line. All setbacks, rights-of-ways, sidewalks, berms, public utility easements, catch basins, etc.; are considered off-site improvements, and shall not be within the substation set aside area. It is estimated they would take another 9.75 acres. A new transmission corridor with 2-92 kV lines might need to be extended from existing 92 kV "ED" line to the proposed substation site. IID will require that additional rights-of-way be provided for the said transmission line corridor. IID would assume responsibility for all environmental compliance. Upon completion of distribution substation, IID can accommodate an estimated 7 .2 MW connected load and 6.12 MW with time of use as submitted for phase 2 (buildings 1, 2 and 3), by adding one (1) breaker and one (1) feeder/ backbone line extension from new substation location to the proposed Project. | City of Calexico and IID. | As a condition of approval/City of Calexico and IID. | |

**ORDINANCE NO. 2018-**

**AN ORDINANCE OF THE CITY OF CALEXICO, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF CALEXICO AND TRINITY PROPERTY COMPANY, LLC. FOR THE ESTABLISHMENT OF A CANNABIS CULTIVATION AND MANUFACTURING FACILITY PROJECT FOR REAL PROPERTY WITHIN THE CITY OF CALEXICO**

WHEREAS, Trinity Property Company, LLC has filed four applications for the Trinity Cannabis Cultivation and Manufacturing Facility project. The facilities are proposed on Industrial land with the Cannabis Overlay Zone located at 2421 Enterprise Boulevard; and

WHEREAS, the Property is currently designated as Industrial in the City's General Plan and as Commercial Highway and Industrial in the City Zoning Code; and

WHEREAS, the Environmental Impact Report (SCH #2017121037) has been prepared to evaluate environmental impacts resulting with the project; and

WHEREAS, the City agreed to consider a development agreement for the Property to secure the Property Owner's rights to develop the Property in accordance with the Entitlements; and

WHEREAS, the development agreement will facilitate development of the Property in a manner which the Parties intend to be consistent with and beneficial to other approved adjacent land uses, thereby generating benefits to the City and its residents. Consequently, entering into a development agreement is acknowledged to be the mutual benefit of the parties; and

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Sections *65864 et seq.* of the California Government Code, which authorize the City to enter into a development agreement with any person or entity having a legal or equitable interest in real property, providing for the development of such property and establishing certain rights and obligations related to such development; and

WHEREAS, to implement the above-described state laws, the City adopted Chapter 16.52 of the Calexico Municipal Code, establishing procedures and requirements for considering, approving and implementing development agreements; and

WHEREAS, the Property Owner has a legal interest in the real property situated in the City which is the subject of the development agreement, and therefore satisfies the statutory requirements to enter into the agreement; and

WHEREAS, the application for this development agreement has been reviewed by the Manager of Development Services and has been deemed complete; and

WHEREAS, pursuant to CEQA Guidelines Section 15164, the City has prepared an EIR to include the proposed development agreement among the City's discretionary approvals for the Project, and none of the conditions described in CEQA Guidelines Section 15162 concerning preparation of an EIR have occurred; and

WHEREAS, the City Council of the City of Calexico has been delegated with the responsibility of approving development agreements; and

WHEREAS, the Planning Commission at its meeting of August 6, 2018, held a duly noticed public hearing to consider the development agreement application, and recommended approval of the requested project to the City Council; and

WHEREAS, public notice of said application has been given, and the City Council has considered evidence presented by the Development Services Department and other interested parties at a public hearing held with respect to this item on August 22, 2018;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council finds the facts recited above are true and correct and incorporates them herein by this reference.

**SECTION 2.** The City Council has considered and certified the proposed Final Environmental Impact Report (SCH #2017121037) for the proposed project prior to making a decision to approve the proposed development agreement. The City Council finds and determines that the Final Environmental Impact Report is adequate and complete and was prepared in accordance with the requirements of the California Environmental Quality Act (CEQA).

**SECTION 3.** That in accordance with State Planning and Zoning law and the City of Calexico requirements, and based on substantial evidence in the record, the City Council makes the following findings for the approval of the proposed development agreement:

1. In accordance with the requirements of the California Environmental Quality Act (CEQA), impacts have been reduced to a level of non-significance, or in the case where impacts remain, a statement of overriding considerations must be adopted to justify the merits of project implementation

   *The EIR concluded that the proposed project will result in project-specific and cumulative unavoidable adverse impacts. To offset the adversity of the foregoing impacts, the City will need to approve a Statement of Overriding Considerations in accordance with Section 15093 of the CEQA Guidelines. The City has determined that the benefits of the proposed project "outweigh" the resultant unavoidable adverse environmental impacts and therefore, these particular adverse impacts will be considered "acceptable". The EIR for the Project and finds that the uses contemplated in the development agreement are consistent with the uses*

*authorized in the General Plan and will not have any environmental effects which are peculiar to the development agreement or the Property, or were not analyzed in the EIR. The City Council further finds that, pursuant to CEQA Guidelines Section 15164, an EIR has been prepared to include the proposed development agreement among the discretionary approvals for the Project, and none of the conditions described in CEQA Guidelines Section 15162 concerning preparation of an EIR have occurred. Therefore, pursuant to Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183, the City Council hereby finds that no further review under the California Environmental Quality Act ("CEQA"), the CEQA Guidelines and the applicable ordinances and regulations of the City is required for the development agreement.*

2. The location and design of the proposed development shall be consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan adopted by the City.

   *The project is consistent with the objectives, policies, general land uses and programs specified in the General Plan and Zoning Code because the proposed development agreement secures the existing general plan and zoning designation.*

3. The proposed project is compatible with the uses authorized in, and the regulations prescribed for the land use district in which the real property is located.

   *The project is compatible with the uses authorized in, and the regulation prescribed for the land use district in which the real property is located because the development agreement would not propose any deviations from the approved General Plan Land Use and Zoning designations.*

4. Is in conformity with public convenience, general welfare and good land use practice.

   *The proposed project is in conformity with public convenience, general welfare and good land use practice because the proposed development agreement would not propose any deviations from the approved General Plan Land Use and Zoning designations.*

5. Will not be detrimental to health, safety and general welfare.

   *The project will not be detrimental to health, safety and general welfare because development in accordance with the existing land use and zoning are compatible with nearby properties. Thus, the land uses are compatible and beneficial to the general welfare of the residents of the City. Further because development consistent with the Entitlements is consistent with the General Plan, which is the City's guide for orderly development, any proposed development would not be detrimental to the health, safety and general welfare of the citizens.*

6. Will not adversely affect the orderly development of property or preservation of property valued.

*The project will not adversely affect the orderly development of property or the preservation of property values because it vests the Property Owner with rights to allow certainty for the future development of the Property which adds value to the Property.*

Therefore, the City Council approves the development agreement between the City of Calexico and Trinity Property Company, LLC., subject to the described conditions of approval.

**GENERAL**

1. The Applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees and costs incurred by the City and any claim for private attorney general fees and costs claimed by or awarded to any party, against the City or its agents, officers, or employees, relating to the approval of the Trinity Property Company project including, but not limited to, any action to attack, set aside, void, challenge, or annul the development approvals (including the Development Agreement and plan review) and/or certification of the Final Environmental Impact Report (SCH #2017121037) and any related environmental document or decision (collectively "Development Approvals"). The City will promptly notify applicant of any claim, action or proceeding concerning the Development Approvals. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs incurred by the City. In the event of a disagreement between the City and Applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation-related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicant shall not be required to pay or perform a settlement unless such settlement is approved by Applicant. Within ten (10) days of the filing of any action against the City covered by this Section 1, the Applicant shall submit a One Hundred Thousand Dollar ($100,000) cash deposit or irrevocable letter of credit in favor of the City in a form acceptable to the City, to pay the City's fees and costs in connection with the potential defense of any such action, and the satisfaction of any judgment obtained therein, and shall thereafter replenish the funds in increments of Twenty Thousand Dollars ($20,000) when requested by the City. Failure to provide funds sufficient to satisfy this indemnification obligation shall constitute grounds for the City to take action to nullify the Development Approvals associated with the Trinity Property Company project. In the event that excess defense funds are in the possession of the City after any action is concluded, the City shall refund the excess funds to Applicant. In the event any action covered by this Section 1 is filed after expiration of the applicable statute of limitations period and the City's refund or release of the letter of credit provided above, Applicant shall submit a Twenty Thousand Dollar ($20,000) cash deposit, to pay the City's fees and costs in connection with defense of such action, within ten (10) days of the service of any petition or complaint on the City in such action and shall thereafter replenish the funds in increments of Ten Thousand Dollars ($10,000) within ten (10) days of the City's

request for such replenishment. The City shall refund any remaining funds to Applicant within ten (10) days after such action is concluded.

2. The Applicant shall comply with and pay all applicable fees associated with the attached Development Agreement.

3. Seven (7) days prior to City Council consideration of this Ordinance, Applicant shall pay all outstanding land use processing fees owed to the City, including costs for preparation of the EIR, planning entitlements, engineering costs, legal fees, etc. Proof of such payment must be submitted to the Council at the Council meeting to consider this Resolution.

4. The project shall include the development of a maximum of five (5) cannabis cultivation and manufacturing facilities located at 2421 Enterprise Boulevard.

5. The project shall be approved for only the uses described and agreed upon within the Development Agreement.

6. The project shall be developed and operated in accordance with the applicable mitigation measures set forth in the Mitigation Monitoring and Reporting Program, and amendments as specified in the SPECIFIC CONDITIONS.

7. The project shall be developed in accordance with the development standards, design guidelines and land uses as provided for under the adopted Calexico Municipal Code.

**PRIOR TO BUILDING**

8. All site improvements approved with this request shall be constructed as indicated on the approved site plan. Revisions to approved site plans shall be subject to the review of the Development Services Director. All plans submitted for Building Division Plan Check shall conform to the submitted plans as modified by Conditions of Approval, or the Planning Commission/City Council through subsequent action.

9. Prior to issuance of any building permits, the Applicant shall sign and complete an "Acknowledgement of Conditions" form and shall return the executed original to the Planning Division for inclusion in the case records.

10. Prior to the commencement of grading operations, the Applicant shall provide a map of all proposed haul routes to be used for movement of dirt material. Such routes shall be subject to the review and approval of the City Engineer. A bond may be required to pay for damages to the public right-of -way, subject to the approval of the City Engineer.

11. Applicant shall comply with the requirements of the Imperial Irrigation District (IID) for any work proposed within the IID's jurisdiction. Proof of compliance shall be submitted to the Development Services Department prior to issuance of building permits and final approval.

12. Prior to issuance of building permits, Applicant shall provide assurance that all requirements of the City of Calexico Fire, Police, Community Services/Recreation, Utility Services and Administrations Services Departments have been met.

***ENGINEERING DIVISION CONDITIONS***

**GENERAL CONDITIONS**

13. The Applicant shall dedicate all required rights-of-way and easements for the project.

14. Utilities shall be provided in accordance with the City's Master Water/Sewer Plan.

STREET IMPROVEMENTS AND TRAFFIC CIRCULATION

15. The Applicant shall be responsible for any costs associated with right-of-way acquisition, if necessary. In the event the acquisition of right-of-way is needed, Applicant shall enter into an agreement with the City prior to the approval of the certificate of occupancy to pay for the costs of acquiring off-site real property interests and to complete the improvements required herein at such time as the City acquires an interest in the real property that will permit the improvements to be made by the Applicant.

16. The Applicant shall retain a qualified California registered civil engineer for design services in accordance with the City Standards.

BONDS AND SURETY

17. The Applicant shall submit and provide all required improvement bonds and/or surety and enter into a subdivision surety agreement to the satisfaction of the City Engineer and City Attorney prior to recording of any final map or the recording of the applicable phase unit map. Prior to the submittal of bonds, the Applicant shall submit construction cost estimates for all required improvements using the City's provided unit cost items and standards for review and approval.

**Other Pertinent Conditions**

18. The Applicant shall be responsible for procuring any necessary permits or approvals from regulatory and/or resource agencies.

19. The Applicant shall execute a reciprocal parking and access agreement for all the parcels including the future Phase 2 prior to recording of any final map and/or the issuance of any certificate of occupancy. The agreement will be subjected to review and approval by the City Attorney and shall be recorded with the Imperial County Recorder's office.

**SECTION 4.** Upon the effective date of this Ordinance, the Trinity Property Company, LLC., Development Agreement shall be approved as described in Section 3 above.

**SECTION 5.** The parties are hereby informed that the time within which judicial review of this decision must be sought is governed by Section 1094.6 of the Code of Civil Procedure.

**SECTION 6.** Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, clauses or phrases be declared unconstitutional or invalid.

**EFFECTIVE DATE:** This Ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this Ordinance and cause it to be published as required by law.

**INTRODUCED AND FIRST READ** at a regular meeting of the City Council of the City of Calexico on the 22nd day of August, 2018, and

**THEREAFTER ADOPTED** at a regular meeting of the City Council of the City of Calexico, California, on the 22nd day of August, 2018, by the following vote:

**AYES:**
**NOES:**
**ABSENT:**
**ABSTAIN:**

**CITY OF CALEXICO**

_____
**Mayor**

**ATTEST:**

_____
**City Clerk**

**APPROVED AS TO FORM:**

**BEST BEST & KRIEGER LLP**

_____

**City Attorney**