

**CEQA FINDINGS OF FACT
AND STATEMENT OF OVERRIDING CONSIDERATIONS
REGARDING THE
FINAL ENVIRONMENTAL IMPACT REPORT
FOR THE
MERCURY LANE RESIDENTIAL PROJECT
STATE CLEARINGHOUSE NO. 2018121032**

Exhibit A

I. INTRODUCTION

The California Environmental Quality Act (CEQA) requires that a number of written findings be made by the lead agency in connection with certification of an environmental impact report (EIR) prior to approval of the project pursuant to Sections 15091 and 15093 of the CEQA Guidelines and Section 21081 of the Public Resources Code. This document provides the findings required by CEQA. The potential environmental effects of the proposed Mercury Lane Residential project (proposed project) have been analyzed in a Draft Environmental Impact Report (DEIR) (State Clearinghouse [SCH] 2018121032) dated July 2019. A Final EIR has also been prepared that incorporates the Draft EIR and contains comments received on the DEIR, responses to the individual comments, revisions to the DEIR including any clarifications based on the comments and the responses to the comments, and the Mitigation Monitoring and Reporting Program for the proposed project (MMRP). This document provides the findings required by CEQA for approval of the proposed project.

A. STATUTORY REQUIREMENTS FOR FINDINGS

The CEQA (Pub. Res. Code §§ 21000, *et seq.*) and the State CEQA Guidelines (Guidelines) (14 Ca. Code Regs §§ 15000, *et seq.*) promulgated thereunder, require the environmental impacts of a project be examined before a project is approved. Specifically, regarding findings, Guidelines Section 15091 provides:

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

The “changes or alterations” referred to in Section 15091(a)(1) above, that are required in, or incorporated into, the project which mitigate or avoid the significant environmental effects of the project, may include a wide variety of measures or actions as set forth in Guidelines Section 15370, including:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

Regarding a Statement of Overriding Considerations, Guidelines Section 15093 provides:

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

B. CERTIFICATION

Having received, reviewed, and considered the EIR for the Mercury Lane Residential Project State Clearinghouse No. 2018121032, as well as other information in the record of proceedings on this matter, the City of Brea City Council adopts the following Findings (Findings) and Statement of Overriding Considerations, in its capacity as the legislative body for the City of Brea (City), which is the CEQA Lead Agency. The Findings and Statements of Overriding Considerations set forth the environmental and other bases for current and subsequent discretionary actions to be undertaken by the City and responsible agencies for the implementation of the proposed project.

In addition, the City of Brea City Council (City Council) hereby make findings pursuant to and in accordance with Section 21081 of the California Public Resources Code and State CEQA Guidelines Sections 15090 and 15091 and hereby certifies that:

- (1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid 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.

C. PROJECT ENVIRONMENTAL REPORT AND DISCRETIONARY ACTIONS

The FEIR addresses the direct, indirect, and cumulative environmental effects of construction and operation activities associated with the proposed project. The FEIR provides the environmental information necessary for the City to make a final decision on the requested discretionary actions for all phases of this project. The FEIR was also intended to support discretionary reviews and decisions by other responsible agencies. Discretionary actions to be considered by the City may include, but are not limited to, the following:

- Certify that the FEIR for the proposed project has been completed in compliance with CEQA, and reflects the independent judgement and analysis of the City; find that the City Council has reviewed and considered the information contained in the FEIR prior to approving the project; adopt the Mitigation Monitoring and Reporting Program, finding that the Mitigation Monitoring and Reporting Program is adequately designed to ensure compliance with the mitigation measures during project implementation; and determine that the significant adverse effects of the project either have been reduced to an acceptable level, or are outweighed by the specific overriding considerations of the project as outlined in the CEQA Findings of Fact and Statement of Overriding Considerations, as set forth herein.
- Approve the proposed project and related discretionary actions needed for project construction and operation.

II. PROCEDURAL COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City published a DEIR on July 24, 2019. A FEIR was prepared in the fall of 2019 in compliance with CEQA requirements. The FEIR has been prepared in accordance with CEQA and the CEQA Guidelines, as amended. As authorized in State CEQA Guidelines Section 15084(d)(2), the City retained a consultant to assist with the preparation of the environmental documents. City staff from multiple departments, representing the Lead Agency, have directed, reviewed, and modified where appropriate all material prepared by the consultant. The FEIR reflects the City's independent analysis and judgement. The key milestones associated with the preparation of the EIR are summarized below. As presented below, an extensive public involvement and agency notification effort was conducted to solicit input on the scope and content of the EIR and to solicit comments on the results of the environmental analysis presented in the DEIR.

A. PUBLIC NOTIFICATION AND OUTREACH

In conformance with CEQA, the State CEQA Guidelines, and the City of Brea CEQA Guidelines, the City of Brea conducted an extensive environmental review of the proposed project.

- Completion of a Notice of Preparation (NOP) on December 13, 2018. The public review period extended from December 13, 2018, to January 22, 2019. The NOP was published in the *Brea Star Progress* on January 3, 2019. The NOP was posted at the Orange County Clerk's office on December 13, 2019. Copies of the NOP were made available for public review at the City of Brea, the City's website, and at the Brea Library.
- Completion of the scoping process where the public was invited by the City to participate in a scoping meeting held January 14, 2019 from 5:00 to 7:00 PM at the City of Brea Community Room B, 1 Civic Center Drive, City of Brea. The notice of a public scoping meeting was included in the NOP.
- Preparation of a Draft EIR (DEIR), which was made available for a 45-day public review period beginning July 24, 2019, and ending September 6, 2019. The scope of the DEIR was determined based on the CEQA Guidelines Appendix G Checklist, comments received in response to the NOP, and comments received at the scoping meeting conducted by the City of Brea. Section 2.3 of the DEIR describes the issues identified for analysis in the DEIR. The Notice of Availability (NOA) for the DEIR was sent to interested persons and organizations, sent to the State Clearinghouse in Sacramento for distribution to public agencies, posted at the City of Brea, and published in the *Brea Star Progress*. The NOA was posted at the Orange County Clerk's office on July 24, 2019. The Notice of Availability of the DEIR was published in the *Brea Star Progress* on July 25, 2019.
- Preparation of a Final EIR (FEIR), including the responses to comments to the DEIR. The FEIR was released for a 10-day agency review period prior to certification of the FEIR.
- Public hearings on the proposed project, including a Planning Commission hearing and a City Council hearing.

In summary, the City conducted all required noticing and scoping for the proposed project in accordance with Section 15083 of the CEQA Guidelines, and conducted the public review for the EIR, which exceeded the requirements of Section 15087 of the CEQA Guidelines.

B. FINAL ENVIRONMENTAL IMPACT REPORT AND CITY COUNCIL PROCEEDINGS

The City prepared a FEIR, including Responses to Comments to the DEIR. The FEIR/Response to Comments contains comments on the DEIR, responses to those comments, revisions to the DEIR, and appended documents. A total of nine comment letters were received. Of the five comment letters received during the comment period and four received after the comment period, five letters were from public agencies, and four letters were from individuals and/or organizations.

The most prevalent concerns raised in these comment letters included impacts to transportation, air quality, parking, the number of future residents to be generated by the project and impacts on future residents, zoning and land use consistency/compatibility, noise, and water quality.

The FEIR found that prior to mitigation, implementation of the proposed project will result in potentially significant impacts to Cultural and Paleontological Resources, Hazards and Hazardous Materials, Transportation, and Tribal Cultural Resources. However, mitigation measures (MMs) have been developed to avoid or reduce all of these impacts to levels considered less than significant, with the exception of Transportation. The City prepared a Statement of Overriding Considerations for the impact found to be significant and unavoidable (the proposed project would conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities).

Members of the public can view searchable agendas for scheduled City Council meetings and access agenda-related City information and services directly on the following website: <https://www.ci.brea.ca.us/511/City-Council>.

The FEIR document will be posted for viewing and download with the previously posted DEIR prior to the City's consideration of the FEIR and project recommendations on the City's website.

A date for consideration of the FEIR and project recommendations at the City Council was set for the proposed project and notice of the meeting was provided consistent with the Brown Act (Government Code Sections 54950 et seq.). The City Council will take testimony on the proposed project and may continue on its calendar to a subsequent meeting date in its discretion.

C. RECORD OF PROCEEDINGS

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

- The NOP, NOA, and all other public notices issued by the City in conjunction with the proposed project.
- The DEIR and FEIR for the proposed project.
- All written comments submitted by agencies or members of the public during the public review comment period on the DEIR.
- All responses to written comments submitted by agencies or members of the public during the public review comment period on the DEIR.
- All written and verbal public testimony presented during a noticed public hearing for the proposed project.
- The Mitigation Monitoring and Reporting Program.
- The reports and technical memoranda included or referenced in the FEIR.

- All documents, studies, EIRs, or other materials incorporated by reference in the DEIR and FEIR.
- The Resolutions adopted by the City in connection with the proposed project, and all documents incorporated by reference therein, including comments received after the close of the comment period and responses thereto.
- Matters of common knowledge to the City, including but not limited to federal, state, and local laws and regulations.
- Any documents expressly cited in these Findings.
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

D. CUSTODIAN AND LOCATION OF RECORDS

The documents and other materials that constitute the administrative record for the City's actions related to the project are at the City of Brea – Planning Division, 1 Civic Center Circle, City of Brea. The City Planning Division is the custodian of the administrative record for the project. Copies of these documents, which constitute the record of proceedings, are and at all relevant times have been and will be available upon request at the offices of the Planning Division. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and Guidelines Section 15091(e).

E. PROJECT LOCATION

The project site is within the City of Brea, at the southeast corner of Berry Street and Mercury Lane, and on a square-shaped parcel (Assessor's Parcel Number [APN] 296-141-05). The project site is 1.01 acres and is situated within a commercial industrial area just west of Brea Downtown.

F. PROJECT OBJECTIVES

The following objectives have been established for the proposed Mercury Lane Residential project and will aid decision makers in their review of the proposed project and associated environmental impacts:

- Provide contemporary housing solutions for Brea's workforce population consistent with Brea Envisions.
- Provide housing choices affordable to Brea's workforce population, consistent with the City's goals in the Housing Element to provide for a variety of housing types.
- Develop housing proximate to Brea Downtown that can take advantage of the western access to the Rails to Trails as well as the Mercury Lane Bridge.
- Provide additional opportunities for residential growth on infill parcels.

- To improve the jobs-housing balance in the City of Brea and to provide new housing within close proximity to jobs and services.
- Promote healthy living and physical activity by providing recreational amenities onsite and areas for secured bicycle storage to provide opportunities to utilize the alternative transportation options available proximate to the site.

G. PROJECT DESCRIPTION

The proposed project would include a five-story, approximately 68-foot-tall, 141,137-square-foot podium structure that would include 114 workforce housing units. The proposed project would include recreational amenities, such as barbeques and bocce ball court, which would be on the third-floor podium in an outdoor courtyard, as well as a fitness center and clubhouse.

The project site is currently designated in the General Plan as Light Industrial and zoned Commercial-Industrial (C-M) with a Precise Development (PD) Overlay, according to the City of Brea General Plan zoning map. The proposed project would require a zone change to Planned Community (PC) zoning, which can provide for alternative development guidelines and standards as well as the necessary General Plan consistency. The PC Zone encourages innovative development that allows a diversification of uses, use relationships, building heights, densities, and open spaces while ensuring consistency with the City's General Plan.

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

A. FORMAT

Section 15091 of the CEQA Guidelines requires that a Lead Agency make a finding for each significant effect for the project. This section summarizes the significant environmental impacts of the project, describes how these impacts are to be mitigated, and discusses various alternatives to the proposed project, which were developed in an effort to reduce the remaining significant environmental impacts. All impacts are considered potentially significant prior to mitigation unless otherwise stated in the findings.

This remainder of this section is divided into the following subsections:

Section B, Issues Deemed “No Impact” or “Less Than Significant Impact,” presents topical areas that would result in no impact or less than significant impacts, as detailed in Chapter 8 of the DEIR.

Section C, Findings on “No Impact” and “Less Than Significant Impacts,” presents environmental issues, as identified in Chapter 5 of the DEIR, which would result in no impact or less than significant impacts.

Section D, Findings on Impacts Mitigated to Less Than Significant, presents significant impacts of the proposed project that were identified in the FEIR, the mitigation measures identified in the Mitigation Monitoring Program, and the rationales for the findings.

Section E, Significant and Unavoidable Impacts that Cannot be Mitigated to Below the Level of Significance, presents significant impacts of the proposed project that were identified in the FEIR, the mitigation measures identified in the Mitigation Monitoring Program, the findings for significant impacts, and the rationales for the findings.

Section IV, Alternatives to the Proposed Project, presents alternatives to the project and evaluates them in relation to the findings set forth in Section 15091(a)(3) of the State CEQA Guidelines, which allows a public agency to approve a project that would result in one or more significant environmental effects if the project alternatives are found to be infeasible because of specific economic, social, or other considerations.

Section V, Statement of Overriding Considerations, presents a description of the proposed project's one significant and unavoidable adverse impact and the justification for adopting a statement of overriding considerations.

Section VI, Findings on Responses to Comments on the DEIR and Revisions to the FEIR, presents the City's findings on the response to comments and revisions to FEIR, and decision on whether a recirculated DEIR is necessary or not.

B. ISSUES DEEMED NO IMPACT OR LESS THAN SIGNIFICANT IMPACT

Pursuant to CEQA Guidelines Section 15060(d) and 15063 that allow a lead agency to skip preparation of an Initial Study and begin work directly on the EIR process, a NOP was issued without accompanying Initial Study. The following topical areas of evaluation in the Environmental Checklist in Appendix G of the CEQA Guidelines were determined to require further assessment in an EIR, as stated in the NOP and NOA: Air Quality, Cultural Resources, Greenhouse Gases, Hazards and Hazardous Materials, Land Use and Planning, Noise, Population and Housing, Public Services, Transportation, and Tribal Cultural Resources.

Accordance with Section 15128 of the CEQA Guidelines, as described in Chapter 8 of the DEIR, the City concluded that project impacts related to the following issues would result in no impact or would be less than significant: Aesthetics, Agriculture and Forestry Resources, Biological Resources, Energy, Geology and Soils, Hydrology and Water Quality, Mineral Resources, Recreation, Utilities and Service Systems, and Wildfire.

- **Aesthetics:** The project site is located in an urban area that is generally flat. Due to the distance and varying topography of the City, views of scenic vistas would not be impacted. Additionally, the closest designated state scenic highway is approximately 7 miles southeast of the project site. Project implementation would not substantially degrade the existing character of the site and its surroundings; the proposed project would require a zone change to the PC Zone, and would not conflict with regulations governing scenic quality. The surrounding land uses generate light; the proposed project would not significantly nighttime lighting. Security and/or path lights, if installed, would be directed so as not to cause light to spill outside the project site, and landscaping as well as the proposed residential building would block glare from parked cars on Mercury Lane and Berry Street. Aesthetic impact would be less than significant.

- **Agriculture and Forestry Resources:** The project site is vacant and located in an urbanized portion of the City. The project site is zoned C-M (Commercial/Industrial). There are no agricultural uses on the site or in its immediate proximity. As the site is not zoned for agricultural uses, there is no Williamson Act contract in effect onsite, and the proposed project would not conflict with forest land or timberland production. Vegetation onsite is limited to one California pepper tree and nonnative vegetation, and would not result in the loss or conversion of forest land. As there are no agricultural uses onsite or within the immediate vicinity of the project site, no impacts to agricultural and forestry resources would occur.
- **Biological Resources:** The majority of the project site is bare; vegetation on the site is sparse, and includes grasses and one mature pepper tree. There is no native habitat and no habitat suitable for sensitive species onsite. Additionally, no sensitive natural community, riparian habitat, or wetlands is present onsite. There is one pepper tree onsite which could be used for nesting by birds protected under the California Fish and Game Code Sections 3503 et seq. In compliance with the California Fish and Game Code, the tree would be removed outside of nesting season, either prior to February 15 or after August 15. Moreover, the City of Brea Municipal Code Chapter 12.20 protects streets trees; as the pepper tree is on private property, the proposed project would not conflict with local policies protecting biological resources. The project site is not within a Natural Community Conservation Plan or Habitat Conservation Plan area. Therefore, impacts to biological resources would be less than significant.
- **Energy:** The proposed project would consume energy from long-term operational activities and short-term construction activities. Construction energy use would be in the form of electricity, transportation, construction materials; and operational energy use would consist of building energy use and transportation. The proposed project would not result in inefficient, wasteful, and unnecessary consumption of energy. The proposed project would be required to comply with 2016 Building and Energy Efficiency Standards and CALGreen. Furthermore, the proposed project would comply with applicable policies for energy efficiency, including the Brea Sustainability Plan; Title 14, Sustainable Provisions, of the City of Brea Municipal Code; the current Building and Energy Standards; and CALGreen. Energy impacts of the proposed project would be less than significant.
- **Geology and Soils:** The project site is not in an Alquist-Priolo Zone; the project site, as with the rest of southern California, is expected to experience strong seismic ground shaking. Moreover, the project site is located in a liquefaction zone, however, the liquefaction-induced differential settlements of 2.2 inches across a distance of 50 feet are considered within the structural tolerances of a typical building supported on a shallow foundation provided that structural measures of the Geotechnical report are implemented. The project site is in a low to moderately low landslide zone. Additionally, the proposed project would implement structural and non-structural best management practices (BMPs) before and during construction to control surface runoff and erosion to retain sediment on the project site; soil erosion would be controlled with improvements installed on the project site. As the topography of the site is relatively flat, with slopes of approximately 1 to 2 percent, landslides and lateral spreading would be less than significant. Minor ground subsidence of approximately 0.1 foot is expected to occur in the soils

below the zone of removal due to settlement and machinery. Strong ground shaking can cause settlement of soils underlying a site by allowing sediment particle to become more tightly packed. The recommended remedial grading would remove a portion of the existing fill soils and replace these materials as compacted structural fill, which would reduce seismic settlement impacts to less than significant. The expansion potential of the site is very low to low; however, expansive soils may be present in the subgrade soils and the site would require overexcavation soils. No septic tanks or alternative wastewater disposal system would be installed. All structures built for the project would adhere to the 2016 California Building Code which provides minimum standards to protect property and public welfare. Impacts to geology and soils would be less than significant.

- **Hydrology and Water Quality:** Drainage and surface water discharges during construction and operation of the proposed project would not violate any water quality standards or waste discharge requirements. The proposed project would be subject to the National Pollution Discharge Elimination System (NPDES) Construction General Permit requirements (Order No. 2009-0009-DWQ). BMPs would be implemented during construction and operational activities to ensure that water quality is not substantially degraded. The proposed project does not propose groundwater wells that would extract groundwater from aquifers. The proposed project would drain to the discharge location at the southeast corner of the property and outlet into an existing gutter, which is within an easement. Construction of the project would increase the potential for erosion and siltation, however, the improvements would be constructed over a short period of time and BMPs would reduce erosion and siltation impacts. Impervious surfaces would increase onsite, however, through the use of BMPs pertaining to site design and low impact development, the proposed roof drain and area drain system would convey the stormwater to the southeast discharge location via an unground detention system which would be designed to ensure that the proposed drainage flows do not exceed the existing drainage flows. Runoff flows from the rooftop of the proposed development would drain to raised planter boxes for biotreatment and flow to the southeast discharge. The proposed project is within flood Zone X (0.2 percent/500-year flood hazard). The closest reservoir to the site is approximately 0.4 mile northwest of the site and is separated from the site by urban development, the Pacific Ocean is approximately 17 miles southwest of the site, and the project site is relatively flat; impacts to seiches, tsunamis, and mudflows would be less than significant. The proposed project would comply with the water quality and use requirements of the water quality control plan and sustainable water management plan. Impacts to hydrology and water quality would be less than significant.
- **Mineral Resources:** The project site is in MRZ-1, where significant mineral deposits are unlikely or not present. There are no mining sites in the City of Brea. The project site's surroundings are developed with buildings. No impacts would occur to mineral resources.
- **Recreation:** The proposed project would create a demand for 1.03 acres of park space, however, the City would continue to have an excess of 754 acres of park space with project implementation. The proposed project would include approximately 22,285 square feet of amenities and landscaped areas which would reduce impacts to neighborhood parks and recreational facilities. The proposed project would not require the construction or expansion of recreational facilities. Impacts to recreational facilities would be less than significant.

- **Utilities and Service Systems:** The water and wastewater treatment needs of the proposed project would be served by Orange County Sanitation District (OCS D). The current available capacity of Wastewater Treatment Plant 1 is 76 million gallons per day (mgd); the plant would be able to accommodate the sewer flows generated from the proposed project, which would be 23,940 gallons per day (gpd). The proposed project would increase water demand; water supply would be provided by the California Domestic Water Company and the Municipal Water District of Orange County through the City of Brea Water Division. The proposed project represents less than 1 percent of the total water demand in 2020. The increase in water demands, 0.046 mdg, would be within the active design capacity of 21.6 mgd for the City booster pumps. The estimated waste generation of the proposed project is approximately 980 pounds per day, which would be 0.049 percent of Olinda Alpha landfill’s remaining daily allowable intake of 1,000 tons per day. The proposed project would comply with all local, state, and federal regulations pertaining to solid waste. Impacts to utilities and service systems would be less than significant.
- **Wildfire:** The proposed project would not conflict with adopted emergency response or evacuation plans; the surrounding roadways would continue to provide emergency access to the site and surroundings during construction and postconstruction. The proposed project would not exacerbate wildfire hazards – the project site is flat and in an urbanized environment, the project site would not impact weather or topography, the project site would consist of 141,137 square feet of impervious surfaces and 6,387 square feet of landscaped area, and is located in a low to very low fire area. The proposed project would install new infrastructure for electricity, natural gas, telecommunications, and cable service to meet service requirements and would be located in a utility room. The project site is relatively flat, located in a low to moderately low landslide zone, and is in flood Zone X; therefore, it is unlikely that the site would be susceptible to downslope or downstream flooding or landslides as a result of post-fire slope instability. Impacts to wildfires would be less than significant.

C. FINDINGS ON “NO IMPACT” AND “LESS THAN SIGNIFICANT IMPACTS”

Based on the environmental issue area assessment in the FEIR, the City determined that the proposed project would have no impact or less than significant impacts, including direct, indirect, and cumulative impacts, for the environmental issues summarized below. The rationale for the conclusion that no significant impact would occur in each of the issue areas is based on the environmental evaluation in the listed topical EIR sections in Section 5 of the DEIR, which include Environmental Setting, Environmental Impacts, Cumulative Impacts, and Mitigation Measures.

Regulatory Requirements (RR) are listed and numbered in the DEIR, and include applicable local, state, and federal regulations that are required independently of CEQA review and also serve to prevent the occurrence of, or reduce the significance of, potential environmental effects. Typical RRs include compliance with the provisions of the California Building Code, South Coast Air Quality Management District rules, local agency requirements, and other regulations and standards.

The EIR concluded that all or some of the impacts of the proposed project with respect to the following issues either will not be significant or will be reduced to below a level of significance by implementing project design features or existing regulatory requirements as detailed in Chapter 5 of

the DEIR. Those issues include: Air Quality, Cultural Resources, Greenhouse Gas (GHG) Emissions, Land Use and Planning, Noise, Population and Housing, Public Services, Transportation, and Tribal Cultural Resources. CEQA Guidelines Section 15901 requires that an EIR may not be certified for a project which has one or more significant environmental effects unless one of three possible findings is made for each significance effect. Since the following environmental issue areas were determined to have no impact or a less than significant impact, no findings for these issues are required.

1. Air Quality

Finding. The Proposed Project would have a less than significant direct, indirect, and cumulative impact on the below listed thresholds of significance. Accordingly, no changes or alterations to the Proposed Project were required to avoid or substantially lessen any significant environmental impacts under those thresholds. The FEIR evaluated the following impacts and found that no mitigation was required for the identified reasons:

Impact 5.1-1: The proposed project is consistent with SCAQMD's 2016 Air Quality Management Plan. [Threshold AQ-1]

SCAQMD is directly responsible for reducing emissions from area, stationary, and mobile sources in the SoCAB to achieve National and California AAQS. SCAQMD has responded by preparing the 2016 AQMP, which SCAQMD adopted on March 3, 2017. For southern California, regional growth projections are provided by the Southern California Association of Governments (SCAG) and are partially based on land use designations in city/county general plans. CEQA Guidelines Section 15206(b) states that proposed project is of statewide, regional, or area-wide significance if the project is a residential development of more than 500 dwelling units. The proposed project is estimated to generate up to 114 residential units and therefore would not be considered a regionally significant project that would warrant Intergovernmental Review by SCAG under CEQA Guidelines Section 15206. Although the Brea General Plan designates the proposed project site for industrial uses, the increase in the number of housing units in the City would not substantially affect growth estimates for the City in the AQMP. Additionally, operation-phase emissions associated with the proposed project would not exceed the SCAQMD regional significance thresholds, which were established to determine whether a project has the potential to cumulatively contribute to the SoCAB's nonattainment designations. Impacts would be less than significant

Impact 5.1-2: Construction activities associated with the proposed project would not generate short-term emissions in exceedance of SCAQMD's threshold criteria. [Threshold AQ-2]

The SoCAB is designated nonattainment for O₃ and PM_{2.5} under the California and National AAQS, nonattainment for PM₁₀ under the California AAQS,¹ and nonattainment for lead (Los Angeles County only) under the National AAQS. According to SCAQMD methodology, any project that

¹ Portions of the SoCAB along SR-60 in Los Angeles, Riverside, and San Bernardino counties are proposed nonattainment for NO₂ under the California AAQS.

does not exceed or can be mitigated to less than the daily threshold values would not add significantly to a cumulative impact.

The proposed project would result in the short-term construction of an approximately 68-foot-tall, 141,137-square-foot podium building on a 1.01-acre project site. The proposed residential building would be constructed over an approximately 18-month period, beginning summer 2020 and ending by winter 2021/2022. Air pollutant emissions for construction of the new residential building are based on the preliminary phasing schedule provided by the applicant—including excavation and shoring, soil export,² utility installation, foundations, vertical construction, painting, and paving.

The proposed project's construction-related emissions are shown in Table 5.1-8, *Maximum Daily Regional Construction Emissions*, on page 5.1-21 of the DEIR, and were quantified using the California Emissions Estimator Model, version 2016.3.2 (CalEEMod), based on the construction schedule and equipment list provided by the applicant. As shown in the Table, air pollutant emissions from construction-related activities would be less than their respective SCAQMD regional significance threshold values. Impacts would be less than significant.

Impact 5.1-3: Long-term operation of the project would not generate additional vehicle trips and associated emissions in exceedance of SCAQMD's threshold criteria. [Threshold AQ-2]

The long-term air pollutant emissions associated with a residential project are generated by area sources (e.g., landscape fuel use, aerosols, and architectural coatings), energy use (natural gas), and mobile sources (i.e., on-road vehicles associated with a project). Implementation of the proposed project would result in the construction of an approximately 141,137-square-foot residential building generating long-term air pollutant emissions. The proposed residential project is estimated to generate up to 653 weekday vehicle trips.³ The emissions associated with the proposed project are shown in Table 5.1-9, *Maximum Daily Regional Operational-Phase Emissions*, on page 5.1-22 of the DEIR. As shown in the Table, air pollutant emissions generated from operation-related activities would be less than their respective SCAQMD regional significance threshold values and would not result in a cumulatively considerable net increase in criteria pollutants. Impacts would be less than significant.

Impact 5.1-4: Construction of the proposed project would not expose sensitive receptors to substantial pollutant concentrations. [Threshold AQ-3]

A project could expose sensitive receptors to elevated pollutant concentrations during construction activities if it would cause or contribute significantly to elevated levels.

² Air quality modeling is conservative because it is based on construction of a previous site plan with a larger building (171,433 square feet with subterranean parking that would require excavation, shoring, and soil export. Construction of a smaller building without subterranean parking would not require soil export.

³ Traffic modeling is based on a previous site plan with 120 residential units. The updated site plan has 114 units and would generate less average daily vehicle trips than identified in the traffic report.

Localized Construction Impacts

Unlike the mass of construction and operation missions shown in Table 5.1-8, localized concentrations refer to an amount of pollutant in a volume of air (parts per million or micrograms per square meter) and can be correlated to potential health effects. Air pollutant emissions generated by construction activities are anticipated to cause temporary increases in air pollutant concentrations. Table 5.1-10, *Maximum Daily Onsite Localized Construction Emissions*, on page 5.1-24 of the DEIR, shows the maximum daily construction emissions (pound per day) generated during onsite construction activities compared with the SCAQMD's LSTs. As shown in the Table, the construction of the proposed project would not generate construction-related onsite emissions that would exceed the LSTs. Project-related construction activities would not have the potential to expose sensitive receptors to substantial pollutant concentrations.

Construction Health Risk

SCAQMD currently does not require health risk assessments to be conducted for short-term emissions from construction equipment. SCAQMD currently does not require the evaluation of long-term excess cancer risk or chronic health impacts for a short-term project. The proposed project would be developed in approximately 18 months. The relatively short duration, when compared to a 30-year time frame, would limit exposures to receptors. In addition, exhaust emissions from off-road vehicles associated with overall project-related construction activities would not exceed the screening-level LSTs. For these reasons, it is anticipated that construction emissions would not pose a threat to off-site receptors near the proposed project. Impacts would be less than significant.

Impact 5.1-5: Operation of the proposed project would not expose sensitive receptors to substantial pollutant concentrations. [Threshold AQ-3]

A project could expose sensitive receptors to elevated pollutant concentrations during operational activities if it would cause or contribute significantly to elevated levels.

Localized Operation-Phase Impacts

Land uses that have the potential to generate substantial stationary sources of emissions that would require a permit from SCAQMD include industrial land uses, such as chemical processing and warehousing operations where substantial truck idling could occur onsite. The proposed project does not fall within these categories. Operation of the proposed project would result in the use of standard onsite mechanical equipment—such as heating, ventilation, and air quality units—and occasional use of landscaping equipment for property maintenance which would generate source emissions. Emissions of NO₂, CO, PM₁₀, and PM_{2.5} generated at the project site (off-site mobile-source emissions are not included in the LST analysis) from on-site stationary sources could expose sensitive receptors to substantial concentrations of criteria air pollutants. Table 5.1-11, *Localized Onsite Operational Emissions*, on page 5.1-25 of the DEIR, shows localized maximum daily operational emissions. As shown in the Table, maximum daily operational emissions would not exceed SCAQMD LSTs. Therefore, operational emissions would not exceed the California AAQS, and project operation would not expose sensitive receptors to substantial pollutant concentrations.

Carbon Monoxide Hotspots

Under existing and future vehicle emission rates, a project would have to increase traffic volume at a single intersection by more than 44,000 vehicles per hour—or 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited—in order to generate a significant CO impact. The proposed project would generate a maximum of 653 peak hour trips.⁴ Implementation of the project would not have the potential to substantially increase CO hotspots at intersections in the vicinity of the project site. Impacts would be less than significant.

Impact 5.1-6: The proposed project would not result in other emissions, including odors, adversely affecting a substantial number of people. [Threshold AQ-4]

The threshold for odor is if a project creates an odor nuisance pursuant to SCAQMD Rule 402, Nuisance. The type of facilities that are considered to have objectionable odors include wastewater treatment plants, compost facilities, landfills, solid waste transfer stations, fiberglass manufacturing facilities, paint/coating operations (e.g., auto body shops), dairy farms, petroleum refineries, asphalt batch plants, chemical manufacturing, and food manufacturing facilities.

The proposed project would develop and operate a residential building, which would not fall within the types of uses that are associated with foul odors that constitute a public nuisance. During construction activities, construction equipment exhaust and application of asphalt and architectural coatings would temporarily generate odors. However, construction-related odor emissions would be temporary and intermittent and would not affect a significant number of people. This impact would be less than significant.

There are regulatory requirements that would reduce the proposed project's potential impacts, as listed below:

- PPP AIR-1 New buildings are required to achieve the current California Building Energy and Efficiency Standards (Title 24, Part 6) and California Green Building Standards Code (CALGreen) (Title 24, Part 11). The 2016 Building and Energy Efficiency Standards were effective starting on January 1, 2017, and the 2019 Building and Energy Efficiency Standards will become Effective January 1, 2020. The Building Energy and Efficiency Standards and CALGreen are updated tri-annually with a goal to achieve zero net energy for residential buildings by 2020 and nonresidential buildings by 2030.
- PPP AIR-2 New buildings are required to adhere to the California Green Building Standards Code (CALGreen) requirement to provide bicycle parking for new non-residential buildings, or meet local bicycle parking ordinances, whichever is stricter (CALGreen Sections 5.106.4.1, 14.106.4.1, and 5.106.4.1.2).

⁴ Traffic modeling is based on a previous sit plan with 120 residential units. The updated site plan has 114 units and would generate less average daily vehicle trips than identified in the traffic report.

- PPP AIR-3 Construction activities will be conducted in compliance with 13 California Code of Regulations (CCR) Section 2499, which requires that nonessential idling of construction equipment is restricted to five minutes or less.
- PPP AIR-4 Construction activities will be conducted in compliance with any applicable South Coast Air Quality Management District (SCAQMD) rules and regulations, including but not limited to the following:
- Rule 403, Fugitive Dust, for controlling fugitive dust and avoiding nuisance.
 - Rule 402, Nuisance, which states that a project shall not “discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.”
 - Rule 1113, which limits the volatile organic compound content of architectural coatings.

2. Cultural Resources

Finding. The Proposed Project would have a less than significant direct, indirect, and cumulative impact on the below listed thresholds of significance. Accordingly, no changes or alterations to the Proposed Project were required to avoid or substantially lessen any significant environmental impacts under those thresholds. The FEIR evaluated the following impacts and found that no mitigation was required for the identified reasons:

Impact 5.2-1: Development of the project would not impact an identified historic resource. [Threshold C-1]

A SCCIC records search was conducted for the project that included a review of all recorded archaeological and built-environment resources as well as a review of cultural resource reports, the California Points of Historical Interest, California Historical Landmarks, CRHR, NRHP, and the California State Historic Properties Directory listing were also reviewed.

Based on the results of the records search, the project site is within one mile of the historic Brea Canyon. However, the project site is not identified as a state or national historic resource. No impacts would occur.

Impacts 5.2-2 and 5.2-3: see Section D. Findings on Significant Environmental Impacts.

Impact 5.2-4: Grading activities could potentially disturb human remains, but compliance with existing regulations would ensure that impacts are less than significant. [Threshold C-3]

The project site is currently vacant and would require utility connections, ground clearing, excavation, grading, and other construction activities. California Health and Safety Code Section 7050.5 requires that if human remains are discovered on a project site, disturbance of the site must stop, and the coroner must investigate and recommend how the remains should be treated. If the coroner has reason to believe the remains are Native American, he or she must contact the Native American Heritage Commission. Impacts would be less than significant.

There are regulatory requirements that would reduce the proposed project's potential impacts, as listed below:

- RR CUL-1 Cultural and paleontological resources are recognized as nonrenewable resources and receive protection under the PRC and CEQA.
- RR CUL-2 Native American historical and cultural resources and sacred sites are protected under PRC Sections 5097.9 to 5097.991, which require that descendants be notified when Native American human remains are discovered and provide for treatment and disposition of human remains and associated grave goods.
- RR CUL-3 The removal, without permission, of any paleontological site or feature is prohibited from lands under the jurisdiction of the state or any city, county, district, authority, or public corporation, or any agency thereof (PRC Section 5097.5). This applies to agencies' own activities, including construction and maintenance, and permit actions by others.
- RR CUL-4 Adverse impacts to paleontological resources from developments on public (state, county, city, and district) lands require reasonable mitigation. (PRC Section 5097.5)
- RR CUL-5 If human remains are discovered within a project site, disturbance of the site must stop until the coroner has investigated and made recommendations for the treatment and disposition of the human remains to the person responsible for the excavation, or to his or her authorized representative. If the coroner has reason to believe the human remains are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission. (California Health and Safety Code Section 7050.5)

3. Greenhouse Gas Emissions

Finding. The Proposed Project would have a less than significant direct, indirect, and cumulative impact on the below listed thresholds of significance. Accordingly, no changes or alterations to the Proposed Project were required to avoid or substantially lessen any significant environmental impacts

under those thresholds. The FEIR evaluated the following impacts and found that no mitigation was required for the identified reasons:

Impact 5.3-1: Implementation of the proposed would not generate a net increase in GHG emissions, either directly or indirectly, that would have a significant impact on the environment. [Threshold GHG-1]

Implementation of the proposed project would add a 141,137-square-foot residential building. The proposed project would generate up to 653 weekday vehicle trips.⁵ Furthermore, operation of the residential project would result in an increase in water demand, wastewater and solid waste generation, area sources (e.g., consumer cleaning products), and energy usage (i.e., natural gas and electricity). The project emissions and construction-related emissions are quantified and shown in Table 5.3-6, *Project-Related GHG Emissions*, on page 5.3-21 of the DEIR. As shown in the Table, the proposed project would not result in GHG emissions that would exceed SCAQMD's bright-line significance threshold. Impacts would be less than significant.

Impact 5.3-2: Implementation of the proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs. [Threshold GHG-2]

Applicable plans adopted for the purpose of reducing GHG emissions include CARB's Scoping Plan and SCAG's RTP/SCS. A consistency analysis with these plans is presented below.

CARB Scoping Plan

CARB's Scoping Plan is California's GHG reduction strategy to achieve the state's GHG emissions reduction target established by AB 32, which is to return to 1990 emission levels by year 2020, and SB 32, which is reduce emissions 40 percent below 1990 levels by 2030. Statewide strategies to reduce GHG emissions include the Low Carbon Fuel Standard, California Appliance Energy Efficiency regulations, California Renewable Energy Portfolio standard, changes in the Corporate Average Fuel Economy standards, and other early action measures as necessary to ensure the state is on target to achieve the GHG emissions reduction goals of AB 32 and SB 32. Also, new buildings are required to comply with the current Building Energy Efficiency Standards and California Green Building Code. While measures in the Scoping Plan apply to state agencies and not the proposed project, the project's GHG emissions would be reduced from compliance with statewide measures that have been adopted since AB 32 and SB 32 were adopted. Therefore, as with the approved project, the proposed project would not obstruct implementation of the CARB Scoping Plan.

SCAG's Regional Transportation Plan/Sustainable Communities Strategy

SCAG's 2016-2040 RTP/SCS was adopted April 7, 2016. The RTP/SCS identifies multimodal transportation investments, include bus rapid transit, light rail transit, heavy rail transit, commuter rail, high-speed rail, active transportation strategies (e.g., bikeways and sidewalks), transportation

⁵ Traffic modeling is based on a previous site plan with 120 residential units. The updated site plan has 114 units and would generate less average daily trips than identified in the traffic report.

demand management strategies, transportation systems management, highway improvements (interchange improvements, high-occupancy vehicle lanes, high-occupancy toll lanes), arterial improvements, goods movement strategies, aviation and airport ground access improvements, and operations and maintenance to the existing multimodal transportation system.

The RTP/SCS does not require that local general plans, specific plans, or zoning be consistent with the SCS, but provides incentives for consistency for governments and developers. The proposed project would result in high density residential development proximate to Brea Downtown and major employers. As detailed in the project description, the project would enhance the pedestrian and bicycle linkages to Brea Downtown. Consequently, the project is consistent with the overall objectives of SCAG's RTP/SCS. The proposed project would not interfere with SCAG's ability to implement the regional strategies outlined in the RTP/SCS. This impact is less than significant.

There are regulatory requirements that would reduce the proposed project's potential impacts, as listed below:

- RR GHG-1 New buildings are required to achieve the current California Building Energy and Efficiency Standards (Title 24, Part 6) and California Green Building Standards Code (CALGreen) (Title 24, Part 11). The 2016 Building and Energy Efficiency Standards were effective starting January 1, 2017. The 2019 Building and Energy Efficiency Standards will become effective on January 1, 2020. The Building Energy and Efficiency Standards and CALGreen are updated tri-annually with a goal to achieve zero net energy for residential buildings by 2020 and non-residential buildings by 2030.
- RR GHG-2 New buildings are required to adhere to the California Green Building Standards Code (CALGreen) requirement to provide bicycle parking for new non-residential buildings, or meet local bicycle parking ordinances, whichever is stricter (CALGreen Sections 5.106.4.1, 14.106.4.1, and 5.106.4.1.2). The proposed project would be required to provide anchored bicycle racks and long-term secured bicycle parking.
- RR GHG-3 California's Green Building Standards Code (CALGreen) requires the recycling and/or salvaging for reuse at minimum of 65 percent of the nonhazardous construction and demolition waste generated during most "new construction" projects (CALGreen Sections 4.408 and 5.408). Construction contractors are required to submit a construction waste management plan that identifies the construction and demolition waste materials to be diverted from disposal by recycling, reuse on the project, or salvaged for future use or sale and the amount (by weight or volume).
- RR GHG-4 Construction activities are required to adhere to Title 13 California Code of Regulations Section 2499, which requires that nonessential idling of construction equipment is restricted to five minutes or less.

- RR GHG-5 New buildings are required to adhere to the California Green Building Standards Code and Water Efficient Landscape Ordinance requirements to increase water efficiency and reduce urban per capita water demand.
- RR GHG-6 CARB's Renewable Portfolio Standard (RPS) is a foundational element of the State's emissions reduction plan. These mandates apply directly to investor-owned utilities, which in the case of the proposed project is Southern California Edison. On September 10, 2018, Senate Bill 100 was signed into law and established the following RPS targets: 50 percent renewable resources target by December 31, 2026, and 60 percent target by December 31, 2030. SB 100 also requires that retail sellers and local publicly owned electric utilities procure a minimum quantity of electricity products from eligible renewable energy resources so that the total kilowatt hours of those products sold to their retail end-use customers achieve 44 percent of retail sales by December 31, 2024; 52 percent by December 31, 2027; and 60 percent by December 31, 2030.
- RR GHG-7 On January 18, 2007, Governor Arnold Schwarzenegger issued Executive Order S-1-07 requiring the establishment of a Low Carbon Fuel Standard (LCFS) for transportation fuels. The LCFS was amended in 2011 and readopted in 2015. This statewide goal requires that California's transportation fuels reduce their carbon intensity by at least 10 percent by 2020.
- RR GHG-8 The 2007 Energy Bill creates new federal requirements for increases in fleetwide fuel economy for passenger vehicles and light trucks under the Federal Corporate Average Fuel Economy Standards. The federal legislation requires a fleetwide average of 35 miles per gallon (mpg) to be achieved by 2020. The National Highway Traffic Safety Administration is directed to phase in requirements to achieve this goal. Analysis by CARB suggests that this will require an annual improvement of approximately 3.4 percent between 2008 and 2020.
- RR GHG-9 On July 22, 2002, Governor Gray Davis signed Assembly Bill 1493 (Pavley) requiring CARB to develop and adopt regulations designed to reduce greenhouse gases emitted by passenger vehicles and light-duty trucks beginning with the 2009 model year. The standards set within the Pavley regulations are expected to reduce GHG emissions from California passenger vehicles by about 22 percent in 2012 and about 30 percent in 2016. California had petitioned the USEPA in December 2005 to allow these more stringent standards and California executive agencies have repeated their commitment to higher mileage standards. On July 1, 2009, the USEPA granted California a waiver that will enable the state to enforce stricter tailpipe emissions on new motor vehicles.
- RR GHG-10 SB 375 requires the reduction of GHG emissions from light trucks and automobiles through land use and transportation efforts that will reduce vehicle miles traveled. In essence, SB 375's goal is to control GHGs by curbing urban sprawl and through better land use planning. SB 375 essentially becomes the land use contribution to

the GHG reduction requirements of AB 32, California's global warming bill enacted in 2006, and SB 32.

4. Hazards and Hazardous Materials

Finding. The Proposed Project would have a less than significant direct, indirect, and cumulative impact on the below listed thresholds of significance. Accordingly, no changes or alterations to the Proposed Project were required to avoid or substantially lessen any significant environmental impacts under those thresholds. The FEIR evaluated the following impacts and found that no mitigation was required for the identified reasons:

Impact 5.4-1: Project construction and operations of the proposed project could involve the transport, use, and/or disposal hazardous materials; however, compliance with existing local, state, and federal regulations would ensure impacts are minimized. [Threshold H-1]

Project construction would require small amounts of hazardous materials, including fuels, greases and other lubricants, and coatings such as paint. The handling, use, transport, and disposal of hazardous materials by the construction phase of the project would comply with existing regulations of several agencies—the EPA, the Orange County Environmental Health Division, OSHA, California Division of Occupational Safety and Health, and USDOT. The project would operate as a residential development. Project maintenance and operation may require the use of cleaners, solvents, paints, and other custodial products that are potentially hazardous. These materials would be used in relatively small quantities, clearly labeled, and stored in compliance with state and federal requirements. Moreover, the residents living in the workforce housing units may also use such products. With the exercise of normal safety practices, the project would not create substantial hazards to the public or the environment. Therefore, a less than significant impact would occur.

Additionally, construction projects typically maintain supplies on-site for containing and cleaning small spills of hazardous materials. However, construction activities would not involve a significant amount of hazardous materials, and their use would be temporary. Furthermore, project construction workers would be trained on the proper use, storage, and disposal of hazardous materials. Operation of the site would not warrant use of hazardous materials in quantities that could result in hazardous conditions. All on-site activities during construction and operation would be required to adhere to federal, state, and local regulations for the management and disposal of hazardous materials. Therefore, transport, use, and/or disposal of hazardous materials during construction of new developments in accordance with the proposed project would be properly managed, and impacts would be less than significant.

Impact 5.4-2: see Section D. *Findings on Significant Environmental Impacts.*

Impact 5.4-3: The project site is within one-quarter mile of an existing school; however, the proposed project would not emit substantial quantities of hazardous emissions, and use of hazardous materials on-site would be regulated by existing local, state, and federal regulations. [Threshold H-3]

The proposed project is located within one-quarter mile of Christ Lutheran Elementary School. Operation of the proposed project would not result in the release of hazardous emissions. No significant hazardous materials, substances, or wastes would be transported, used, or disposed of in conjunction with the proposed project's operation. The on-site use of hazardous materials at the proposed facility would be restricted to cleaning solvents and paints used by facilities maintenance staff and cleaning solvents used by residents of the workforce housing units. The materials used by facilities maintenance staff would be used in small quantities and stored in compliance with state and federal requirements. No significant impacts would affect occupants at Christ Lutheran Elementary School. Also, the project site and Christ Lutheran Elementary School are separated by urban development and Imperial Highway/State Route-90. Impacts would be less than significant.

Impact 5.4-4: The project site is not on a list of hazardous materials sites. [Threshold H-4]

The environmental regulatory records review conducted as part of the Phase I ESA searched the following databases to identify whether the project site was listed: Federal NPL Sites, Federal Delisted NPL Sites, CERCLIS Sites, CERCLIS-NFRAP Sites, Federal ERNS, RCRA non-CORRACTS TSD Facilities, RCRA CORRACTS Facilities, RCRA Generators, Federal Institutional/Engineering Control Registry, State and Tribal Equivalent NPL Sites, State and Tribal Equivalent CERCLIS Sites, State and Tribal Registered Storage Tanks, State and Tribal Landfills and Solid Waste Disposal Sites, State and Tribal Leaking Storage Tanks, State and Tribal Institutional Controls/Engineering Control, State and Tribal Voluntary Cleanup Sites, State and Tribal Brownfield Sites, Orphan Site List, HAZNET.

Based on the Phase I ESA and a review of environmental records collected for the project site, the site is not listed on EnviroStor or GeoTracker. However, there was a cleanup site for a leaking underground storage tank, where the potential contaminants were waste oil, motor oil, and hydraulic and lubricating fluids, on 200 Berry Street; the case was closed on March 22, 1988. Construction activities would occur within the boundaries of the project site and would not disturb off-site properties. Therefore, no impacts would occur.

Impact 5.4-5: The project site is not in the vicinity of an airport or within the jurisdiction of an airport land use plan. [Threshold H-5]

The project site is not within an airport land use plan area or within two miles of a public use airport. The nearest public-use airport is the Fullerton Municipal Airport, approximately five miles southwest of the project site. Therefore, the proposed project would not result in a safety or noise hazard for people residing at the proposed project. No impact would occur.

Impact 5.4-6: The project site is not in the vicinity of an airport or within the jurisdiction of an airport land use plan. [Threshold H-6]

The proposed project would not conflict with adopted emergency response or evacuation plans. The surrounding roadways would continue to provide emergency access to the project site and surrounding properties during construction and postconstruction. The proposed project would not result in inadequate emergency access, and impacts to adopted emergency response and evacuation plans are less than significant.

Impact 5.4-7: The project site is not in a designated Very High Fire Hazard Severity Zone and would not expose structures and/or residences to fire danger. [Threshold H-7]

The project site is in a built-out portion of the City of Brea and is not in a fire hazard zone designated by the California Department of Forestry and Fire Protection. Impacts would be less than significant.

There are regulatory requirements that would reduce the proposed project's potential impacts, as listed below:

RR HAZ-1 Any project-related hazardous materials and hazardous wastes will be transported to and/or from the project site in compliance with any applicable state and federal requirements, including the US Department of Transportation regulations listed in the Code of Federal Regulations (Title 49, Hazardous Materials Transportation Act); California Department of Transportation standards; and the California Occupational Safety and Health Administration standards.

RR HAZ-2 Any project-related hazardous waste generation, transportation, treatment, storage, and disposal will be conducted in compliance with the Subtitle C of the Resource Conservation and Recovery Act (Code of Federal Regulations, Title 40, Part 263), including the management of nonhazardous solid wastes and underground tanks storing petroleum and other hazardous substances. The proposed project will be designed and constructed in accordance with the regulations of the Orange County Environmental Health Department, which is the designated Certified Unified Program Agency and which implements state and federal regulations for the following programs: (1) Hazardous Waste Generator Program, (2) Hazardous Materials Release Response Plans and Inventory Program, (3) California Accidental Release Prevention, (4) Aboveground Storage Tank Program, and (5) Underground Storage Tank Program.

RR HAZ-3 Any project-related demolition activities that have the potential to expose construction workers and/or the public to asbestos-containing materials or lead-based paint will be conducted in accordance with applicable regulations, including, but not limited to:

- South Coast Air Quality Management District’s Rule 1403
- California Health and Safety Code (Section 39650 et seq.)
- California Code of Regulations (Title 8, Section 1529)
- California Occupational Safety and Health Administration regulations (California Code of Regulations, Title 8, Section 1529 [Asbestos] and Section 1532.1 [Lead])
- Code of Federal Regulations (Title 40, Part 61 [asbestos], Title 40, Part 763 [asbestos], and Title 29, Part 1926 [asbestos and lead])

RR HAZ-4 The removal of other hazardous materials, such as polychlorinated biphenyls (PCBs), mercury-containing light ballast, and mold, will be completed in accordance with applicable regulations pursuant to 40 CFR 761 (PCBs), 40 CFR 273 (mercury-containing light ballast), and 29 CFR 1926 (molds) by workers with the hazardous waste operations and emergency response (HAZWOPER) training, as outlined in 29 CFR 1910.120 and 8 CCR 5192.

RR HAZ-5 Any project-related new construction, excavations, and/or new utility lines within 10 feet or crossing existing high-pressure pipelines, natural gas/petroleum pipelines, or electrical lines greater than 60,000 volts will be designed and constructed in accordance with the California Code of Regulations (Title 8, Section 1541).

5. Land Use and Planning

Finding. The Proposed Project would have a less than significant direct, indirect, and cumulative impact on the below listed thresholds of significance. Accordingly, no changes or alterations to the Proposed Project were required to avoid or substantially lessen any significant environmental impacts under those thresholds. The FEIR evaluated the following impacts and found that no mitigation was required for the identified reasons:

Impact 5.5-1: Project implementation would not divide an established community. [Threshold LU-1]

The project site is vacant and undeveloped and is located in a developed commercial industrial area, west of Brea Downtown, and is surrounded by light industrial land, general industrial, and commercial office uses. The proposed project would not divide an established residential community. The following addresses impacts from introduction of a residential project into a primarily industrial area of the City.

Urban Decay

The project would introduce residential uses into an industrial area of the City. This action in itself would not result in decay of the industrial area. First, although the project site is surrounded by commercial and industrial uses, the project site is on the fringe of the industrial area, approximately 580 feet from Brea Downtown. Second, the project site would be valued higher on a per acre basis

than a light industrial use because residential uses often spur more investment. Last, the project site is currently vacant and has been vacant for some time. Thus, the introduction of residential uses to the project site, which is on the outskirts of an industrial area, would not result in urban decay due to its close proximity to Brea Downtown, the higher value of land that results from residential development, and developing a vacant site would promote more efficient use of the project site.

Industrial Adjacency

The project site is currently designated in the General Plan as Light Industrial and zoned Commercial-Industrial (C-M) with a Precise Development (PD) Overlay. The C-M zone was created to provide a buffer between heavier manufacturing operations, such as those within the Industrial zones (M-2, M-1). The C-M zone prohibits outdoor manufacturing or processing operations. In accordance with the CEQA Guidelines, the analysis below focuses on whether there would be any adverse environmental impact that might result from dividing an established industrial community.

Figure 4-2, *Zoning*, on page 4-12 of the DEIR, identifies that the nearest Industrial (M-2, M-1) zone is west across Berry Street and north of the Brea Trail. As identified above, the project site is on the eastern edge of the industrial area in the City. The proposed zone change to Planned Community (PC) would not divide the industrial community. Because the project does not meet the City's existing guidelines and standards for the Light Commercial zone, it therefore requires either: (i) a combination of a zoning code and/or zoning map amendment; or (ii) a zone change to Planned Community (PC) and approval of a PC Master Plan. The former would also require a General Plan Amendment while the latter would not because the General Plan already recognizes the use of PC Master Plans as a flexible planning tool.

Pursuant to *CBLA v. BAAQMD* (see Section 5.1, *Air Quality* of the DEIR), potential environmental effects of the project are the significant effects of the proposed project on the environment, not the significant effects of the environment on the proposed project. However, as described in Section 5.4, *Hazards and Hazardous Materials*, of the DEIR, only one facility proximate to the site uses chemicals in substantial enough quantities to warrant a risk management plan (Albertsons Distribution Center [Facility ID 100000071165]). The project site is approximately 845 feet southeast of this facility. Placement of residential uses at this distance would not warrant an offsite consequence analysis. Additionally, while industrial uses can generate a higher number of truck trips, the uses directly abutting the project site do not generate a substantial number of truck trips that idle onsite and would warrant a health risk assessment.⁶ Placement of the project would not exacerbate environmental hazards.

Industrial uses west of Berry Street and north of Mercury Lane are buffered from the project site by these local roadways. The use south of the project site is an office use. The only industrial property that directly abuts the project site is SPX Cooling Technologies. Although the C-M zones requires industrial zones to be setback 100 feet from residential zone, the City does not apply this to Mixed Use or Planned Community zones. Thus, although the project would be constructed within 100 feet

⁶ The California Air Resources Board 2005 Air Quality Land Use Handbook defines land uses with more than 100 trucks trips per day as having the potential to evaluate health risk. The Fontana Truck Trip Study identifies that trucks typically comprise up to 21 percent of total daily trips at light industrial uses.

of the SPX building, this is not inconsistent with the zoning code. Nor would placement of a residential land use within 100 feet of the adjacent industrial building exacerbate existing hazards since this facility doesn't use chemicals in substantial enough quantities to require submittal of a risk management plan (see Section 5.4, *Hazards and Hazardous Materials*, of the DEIR). SPX Cooling Technologies can, however, potentially generate elevated noise levels in the evening and early morning hours when residential uses are more sensitive to noise. In accordance with the California Green Building Standards Code (CALGreen), the City of Brea requires that the residential units be designed to achieve interior noise levels of 45 dBA CNEL (see Section 5.6, *Noise*, of the DEIR). As a condition of approval, the proposed project would be required to provide disclosures to address the continued operation of adjacent uses and that residents living in the proposed project may be subject to noise. An acoustic study, per building code, would be required to achieve the City and State interior noise levels.

Consequently, placing the residential project within a parcel previously zoned C-M to provide a buffer between industrial and residential uses would not result in a significant impact on the environment. Impacts would be less than significant.

Impact 5.5-2: Project implementation would not conflict with the City of Brea Zoning designations. [Threshold LU-2]

In accordance with the CEQA Guidelines, this analysis focuses on whether there would be any adverse physical environmental impact that might result from a conflicting with the existing zoning.

Spot Zoning

The proposed project would require modification of its design to meet existing guidelines and standards of a conforming zone and a zone change and General Plan amendment to those conforming designations, or alternatively, a zone change to Planned Community (PC) zoning, which can provide for alternative development guidelines and standards. Spot zoning may occur when a small parcel of property is subject to less or more restrictive zoning than the surrounding properties. The proposed project is an approximately one-acre parcel on the eastern edge of the City's industrial center, proximate to Brea Downtown. The project would result in conversion of the current zoning from C-M to PC. The project is surrounded by parcels zoned C-M and M-2.

The proposed project would reclassify an approximately one-acre site with less restrictive zoning than surrounding properties. However, even where a small island is created in the midst of more/less restricting zoning, the zoning may be upheld when the facts supporting the classification provides a public benefit. As detailed in the PC Master Plan (see Appendix M of the DEIR), the project is intended to address the goals of the City's General Plan Housing Element and Brea Envisions and would place workforce housing proximate to Brea Downtown and major employers.

The proposed project would increase and introduce new residential product types to the marketplace; allow for affordable market-rate residential development; promote active transportation due to the close proximity to Brea Downtown and employment opportunities and through the incorporation of a secured bicycle storage; and develop workforce housing within close proximity to Brea Downtown and commercial office, general industrial, and light industrial uses. These project objectives address

the General Plan policies that pertain to providing a jobs-housing balance; providing development that responds to diverse community needs; encouraging development that is organized around compact, walkable, mixed-use districts that reduce reliance on automobiles; and improving connections between Brea Downtown and the rest of the community. The proposed project would set aside a portion of the units as affordable units as part of the development agreement.

Further, minimal land use compatibility conflicts would occur as a result of project implementation (see Impact 5.5-1, above). The project site is on the fringe of Brea's industrial area and is south and southeast of an office building, Mercury Insurance, and associated parking structure, which would not create hazards or noise impacts to the proposed project. Further, uses west of the project site are buffered by Berry Street, thereby reducing potential noise and hazard impacts. Moreover, uses to the north of the project site and buffered by Mercury Lane and a parking lot are predominantly used for trailer parking and do not consist of intensive industrial uses. The only potential impacts would be onsite residents being exposed to noise from proximity to the SPX Cooling Technologies/Recold business adjacent to the eastern portion of the project site. As identified above, the project building would be designed to achieve the required interior noise standards, and as a condition of approval, the proposed project would be required to provide disclosures to address the continued operation of adjacent uses and that residents living in the proposed project may be subject to noise. Moreover, the findings for approval of a PC Master Plan require that "the Planned Community Master Plan is in the best interest of the City as a whole," which would ensure there would be some public benefit and would not result in spot planning.

PC Zone Consistency

Prior to the approval of reclassification of the project site to the PC Zone, the project applicant would comply with the requirements outlined in Chapter 20.272, PC Planned Community, to ensure that the proposed project meets the goals and objectives of the City of Brea General Plan. These requirements, and the project's consistency with the requirements, are outlined in the PC Master Plan (see Appendix M of the DEIR).

Moreover, the PC Master Plan is intended to fulfill Policy HE-2.2, Policy HE-2.6, Policy HE-6.5, and Policy HE-6.6, of the City of Brea General Plan Housing Element, in regard to affordable and workforce housing, as well as transportation alternatives and walkability. The PC Master Plan is intended to meet the City of Brea General Plan Housing Element's Provision of Affordable Housing Sites: Program 9, *Mixed Use/High Density Opportunities Sites*, because the project site is within the Mercury Lane corridor, which has been identified as an area of opportunity to explore for mixed-use development or high density residential infill opportunities.

The PC zone encourages innovative development that allows a diversification of uses, use relationships, building heights, densities, and open spaces while ensuring consistency with the City's General Plan. Thus, the zone change of the project site would satisfy the objectives of the proposed project, which include increasing the number of housing units within the City of Brea as well as providing modern and secure housing for the workforce population. The proposed project's close proximity to Brea Downtown and surrounding commercial office, light industrial, and general industrial uses would place workforce residents closer to employment opportunities, thereby enabling

residents to use alternative transportation to commute to work. Therefore, the rezoning of the project site would result in benefits to the City's housing needs and workforce population.

The proposed project would be five stories and approximately 68 feet tall. Under the current zoning, a maximum building height of 35 feet is permitted. The approval of a PC zone would allow the project to exceed the building heights of the current and adjacent properties, and no environmental effects would result from increasing building height. For example, the project requires review and approval from the Brea Fire Department to ensure that the proposed design would not increase fire hazards on- or offsite. Likewise, under the PC zone the proposed project would be allowed to have a lot coverage of greater than 50 percent. The project includes a five-foot landscape area with shrub and ground cover massing along the eastern and southern boundaries of the proposed building, and a minimum ten-foot landscape area would be provided between the sidewalk and the building along Berry Street and Mercury Lane. The proposed project would include an onsite parking structure. The increase in floor area ratio allowed under the PC zone would not result in an environmental impact.

Parking

The project applicant is required to provide parking in accordance with the City's zoning requirements. If the development plans submitted by the project applicant show less than the required parking, the City would require the submittal of a parking impact analysis. Municipal Code Title 20, Division I, Section, 20.08.040, (D), Parking Space Requirements, details the required number of spaces for residential dwellings based on the number and type of units. Table 5.5-1, *Mercury Lane Residential Parking Requirements*, on page 5.5-11 of the DEIR, identifies parking provided onsite.

The proposed project would provide 118 vehicle parking spaces and 114 bicycle parking spaces. The parking, as proposed, will be analyzed and studied by the City. Parking for the proposed project would be required to meet City of Brea Municipal Code Section 20.08.040, *Off-Street Parking and Loading*, or the exceptions, as indicated in Section 20.08.040 (F), *Exceptions or Modifications to Off-Street Parking Requirements*, which state that exceptions or modifications to the provisions can be made if the requirements of this section are considered to be excessive in accordance with the procedures outlined in the Municipal Code.

According to the draft parking analysis, the proposed project's forecast for parking demand can be expected to be significantly less than a typical multifamily housing project because of (1) the relatively small size of the units, (2) affordable housing classification, (3) proximity to Brea Downtown (2,000 feet), and (4) proximity to transit and bus stations near Brea Downtown. These factors may potentially reduce the parking demand for the project compared to a typical residential use.

Pursuant to the City's regulations, the City of Brea will review the parking study and may impose additional conditions to ensure that the proposed parking demand of the project is satisfied. Review by the City would ensure that the project would provide adequate parking and would not result in a physical impact on the environment. Impacts would be less than significant.

There are regulatory requirements that would reduce the proposed project's potential impacts, as listed below:

PPP LU 1 The proposed project is required to provide disclosures to address the continued operation of adjacent uses, and that residents living in the proposed project may be subject to noise. An acoustic study per building code would be required to ensure that design features are incorporated into the building design to reduce noise generated at the adjacent industrial uses from affecting the residential living spaces to achieve interior noise levels.

PPP LU 2 A Development Agreement, pursuant to City of Brea Municipal Code 20.272, PC Planned-Community, is required to be prepared in order to ensure the proposed project would benefit the community. The City will require the following conditions of approval: Developer and/or rental representative shall provide notification to all affected tenants/residents of Mercury Lane Residential that units may be exposed to elevated noise levels at all hours as a result of proximity to the adjacent industrial area.

6. Noise

Finding. The Proposed Project would have a less than significant direct, indirect, and cumulative impact on the below listed thresholds of significance. Accordingly, no changes or alterations to the Proposed Project were required to avoid or substantially lessen any significant environmental impacts under those thresholds. The FEIR evaluated the following impacts and found that no mitigation was required for the identified reasons:

Impact 5.6-1: Construction activities would not result in temporary noise increases in the vicinity of the proposed project in excess of standards. [Threshold N-1]

The total duration for project construction would be approximately 18 months. In terms of the proposed construction activities, the site preparation and rough grading are expected to generate the highest noise levels since they involve the largest and most powerful equipment. Construction equipment for the proposed project would include equipment such as graders, excavators, tractors, loaders, backhoes, forklifts, air compressors, boom pumps, and trucks.

Two types of short-term noise impacts could occur during construction: (1) mobile-source noise from transport of workers, material deliveries, and debris and soil haul and (2) stationary-source noise from use of construction equipment.

Construction Vehicles

The transport of workers and materials to and from the construction site would incrementally increase noise levels along site access roadways. Individual construction vehicle pass-bys may create momentary noise levels of up to approximately 85 dBA (L_{max}) at 50 feet from the vehicle, but these occurrences would generally be infrequent and short lived. Therefore, noise impacts from construction vehicles would be less than significant.

Construction Equipment

Noise generated by onsite construction equipment is based on the type of equipment used, its location relative to sensitive receptors, and the timing and duration of noise-generating activities. Each stage of construction involves different kinds of equipment and has distinct noise characteristics.

The noise produced at each construction stage is determined by combining the Leq contributions from each piece of equipment used at a given time, while accounting for the ongoing time-variations of noise emissions (commonly referred to as the usage factor). Heavy equipment, such as a dozer or a loader, can have maximum, short-duration noise levels in excess of 80 to 85 dBA at 50 feet. However, overall noise emissions vary considerably, depending on what specific activity is being performed at any given moment. Noise attenuation due to distance, the number and type of equipment, and the load and power requirements to accomplish tasks at each construction phase would result in different noise levels from construction activities at a given receptor. Since noise from construction equipment is intermittent and diminishes at a rate of at least 6 dB per doubling of distance (conservatively ignoring other attenuation effects from air absorption, ground effects, and shielding effects), the average noise levels at noise-sensitive receptors could vary considerably, because mobile construction equipment would move around the site with different loads and power requirements. Noise levels from project-related construction activities were calculated from the simultaneous use of all applicable construction equipment at spatially averaged distances (i.e., from the acoustical center of the general construction site) to the property line of the nearest receptors. Although construction may occur across the entire phase area, the area around the center of construction activities best represents the potential average construction-related noise levels at the various sensitive receptors.

Table 5.6-4, *Project Related Construction Noise at the Closest Sensitive Receptor*, on page 5.6-10 of the DEIR, shows the associated, aggregate sound levels—grouped by construction activity.

Construction activities would be temporary, approximately 18 months, and would not increase noise levels at and near the proposed area of improvements. The highest average construction-related noise levels—up to approximately 56 dBA Leq—would occur at the residential receptors to the south during the excavation phase. This would be less than the existing ambient daytime noise levels indicated by the City noise contour map, and would not be expected to be noticeably audible above existing traffic noise on West Imperial Highway. In addition, this would be well below the FTA criterion of 90 dBA Leq. As discussed above, noise sources associated with construction, repair, remodeling, or grading of any real property are exempt from the provisions of the Municipal Code provided they do not take place between the hours of 7:00 p.m. and 7:00 a.m. on weekdays and Saturday, or at any time on Sunday or a federal holiday. Due to the distance to the nearest sensitive receptors and with adherence to the provisions of the Municipal Code, this impact would be less than significant.

Impact 5.6-2: Project implementation would not result in long-term operation-related noise that would exceed local standards. [Threshold N-1]

The proposed project would introduce new stationary sources of noise on the 1.01-acre project site and would result in an increase in traffic noise on roadways in the vicinity of the project site. The project proposes recreational amenities, such as barbeques and a bocce ball court, which would be on the third-floor podium in an outdoor courtyard. Recreational noise sources would typically include raised voices. No amplified music or public address systems are proposed. Therefore, noise associated with project recreational activities would be localized and is not anticipated to be audible at the nearest sensitive receptors over existing traffic noise levels on Imperial Highway and other local roadways; this impact would be less than significant.

Stationary (Operational) Noise

The proposed residential structure could introduce new stationary noise sources to the community, including mechanical equipment and property maintenance. The exterior mechanical and HVAC equipment associated with the proposed use are expected to be similar to the equipment at surrounding commercial and industrial uses. Typical HVAC units range from approximately 70 to 75 dBA Leq at a distance of 3 feet. Future mechanical equipment associated with the proposed apartment homes would be at least 715 feet from the boundary of the site to the nearest residential receptors to the south. At this distance, the sound pressure level associated with a common central air conditioning unit would be reduced to approximately 27 dBA or less. Therefore, the noise level associated with the future central air conditioning units would be below the threshold in Municipal Code Section 8.20.050, which limits noise to 45 dBA at nearby residential uses during the nighttime.⁷

Noise from source such as property maintenance may also contribute to the total noise environment in the direct vicinity of the proposed project site. Municipal Code Section 8.20.07 indicates that noise sources associated with the maintenance of real property are exempted from the provisions of the Municipal Code, provided said activities take place between 7:00 AM to 7:00 PM on any day. Therefore, impacts from stationary noise sources and occasional property maintenance activities associated with the proposed project would be less than significant.

Traffic Noise

The peak hour traffic volumes along roadways in the project area were provided for the proposed project. To determine the permanent traffic noise level increase, the “Existing Plus Project” peak hour traffic volumes were compared to the existing traffic volumes (see Table 5.6-5, *Project-Related Increase in Traffic Noise*, on page 5.6-11 of the DEIR). The permanent noise level increase was estimated to be less than 1 dBA. Therefore, the proposed project would not cause a substantial permanent noise level increase at the surrounding noise-sensitive receptors. This is a less than significant impact.

⁷ Adjusted by 5 dBA for simple tone noise such as mechanical equipment.

Impact 5.6-3: The project would not generate excessive groundborne vibration or groundborne noise. [Threshold N-2]

Vibration During Operations

Operation of the proposed project would not generate substantial levels of vibration because there are no notable sources of vibrational energy associated with the project. Therefore, operation of the proposed project would not result in significant groundborne vibration impacts.

Vibration During Construction

Construction activities generate varying degrees of ground vibration, depending on the construction procedures, construction equipment used, and proximity to vibration-sensitive uses. Table 5.6-6, *Vibration Source Levels for Common Construction Equipment*, on page 5.6-13 of the DEIR, lists reference vibration levels for different types of commonly used construction equipment. Proposed construction would include grading, which would include equipment such as loaders. Some of these equipment types may generate substantial levels of vibration.

Vibration-Induced Structural Architectural Damage

No blasting, pile driving, or hard rock ripping/crushing activities will be required during project construction. Since vibration-induced architectural damage could result from an instantaneous vibration event, distances are measured from the receptor façade to the nearest location of potential construction activities. At the nearest residences to the south⁸, vibration levels from construction activity would attenuate to less than 0.01 in/sec PPV. The nearest nonresidential structures are the concrete parking garage to the southeast and the concrete warehouse to the east, both approximately 75 feet away. As shown in Table 5.6-6, vibration levels from typical construction equipment would be well below the 0.5 in/sec PPV criterion even at a distance of 25 feet.

Construction-generated vibration levels at the nearest receptors would be much less than the vibration damage criterion for “non-engineered timber and masonry buildings” at the nearest residential buildings and below the vibration criterion for non-residential concrete structures, per FTA guidelines. Impacts related to architectural damage due to construction vibration would not be significant.

Impact 5.6-4: The proximity of the project site to an airport would not result in exposure of future residents to airport-related noise. [Threshold N-3]

The project site is not located within an airport land use plan, and project development would not expose people onsite to excessive airport-related noise levels. Further, the project site is not located within the vicinity of a private airstrip. Development of the proposed project would not expose people onsite to excessive noise levels from aircraft at private airstrips. Therefore, no impacts would occur.

⁸ The distance for vibration damage analysis is measured from the edge of construction to the nearest structures, which is 715 feet.

There are regulatory requirements that would reduce the proposed project's potential impacts, as listed below:

- RR NOI-1 The project will be constructed in accordance with Section 8.20, Noise Control, of Brea's Municipal Code, which generally prohibits construction, repair, remodeling, or grading of any real property between the hours of 7:00 p.m. and 7:00 a.m. on weekdays and Saturday, or at any time on Sunday or a federal holiday.
- RR NOI-2 The project will be constructed in accordance with stationary noise ordinance, Section 8.20.100, Air Conditioning; Refrigeration; Pool Filters and Fans, from Brea's Municipal Code.

7. Population and Housing

Finding. The Proposed Project would have a less than significant direct, indirect, and cumulative impact on the below listed thresholds of significance. Accordingly, no changes or alterations to the Proposed Project were required to avoid or substantially lessen any significant environmental impacts under those thresholds. The FEIR evaluated the following impacts and found that no mitigation was required for the identified reasons:

Impact 5.7-1: The proposed project would directly result in population growth of approximately 206 residents in the project area but would not induce substantial additional growth. [Threshold P-1]

Construction

Construction of the proposed project would require contractors and laborers. Because of the size of the project, the City expects that the supply of general construction labor would be available from the local and regional labor pool. The project would not result in a long-term increase in employment from short-term construction activities.

Population

Based on the US Census American Community Survey, Brea has an average household size of 1.81 persons per household people for renters who live in structures with more than 50 units. The proposed 114 units of the project would be expected to add 206 residents. When compared to the 2018 estimated population of 44,890, the proposed project would result in an approximately 0.46 percent increase in population in the City.

As shown in Table 5.7-6, *SCAG Growth Projections for the City of Brea*, on page 5.7-7 of the DEIR, SCAG's 2040 estimated population for the City is 50,600, which is an increase of 5,710 residents from the 2018 population. The potential 206 new residents would comprise approximately 3.6 percent of the projected 20-year increase for the City. The SCAG projections estimate a 2020 population of 48,700 for the City, which is an increase of 3,810 from the 2018 population estimate. If the project population is added to the existing population, the resulting estimated population of

45,096 remains below the year 2020 projection.⁹ Therefore, project implementation would not exceed SCAG population projections.

Housing

The new units would increase housing in the City by 0.69 percent, and would represent 15 percent of the forecast housing growth, of 760 units, anticipated from 2020 to 2040 for the City (see Table 5.7-6 of the DEIR). The proposed project would be within SCAG's projected housing growth.

Jobs-Housing Balance

A project's effect on the jobs-housing balance is an indicator of how it will affect growth and quality of life in the project area. Because the jobs-housing ratio for the city is jobs-rich (3.15 jobs per unit; see Table 5.7-6 of the DEIR), the decrease in jobs-housing ratio from the additional 114 residential units would be a slightly favorable result from a planning perspective because the project would provide more housing in a City with high employment. Impact 5.7-1 would be less than significant.

Impact 5.7-2: Project implementation would not result in displacing people and/or housing. [Threshold P-2]

The proposed project is currently vacant and would develop workforce housing on the project site. According to RHNA for the 2014-2021 Housing Element Cycle, the City's share of regional future housing needs is a total of 1,851 new units between 2014 and 2021. The proposed project would increase the number of housing units in the city by 114 units, thereby increasing the City's housing supply. Therefore, the proposed project would not displace people or housing, but would increase the number of housing units in the City.

8. Public Services

Finding. The Proposed Project would have a less than significant direct, indirect, and cumulative impact on the below listed thresholds of significance. Accordingly, no changes or alterations to the Proposed Project were required to avoid or substantially lessen any significant environmental impacts under those thresholds. The FEIR evaluated the following impacts and found that no mitigation was required for the identified reasons:

Impact 5.8-1: The proposed project would introduce new structures and 206 residents into the City of Brea Fire Department service boundaries, thereby increasing the requirement for fire protection facilities and personnel. [Threshold FP-1]

Brea Fire Department Station #1 and Station #2 are both approximately 0.5 mile north and northeast, respectively, from the project site. The proposed project is not anticipated to have significant impacts on fire services. If firefighters and personnel are at Brea Fire Department Station #1, the response time from the station to the project site should take no more than 3 minutes; however, 6 minutes to first arriving unit on scene is standard. Additionally, there are no existing

⁹ Note that all of the above figures assume residents new to the City.

deficiencies in the level of fire protection service currently provided to the area including and surrounding the project site. The proposed project would not have a significant impact on the ability to maintain adequate level of fire protection service to the area, however, there would be an increase in the amount of medical aids, fire alarms, and possible car/trash fires to the area. Fire Engine 1 from Brea Fire Department Station #1 and Fire Truck 2 from Brea Fire Department Station #2 would be the first in units. Additionally, with the mutual aid agreement with Fullerton Fire Department Station #4 and Los Angeles County Fire Department, there would be adequate resources available to respond to the project site in the event of an emergency. Based on the review of the project by the Brea Fire Department, there would be adequate facilities, equipment, and service personnel to respond in the event of an emergency at this location.

Moreover, the project applicant would pay the appropriate fire impact fees, fire service fees, and dispatch fees prior to the issuance of any building permits, which would be used to finance future fire protection facilities, fire service connection, and upgrades to the police and fire dispatch systems. More specific consideration of these services and any desired augmentation to achieve best performance goals may be considered as part of the project review process and any conditions of approval for the project. Therefore, impacts would be less than significant.

Impact 5.8-2: The proposed project would introduce new structures and 206 residents into the City of Brea Police Department service boundaries, thereby increasing the requirement for police protection facilities and personnel. [Threshold PP-1]

The proposed project is not anticipated to have significant impacts on police services based on CEQA thresholds. The Brea Police Department would respond to the project site within the expected range of response times, which is an average response time of 3.5 minutes for emergency calls, and 6 minutes or more for non-emergency calls depending on the nature of the call. Additionally, the project applicant would be required to pay dispatch fees, prior to the issuance of any building permits, that would be used to provide future upgrades to police and fire dispatch systems. More specific consideration of these services and any desired augmentation to achieve best performance goals set forth by the police department, such as project design features to improve security onsite, may be considered as part of the project review process and any conditions of approval for the project. Therefore, impacts would be less than significant.

Impact 5.8-3: The proposed project would generate 78 students who would impact the school enrollment capacities of the Brea Olinda Unified School District. [Threshold SS-1]

All of the schools in Table 5.8-2, *School Enrollment and Capacity*, on page 5.8-10 of the DEIR, would be able to accommodate the potential increase in enrollment as a result of project implementation. The Brea Olinda Unified School District current school fees are \$3.79 per square foot for residential projects and \$0.61 per square foot for commercial projects. Pursuant to California Government Code Section 65995(h), payment of the impact fees fully mitigates impacts to school facilities.

The student generation rate for BOUSD is 0.6846 students per dwelling unit for students in grades kindergarten through 12 (Appendix J of the DEIR). Therefore, the proposed project would generate 78 students.¹⁰ Student generated by the proposed project would leave Laurel Elementary School, Brea Junior High School, and Brea Olinda High School with a remaining capacity of 7, 320, and 906 students, respectively (see Table 5.8-3, *Estimated Project Student Generation*, on page 5.8-11 of the DEIR). Therefore, the three affected schools would have a total available capacity of 1,233 seats after project implementation. The proposed project would not result in the need to construct new classroom facilities and would therefore have a less than significant impact on schools.

Impact 5.8-4: The proposed project would introduce 206 residents to the project site; however, the City has adequate parkland, and the project would not have significant impacts to parks. [Threshold PS-1]

The proposed project would create a demand for 1.03 acres of parkland. The proposed project would provide approximately 22,285 square feet of amenities and landscaped areas onsite. Though the City has adequate parkland under the current standard (5 acres per 1,000 population), distribution of parks and/or amenities may be needed to serve the local area. With implementation of the proposed project, there would be an excess of 754.52 acres¹¹ of parks and open space in the City. Therefore, impacts would be less than significant.

Impact 5.8-5: The proposed project would introduce 206 residents to the project site, which would increase the service needs for the Brea Branch Library. [Threshold LS-1]

The only library in the City of Brea, Brea Branch Library, is approximately one mile southeast of the project site. According to the City of Brea General Plan EIR, 0.2 square foot of library space is needed per capita; therefore, the proposed project would require an additional 41.2 square feet of library space.¹² The required square footage would not warrant the construction of a new library or the expansion of the Brea Branch Library. The population growth as a result of project implementation would make up approximately 0.46 percent of the City's 2018 population. Due to this negligible increase, the proposed project would not have a substantial impact associated with the provision of new or physically altered governmental facilities. Impacts would be less than significant.

There are regulatory requirements that would reduce the proposed project's potential impacts, as listed below:

PPP PS-1 New buildings are required to meet the fire regulations outlined in California Health and Safety Code (Sections 13000 et seq.).

¹⁰ 114 units x 0.6846 students = 78.04 students = 78 students.

¹¹ 5 acres/1,000 persons = 0.005 acre/person
0.005 acre/person x 44,890 (population CDF 2018) = 224.45 acres (needed).
980 acres of park space (14% of 7,000 acres) – 224.25 acres = 755.55 acres (excess)
114 units x 1.81 (average person/household) = 206 persons
206 persons x 0.005 acre/person = 1.03 acres (project need)
755.55 acres (excess) – 1.03 acres/person (project need) = 754.52 acres

¹² 0.2 square feet x 206 residents = 41.2 square feet of library space

- PPP PS-2 The project applicant is required to pay development impact fees (dispatch impact fees, fire impact fees, fire service fees).
- PPP PS-3 As part of the project review process, the City of Brea Fire Department will require approval of Building Plan Check for Site Plan and Emergency Access as well as approval of Fire Master Plan. Additional design features to address the City of Brea Fire Department's requirements will be incorporated as conditions of approval for the project.
- PPP PS-4 The project applicant is required to pay dispatch impact fees.
- PPP PS-5 As part of the project review process, the City of Brea Police Department may require project design features to improve security onsite. Additional design features to address the City of Brea Police Department's service standards will be incorporated as conditions of approval for the project.
- PPP PS-6 Pursuant to AB 2926, new development is required to pay development impact fees to assist in providing school facilities to serve students generated by new development.
- PPP PS-7 Pursuant to SB 50, new development is required to offset the costs associated with increasing school capacity, where the funds collected go to acquiring school sites, constructing new school facilities, and modernizing existing school facilities.
- PPP PS-8 New development is required to fund park development and improvements through the payment of park development fees.
- PPP PS-7 New development is required to pay Orange County Library impact fees to offset the costs of providing additional library resources.

9. Transportation

Finding. The Proposed Project would have a less than significant direct, indirect, and cumulative impact on the below listed thresholds of significance. Accordingly, no changes or alterations to the Proposed Project were required to avoid or substantially lessen any significant environmental impacts under those thresholds. The FEIR evaluated the following impacts and found that no mitigation was required for the identified reasons:

Impact 5.2-1: see Section E. *Significant and Unavoidable Impacts that Cannot be Mitigated to Below the Level of Significance.*

Impact 5.9-2: The project would not conflict or be inconsistent with CEQA Guidelines § 15064.3, subdivision (b). [Threshold T-2]

The City of Brea has an opt-in period until July 1, 2020, to adopt the guidelines and new VMT-based criteria. Currently, the City of Brea continues to use its established LOS criteria. Therefore, this

analysis relies on currently adopted LOS methodologies and criteria to evaluate transportation impacts. Table 5.9-12, *Mercury Lane Residential VMT*, on page 5.9-32 of the DEIR, shows the VMT generated by the project as estimated using the California Emissions Estimator Model (CalEEMod, Version 2016.3.2). While the project would result in an increase in VMT, the proposed project would introduce high-density residential near Brea Downtown (see Impact 5.9-1) and would improve the City's jobs-housing balance (see Section 5.7, *Population and Housing*, of the DEIR). The project would not conflict or be inconsistent with the City of Brea traffic analysis methodology. No impact would occur.

Impact 5.9-3: Project circulation improvements have been incorporated to adequately address potentially hazardous conditions (sharp, curves, etc.), potential conflicting uses, and emergency access. [Threshold T-3 and T-4]

Roadway Hazards

A site access and internal circulation evaluation was conducted to determine if there were potential conflicts associated with site access, including potential vehicle pedestrian conflicts. Table 5.9-13, Project Driveway Peak Hour Intersection Capacity Analysis, on page 5.9-33 of the DEIR, summarizes the intersection level of service results for the project driveway under near-term (Year 2021) and long-term (Year 2040) traffic conditions. As shown in this table, this intersection is forecast to operate at LOS A during the AM peak hour and PM peak hour. The overall layout would not result in any unsafe vehicle-pedestrian conflict points, and the driveway access to parking spaces is not affected by internal vehicle queuing/stacking. The alignment and spacing of project driveways are adequate, and the on-site circulation is sufficient based on review of the proposed site plan. Buildings surroundings provide sufficient sight distance along the drive aisles. Therefore, no impacts resulting from hazards due to design features or incompatible uses would occur as a result of the proposed project.

Emergency Access

The surrounding roadways would continue to offer emergency access to the project site and surrounding properties during and after construction. Moreover, the proposed project would not result in inadequate emergency access, and impacts to adopted emergency response and evacuation plans are less than significant. In the event of emergency, the Brea Fire Department Station #1 and Station #2 are 0.5 mile north and northeast from the project site. Response time from Station #1 from the station to the project site should less than three minutes. Impacts to emergency services would be less than significant.

There are regulatory requirements that would reduce the proposed project's potential impacts, as listed below:

RR TRAF-1 The proposed project is required to pay development impact fees to the City of Brea pursuant to the City's AB 1600 Transportation Improvement Nexus Program (Ordinance 966). Based on a transportation improvement nexus program study conducted in 2011, the City Council adopted Resolution 2011-096, which updated the impact fees, effective February 4, 2012. Fair-share fees serve to offset or

mitigate the cumulative traffic impacts caused by new development. The program ensures all future development in the City of Brea contributes on a fair-share basis.

RR TRAF-2 Modifications to the roadway network, including driveways, curbs, and sidewalks, are subject to approval by the City of Brea. Construction work within the right-of-way of a public roadway requires the issuance of a permit by the City of Brea.

D. FINDINGS ON SIGNIFICANT ENVIRONMENTAL IMPACTS THAT CAN BE REDUCED TO A LESS THAN SIGNIFICANT LEVEL

The following summary describes impacts of the proposed project that, without mitigation, would result in significant adverse impacts. Upon implementation of the mitigation measures provided in the EIR, these impacts would be considered less than significant.

1. Cultural and Paleontological Resources

Impact 5.2-2: Development of the project could impact archaeological resources. [Threshold C-2]

Archeological Resources

Support for this environmental impact conclusion is fully discussed in Section 5.2, *Cultural and Paleontological Resources*, and in particular, starting on page 5.2-9 of the DEIR.

The full extent of archaeological resources in the City of Brea is unknown as only a small portion of the City has been surveyed for archaeological resources. The project site is undeveloped, and the surface and subsurface appear to have been previously disturbed. The proposed project would require connections to utility lines, ground clearing, excavation, grading, and other construction activities. According to the records search, Archaeological Determinations of Eligibility have not been made on the project site or within a one-mile radius of the project site. However, one archaeological resource has been identified within a one-mile radius, but not on the project site. Additionally, according to the Native American Heritage Commission's Sacred Land Files record search, no tribal resources were found on the project site.

Although archaeological resources were not identified on the project site, it is possible that subsurface archaeological resources exist and may be encountered during construction activities that disturb soil. If any are encountered, the City would comply with CEA Guidelines Section 15064.5, which requires the lead agency to determine if the discovered resource is unique or historically significant, and if so to treat it in accordance with the provisions of PRC Section 21083.2.

Mitigation Measure:

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

CUL-1 Prior to issuance of grading permits, a qualified archaeological monitor shall be identified to be on call during ground-disturbing activities. If archaeological resources are discovered during excavation and/or construction activities, construction shall top

within 25 feet of the find, and the qualified archaeologist shall be consulted to determine whether the resource requires further study. The archaeologist shall make recommendations to the City of Brea to protect the discovered resources. Archaeological resources recovered shall be provided to an accredited museum such as the John D. Cooper in Fullerton or any other local museum or repository willing and able to accept and house the resource to preserve for future scientific study.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Brea hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Rationale for Finding

Mitigation Measure CUL-1 would require that a qualified archeological monitor be on-call in the event that cultural resources are uncovered during ground disturbing activities. In the event resources are uncovered, mitigation measure CUL-1 requires that the resources are recovered and deposited at a local museum or repository. Due to the low potential to uncover archeological resources onsite and the size of the project site, a 25-foot buffer would be sufficient to ensure that resources would be protected in the vicinity of the find. Mitigation measure CUL-1 would reduce potential impacts to archeological and historic resources to a level that is less than significant.

Reference

DEIR Section 5.2, *Cultural and Paleontological Resources*.

Impact 5.2-3: Development of the project could impact paleontological resources or unique geologic features. [Threshold C-4]

Paleontological Resources

Support for this environmental impact conclusion is fully discussed in Section 5.2, *Cultural and Paleontological Resources*, and in particular, starting on page 5.2-9 of the DEIR.

The City of Brea overlays Miocene deposits, known as the Puente Formation, and Quaternary (Pleistocene Ice Age and recent) terrestrial deposits that contain fossils. The project site is currently vacant and does not include unique geologic features. The proposed project would require ground clearing, excavation, grading, and other construction activities to accommodate utility requirements. Ground disturbance activities associated with construction have the potential to discover natural landform, subsurface resources, and/or paleontological resources.

Mitigation Measure:

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

CUL-2 Prior to construction, (1) a field survey for paleontological resources consisting of record search, survey, background context, and project-specific recommendations shall be conducted by a qualified paleontologist; or (2) a qualified paleontologist shall monitor all excavations below five feet. If unique paleontological resources are discovered during excavation and/or construction activities, construction shall stop within 25 feet of the find, and the qualified paleontologist shall be consulted to determine whether the resource requires further study. The paleontologist shall be consulted to determine whether the resource requires further study. The paleontologist shall make recommendations to the City of Brea to protect the discovered resources. Any paleontological resources recovered shall be provided for curation at a local curation facility such as the Los Angeles County Natural History Museum, the John D. Cooper Center in Fullerton, or any other local museum or repository willing and able to accept and house the resource to preserve for future scientific study.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Brea hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Rationale for Finding

Mitigation Measure CUL-2 requires a field survey prior for paleontological resources. If resources are discovered during the field survey or during ground disturbing activities, the resources would be recovered and deposited at a local museum or repository. Due to the low potential to uncover paleontological resources onsite and the size of the project site, a 25-foot buffer would be sufficient, and would not halt construction across the entire project site. Mitigation measure CUL-2 would reduce potential impacts to paleontological resources to a level that is less than significant.

Reference

DEIR Section 5.2, *Cultural and Paleontological Resources*.

2. Hazards and Hazardous Materials

Impact 5.4-2: Construction activities may disturb pesticides in the soil associated with the site's former use as an orchard and could create a significant hazard to the public or the environment. [Threshold H-2]

Support for this environmental impact conclusion is fully discussed in Section 5.4, *Hazards and Hazardous Materials*, and in particular, starting on page 5.4-17 of the DEIR.

Based on the Phase I ESA, one “recognized environmental condition” was identified on the project site. The project site was used as an orchard from at least 1938 to approximately 1970, when the site

became vacant, and it was used as a nursery from approximately 2010 to 2014. The project site was an orchard during a time when organochlorine and lead arsenate pesticides were used. A limited Phase II investigation is recommended to assess the surface soil at the site for residual organochlorine and lead arsenate pesticides, since the project site was formerly used as an orchard. It is unlikely that organochlorine and lead arsenate pesticides are still present, however, in the event they are discovered onsite, a Phase II investigation would detail the necessary steps to ensure that removal of the soil would not release hazardous materials into the environment.

Mitigation Measure:

The following mitigation measure was included in the DEIR and the FEIR, and is applicable to the proposed project. The measure as provided include any revisions incorporated in the FEIR.

HAZ-1 Prior to issuance construction activities onsite, a limited Phase II investigation shall be conducted to assess the surface soil of the project site for residual organochlorine and lead arsenate pesticides. The Phase II investigation shall be conducted in accordance with guidelines developed by the Department of Toxic Substances Control (DTSC) and Environmental Protection Agency (EPA) for site assessments. The Phase II investigation shall estimate the potential threat to public health and the environment if concentrations of pesticides are encountered using methods outlined in DTSC's Preliminary Endangerment Assessment Guidance Manual and DTSC's Screening Level Human Health Risk Assessment guidance for implementing screening level risk analysis. The Phase II investigation shall be submitted to the City of Brea Community Development Department for review and approval by an independent third party reviewer. If the Phase II testing reveals concentrations of organochlorine pesticides and lead arsenic above health-based screening levels for residential exposure, remediation of the site shall be required to address residual organochlorine and lead arsenate pesticides above health-based level of concern. Remediation may include excavation and disposal of impacted soil or capping elevated areas beneath paved areas. The Construction Contractor shall implement the recommendations outlined in the Phase II.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Brea hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Rationale for Finding

Although it is unlikely that organochlorine and lead arsenate pesticides are still present, in the event they are discovered onsite, a Phase II investigation would detail the necessary steps to ensure that removal of the soil would not release of hazardous materials into the environment. Mitigation Measure HAZ-1 would ensure that the risks associated with potential residual pesticides from

historical agriculture use would be minimized. Mitigation Measure HAZ-1 would reduce potential impacts of hazards and hazardous materials to less than significant.

Reference

DEIR Section 5.4, *Hazards and Hazardous Materials*.

3. Tribal Cultural Resources

Impact 5.10-1: The proposed project could cause a substantial adverse change in the significance of a tribal cultural resource that is determined by the lead agency to be significant pursuant to criteria in Public Resources Code Section 50224.1(c). [Threshold TCR-1]

Support for this environmental impact conclusion is fully discussed in Section 5.10, *Tribal Cultural Resources*, and in particular, starting on page 5.10-5 of the DEIR.

The project site is vacant and surrounded by developed uses. The NAHC's Sacred Lands File record search found no record of tribal resources on the project site (see Appendix C of the DEIR). Moreover, in accordance with SB 18 and AB 52, the City notified local tribes about the proposed project to determine the potential for tribal resources onsite and to determine if local knowledge of tribal cultural resources is available about the project site and surrounding area. Two tribes responded. The Viejas Band of Kumeyaay Indians (Viejas) states that the proposed site does not have cultural significance to the tribe and that they did not require consultation. The Gabrieleno Band of mission Indians – Kizh Nation (Kizh Nation) requested consultation and stated that the City of Brea is within its tribal cultural area and requested mitigation to reduce potential impacts to tribal cultural resources.

Based on the records search and previous disturbance associated with the surrounding commercial development, the potential to uncover tribal cultural resources for the site is low. However, since the site is vacant and the proposed project would require excavations, there is potential to uncover tribal cultural resources during excavations. The Kizh Nation requested the presence of a tribal cultural monitor onsite during ground-disturbing activities.

Ground-disturbing activities, such as excavation and grading, may encounter undisturbed native souls, and it is possible that discovery of subsurface tribal cultural resources could occur.

Mitigation Measure:

The following mitigation measures were included in the DEIR and the FEIR, and are applicable to the proposed project. The measures as provided include any revisions incorporated in the FEIR.

CUL-1 Prior to issuance of grading permits, a qualified archaeological monitor shall be identified to be on call during ground-disturbing activities. If archaeological resources are discovered during excavation and/or construction activities, construction shall stop within 25 feet of the find, and the qualified archaeologist shall

be consulted to determine whether the resource requires further study. The archaeologist shall make recommendations to the City of Brea to protect the discovered resources. Archaeological resources recovered shall be provided to an accredited museum such as the John D. Cooper in Fullerton or any other local museum or repository willing and able to accept and house the resource to preserve for future scientific study.

TCR-1 If the professional archaeologist implementing Mitigation Measure CUL-1 believes that a cultural resource encountered onsite is of Native American origin, the archaeologist shall notify representatives of Native American origin, the archaeologist shall notify representatives of Native American tribes with traditional territories in the project region. If requested by the Native American tribe(s), the developer or archaeologist on-call shall in good faith consult on the discovery and its disposition (e.g., avoidance, preservation, return or artifacts to tribe). If the resources are Native American in origin, a tribal monitor from the consulting tribe shall be present during the remaining site-grading activities.

TCR-2 During construction activities, the project applicant shall allow archaeological monitors of Native American tribes to access the project site on a volunteer basis to monitor grading and excavation activities.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City of Brea hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

Rationale for Finding

Mitigation Measures CUL-1, TCR-1, and TCR-2 would reduce potential impacts associated with tribal cultural resources to a level that is less than significant. Mitigation Measure TCR-1 would require a tribal monitor present if cultural resources of Native American origin are discovered onsite. In accordance with Mitigation Measure CUL-1, resources recovered would be deposited at a local museum or repository to ensure their preservation.

Reference

DEIR Section 5.10, Tribal Cultural Resources.

E. SIGNIFICANT AND UNAVOIDABLE SIGNIFICANT IMPACTS THAT CANNOT BE MITIGATED TO BELOW THE LEVEL OF SIGNIFICANCE

The following summary describes the unavoidable adverse impact of the proposed project where either mitigation measures were found to be infeasible, or the mitigation measures are under the control of another lead agency. The following impact would remain significant and unavoidable:

1. Transportation

Impact 5.9-1: The project could potentially conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. [Threshold T-1]

Support for this environmental impact conclusion is fully discussed in Section 5.9, *Transportation*, and in particular, starting on page 5.9-21 of the DEIR.

Existing Plus Project Traffic Conditions

HCM-Intersection

The “Existing Plus Project” traffic conditions have been calculated based upon existing conditions and the estimated project traffic under the HCM methodology, as shown in Table 5.9-6, *Existing Plus Project Peak Hour Intersection Capacity Analysis – HCM*, on page 5.9-22 of the DEIR. As identified in Table 5.9-6, traffic associated with the proposed project would not significantly impact any of the 14 intersections under the HCM methodology. Although the intersections of State College Boulevard at Lambert Road and State College Boulevard at Imperial Highway are forecast to operate at unacceptable LOS E during the PM peak hour with the addition of project traffic, the project is expected to add less than the allowable threshold to the delay based on City and Caltrans LOS standards.

ICU – General Plan Consistency

The “Existing Plus Project” traffic conditions have been calculated based upon existing conditions and the estimated project traffic under the ICU methodology, as shown in Table 5.9-7, *Existing Plus Project Peak Hour Intersection Capacity Analysis – ICU*, on page 5.9-23 of the DEIR. As identified in Table 5.9-7, the proposed project would not significantly impact any of the 14 key study intersections. The 14 key study intersections are forecast to continue to operate at an acceptable LOS C or better with the addition of project generated traffic under the ICU methodology.

Near-Term (2021) Traffic Conditions

HCM-Intersection Delay

Table 5.9-8, *Year 2021 Peak Hour Intersection Capacity Analysis – HCM*, on page 5.9-25 of the DEIR, summarizes the peak hour LOS results at the 14 key study intersections for the near-term conditions with and without the project under the HCM methodology. Forecast service levels at the intersection of Imperial Highway and Berry Avenue reflect the anticipated operating conditions with implementation of traffic signal coordination and equipment improvements planned by Caltrans at this location. As shown in Table 5.9-8, traffic associated with the proposed project would cumulatively impact 3 of the 14 key study intersections:

- #10, Berry Street at Imperial Highway (AM and PM Peak Hour)
- #11, Brea Boulevard at Imperial Highway (AM Peak Hour)

- #12, State College Boulevard at Imperial Highway (AM and PM Peak Hour)

Although the intersection of State College Boulevard at Lambert Road is forecast to operate at LOS E during the PM peak hour with the addition of project traffic, the proposed project is expected to add less than the allowable threshold to the delay based on City and Caltrans LOS standards. The remaining 11 key study intersections are forecast to continue to operate at an acceptable LOS with addition of project-generated traffic in the Year 2021.

ICU – General Plan Consistency

Table 5.9-9, *Year 2021 Peak Hour Intersection Capacity Analysis – ICU*, on page 5.9-26 of the DEIR, summarizes the peak hour LOS results at the 14 key study intersections for the near-term conditions with and without the project under the ICU methodology.

As identified in Table 5.9-9, the proposed project would not significantly impact any of the 14 key study intersections. The 14 key study intersections are forecast to continue to operate at an acceptable LOS C or better with the addition of project generated traffic under the ICU methodology.

Forecast Year 2040 Traffic Conditions

HCM-Intersection Delay

Table 5.9-10, *Year 2040 Peak Hour Intersection Capacity Analysis – HCM*, on page 5.9-28 of the DEIR, shows the potential traffic impacts associated with long-term growth within the study area under the HCM methodology. As identified above, forecast service levels at the intersection of Imperial Highway and Berry Avenue reflect the anticipated operating conditions with implementation of traffic signal coordination and equipment improvements planned by Caltrans at this location.

As shown in Table 5.9-10, traffic associated with the proposed project would cumulatively impact 3 of the 14 key study intersections:

- #10, Berry Street at Imperial Highway (AM and PM Peak Hours)
- #11, Brea Boulevard at Imperial Highway (AM and PM Peak Hours)
- #12, State College Boulevard at Imperial Highway (AM and PM Peak Hours)

Although the intersection of State College Boulevard at Lambert Road is forecast to operate at LOS E during the PM peak hour with the addition of project traffic, the proposed project is expected to add less than the threshold to the delay based on City and Caltrans LOS standards. The remaining 11 key study intersections are forecast to operate at an acceptable LOS D or better for long-term (Year 2040) traffic conditions.

ICU – General Plan Consistency

Table 5.9-11, *Year 2040 Peak Hour Intersection Capacity Analysis – ICU*, on page 5.9-29 of the DEIR, shows the potential traffic impacts associated with long-term growth within the study area. Table 5.9-

11 shows that two study Caltrans intersections are forecast to operate an unacceptable LOS during the AM and PM peak hours:

- #11, Brea Boulevard at Imperial Highway (Caltrans jurisdiction) (AM Peak Hour)
- #12, State College Boulevard at Imperial Highway (Caltrans jurisdiction) (PM Peak Hour)

Although the intersections of Brea Boulevard at Imperial Highway and State College Boulevard at Imperial Highway are forecast to operate at unacceptable LOS during AM and/or PM peak hours, the proposed project is expected to add less than 0.020 to the ICU value. Therefore, the proposed project would not cumulatively contribute to impacts at these intersections. The remaining 12 key study intersections are forecast to operate at an acceptable LOS D or better for long-term (Year 2040) traffic conditions.

CMP Analysis

There are three intersections in the project study area that are on Orange County Transportation Authority's (OCTA) CMP Highway System: #12, State College Boulevard at Imperial Highway; #13, SR-57 SB Ramps at Imperial Highway, and #14, SR-57 NB Ramps at Imperial Highway. The CMP requires that a traffic impact analysis be conducted for any project generating 2,400 or more daily trips, or 1,600 or more daily trips for projects that directly access the CMP Highway System. The proposed project is forecast to generate approximately 653 daily trip-ends and therefore does not meet the criteria requiring a CMP traffic impact analysis. Additionally, no impacts were identified in the traffic impact analysis to either of these intersections.

Pedestrian, Bicycle, and Transit Access

The proposed project site would have access to public transit and other alternative forms of transportation (pedestrian network and bicycle network).

Paved sidewalks are present on all roadway studied, and the existing public sidewalk currently terminates along Berry Street at the southern boundary of the project site. The project would construct sidewalks along the Berry Street and Mercury Lane frontage, thereby extending the pedestrian network. The existing sidewalk system in the project vicinity provides direct access to major roadways (e.g., Berry Street, Imperial Highway, and Lambert Road), linking the project site to the surrounding community, including Brea Downtown. Pedestrian access to the project would be provided via building entries/exits on Berry Street and Mercury Lane. A staircase and elevator would provide access from Berry Street to the third-story courtyard.

The City of Brea Bikeway Plan recognizes the needs of bicycle users and aims to create a complete and safe bicycle network throughout the City. Existing Class II bike lanes are provided along Berry Street and Mercury Lane. In addition, a Class I bike path is to the east of the site along the Brea Trail. The proposed project would include secure bicycle storage, partially shielded from the street by a painted metal grill within the parking structure.

Additionally, OCTA provides public transit, and bus service is provided in the project. Five OCTA bus routes operate in the vicinity of the project site on Brea Boulevard and Birch Street (Route 57,

Route 129, Route 143, Route 153, and Route 213). The proposed project would improve local pedestrian and bicycle connectivity to Brea Downtown. The proposed project would not conflict with policies, plans, or programs regarding transit, bicycle, or pedestrian facilities.

Mitigation Measures

Year 2021 (Cumulative Impacts) – HCM Methodology

The traffic impact analysis identified the following potential mitigation measures for intersections #10, Berry Street at Imperial Highway, #11, Brea Boulevard at Imperial Highway; and #12, State College Boulevard at Imperial Highway:

- **#10, Berry Street at Imperial Highway.** Remove the existing east leg crosswalk and stripe west leg and south leg crosswalks. To achieve this, a pedestrian landing area is needed in the southwest corner of the intersection. Modify the existing traffic signal, as well as signing and striping, accordingly. Note that this improvement could trigger the need to upgrade the entire intersection to current ADA standards which would result in ramp modifications as required by Caltrans.
- **#11, Brea Boulevard at Imperial Highway.** Restripe the southbound approach to provide a third southbound through lane. Modify the existing traffic signal to include a northbound and eastbound right-turn overlap phase¹³.
- **#12, State College Boulevard at Imperial Highway.** Modify the existing traffic signal to include a northbound right-turn overlap phase.

Figure 5.9-4, *Proposed Roadway Conditions with Mitigation*, on page 5.9-37 of the DEIR, depicts the intersection configurations with the proposed improvements needed for cumulative impacts (year 2021 and year 2040) impacts under the HCM methodology for intersection delay that are described in the measures above.

Impacts to Caltrans Facilities

State highway facilities within the study area are not within the jurisdiction of the City of Brea. Rather, those improvements are planned, funded, and constructed by the State of California through a legislative and political process involving the State Legislature; the California Transportation Commission (CTC); the California Business, Transportation, and Housing Agency; Caltrans; and OCTA. Recent funding opportunities designated by OCTA's Renewed Measure M provide the vehicle for designated improvements on the Caltrans facilities within the study area.

While potential impacts to Imperial Highway (SR-90) have been evaluated, implementation of the transportation improvements to Caltrans facilities listed above is the primary responsibility of Caltrans. While Caltrans has recognized that private development has a role to play in funding fair share improvements to impacts on SR-90, neither Caltrans nor the State has adopted a program that can ensure that locally-contributed impact fees will be tied to improvements to Caltrans facilities and only Caltrans has jurisdiction over improvements to Caltrans facilities. Because Caltrans has exclusive

¹³ *This improvement is required for the 2040 cumulative scenario.*

control over state highway improvements, ensuring that developer fair share contributions to improvements are actually part of a program tied to implementation of mitigation is within the jurisdiction of Caltrans.

However, a number of programs are in place in Orange County to improve and upgrade the regional transportation system. These include the Transportation Corridor Agencies (TCA) Corridor program, the State Transportation Improvement Program (STIP), Caltrans Traffic Operations Strategies (TOPS), State Highway Operation and Protection Program (SHOPP), and the OCTA Measure M program. State and federal fuel taxes generate most of the funds used to pay for these improvements. Funds expected to be available for transportation improvements are identified through a Fund Estimate prepared by Caltrans and adopted by the California Transportation Commission (CTC). These funds, along with other fund sources, are deposited in the State Highway Account to be programmed and allocated to specific project improvements in both the STIP and SHOPP by the CTC. However, if these programs are not implemented by the agencies with the responsibility to do so, the project's impacts to Imperial Highway (SR-90) would remain significant and unmitigated.

Year 2040 (Cumulative Impacts)

As identified above, the mitigation measures identified would mitigate impacts to intersection #10, Berry Street at Imperial Highway, #11, Brea Boulevard at Imperial Highway; and #12, State College Boulevard at Imperial Highway. However, these improvements are within Caltrans' right-of-way and are subject to Caltrans review and approval. In addition, Caltrans has no mechanism by which projects can contribute fair share fees to offset impacts. Therefore, the mitigation measures were considered but rejected.

Finding:

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure above. The City hereby finds that implementation of the mitigation measure is feasible, and the measure is therefore adopted.

The City finds that there are no other mitigation measures that are feasible, taking into consideration specific economic, legal, social, technological or other factors, that would mitigate this impact to a less-than-significant level, and further, that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the EIR, as discussed in Section G of these Findings (Public Resources Code §§ 21081(a)(1), (3); Guidelines §§ 15091(a)(1), (3)). As described in the Statement of Overriding Considerations, the City has determined that this impact is acceptable because specific overriding economic, legal, social, technological, or other benefits, including regionwide or statewide environmental benefits, of the proposed project outweigh its significant effects on the environment.

IV. ALTERNATIVES TO THE PROPOSED PROJECT

An EIR must briefly describe the rationale for selection and rejection of alternatives. The lead agency may make an initial determination as to which alternatives are feasible, and therefore, merit in-depth consideration, and which ones are infeasible.

A. ALTERNATIVES CONSIDERED AND REJECTED DURING THE SCOPING/PROJECT PLANNING PROCESS

The following is a discussion of the alternatives considered during the scoping and planning process and the reasons why they were not selected for detailed analysis in the EIR.

1. Alternative Development Areas

CEQA requires that the discussion of alternatives focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effects of the project. The key question and first step in the analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR (CEQA Guidelines § 15126[5][B][1]). Key factors in evaluating the feasibility of potential offsite locations for EIR project alternatives include:

If it is in the same jurisdiction.

- Whether development as proposed would require a General Plan Amendment.
- Whether the project applicant could reasonably acquire, control, or otherwise have access to the alternative site (or the site is already owned by the proponent). (CEQA Guidelines Section 15126.6[f][1])

The project applicant does not own or control other comparably sized and located property proximate to Brea Downtown. While the project requires approval of a Planned Community (PC) zone change, objectives for the project include providing workforce housing proximate to Brea Downtown on an infill site. The City of Brea's Mixed-Use zone only allows for up to 50 units an acre and there are no infill parcels designated for Mixed Use in or near Brea Downtown that meet this requirement.

In general, any development of the size and type proposed by the project would have substantially the same impacts on air quality, cultural resources, land use and planning, noise, population and housing, public services, transportation, and tribal cultural resources. With the exception of transportation impacts, these impacts were found to be less than significant or less than significant with mitigation incorporated. For traffic impacts, the proposed project would cumulatively contribute to traffic on Imperial Highway, improvements to which are outside of the City of Brea's jurisdiction. Therefore, any development proximate to Brea Downtown is likely also to trigger similar cumulative traffic impacts. Therefore, another location would not avoid or substantially lessen the effects of the project.

It was determined, therefore, that it is unlikely that there is an alternative project site that could potentially meet the objectives of the proposed project and reduce significant impacts of the project as proposed.

B. ALTERNATIVES SELECTED FOR FURTHER ANALYSIS

The following alternatives were determined to represent a reasonable range of alternatives with the potential to feasibly attain most of the basic objectives of the project but avoid or substantially lessen any of the significant effects of the project. Table 7-4, *Summary of Impacts of Alternatives Compared to the Proposed Project*, on page 7-20 of the DEIR, identifies how each of the alternatives selected for further analysis compare to the proposed project. Table 7-5, *Ability of Each Alternative to Meet the Project Objectives*, on page 7-21 of the DEIR, provides a summary of the ability of the alternatives to achieve the project objectives.

1. No Project/No Development Alternative

The No Project/No Development Alternative assumes the proposed Mercury Lane Residential project would not be adopted and no development would occur onsite. The project site would remain vacant and undeveloped. There would be no residential development nor any associated residents.

The No Project/No Development Alternative would lessen environmental impacts in the areas of air quality, biological resources, cultural resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, noise, public services, recreation, transportation, tribal cultural resources, utilities and service systems, and wildfire. This alternative would increase impacts to aesthetics, hydrology and water quality, and population and housing. Agriculture and forestry resources as well as mineral resources would have similar impacts compared to the proposed project.

The No Project/No Development Alternative would retain the site in the current state, as a vacant lot occasionally used for sorting charitable donations. Therefore, none of the project objectives would be achieved under this alternative.

Finding:

This alternative is rejected because it would not provide any of the project benefits that would occur with the implementation of the proposed project, including investments to the site, such as landscaping, providing workforce housing, and increasing the number of housing units in the City to improve the jobs-housing balance.

2. Existing Zoning Alternative

The project site is currently designated in the General Plan as Light Industrial and zoned Commercial-Industrial (C-M). The C-M zoning allows for the following uses:

- Administrative or professional offices
- Research and development
- Retail establishments

- Service establishments
- Light manufacturing

The C-M zone has a maximum height of 35 feet and a maximum lot coverage of 50 percent. Based on the C-M zoning for approximately one-acre site, this alternative assumes that the project site would be developed as a 21,780-square-foot, light-industrial use building. This alternative would not introduce residential uses. Based on the SCAG employment density survey, this alternative would create up to 39 jobs.¹⁴

The Existing Zoning Alternative would lessen environmental impacts in the areas of air quality, energy, GHG emissions, land use and planning, noise, public services, recreation, transportation, tribal cultural resources, and utilities and service systems. This alternative would result in greater environmental impacts to population and housing because it would not improve the City's jobs-housing balance. This alternative would have similar environmental impacts as the proposed project to aesthetics, agriculture and forestry resources, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, mineral resources, and wildfire.

Finding:

This alternative is rejected because it would develop an industrial building on the project site. Therefore, none of the project objectives would be achieved under this alternative, including increasing the number of housing units in the City, and providing workforce housing within close proximity to Brea Downtown and existing employment.

3. Reduced Density Alternative

Under this alternative, the project site would be developed based on the maximum density identified in the City of Brea General Plan, which is a density of 50 units/acre. As a result, the Reduced Density Alternative assumes that the approximately one-acre site would be developed with approximately 50 units. Consequently, this alternative would reduce the number of units onsite by approximately 56 percent. Based on 1.81 people fewer residents than the proposed project).

Like the proposed project, this alternative would require a change a zone change to the Planned Community (PC) zone or alternatively a General Plan Amendment and zone change to Mixed Use. For this analysis, it is assumed that this alternative would be processed similarly as the proposed project and would require a zone change to the PC zone. Therefore, this alternative assumes that the lot coverage associated with this alternative would be similar to the proposed project. However, instead of a five-story structure, this alternative would be two-stories, with one floor of parking. This alternative is assumed to require similar onsite amenities as the proposed project.

The Reduced Density Alternative has been identified as the environmentally superior alternative. The Reduced Density Alternative would lessen environmental impacts in the areas of air quality, energy, greenhouse gas emissions, noise, public services, transportation, and utilities and service systems. This alternative would result in similar environmental impacts as the proposed project to aesthetics,

¹⁴ Based on the average square feet per employee in Orange County for light manufacturing, which is 558 square feet per employee.

agriculture and forestry resources, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, recreation, tribal cultural resources, and wildfire. This alternative would result in greater impacts to population and housing.

Finding:

The Reduced Zoning Alternative would develop 50 units on the project site instead of 114 units. The project objectives would be achieved under this alternative; however, this alternative would not achieve the project benefits to the extent the proposed project does since a reduction in density would not provide as many housing units to accommodate the workforce population in the City compared to the proposed project.

V. STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires decision makers to balance the benefits of the proposed project against its unavoidable environmental risks when determining whether to approve the project. If the benefits of the project outweigh the unavoidable adverse effects, those effects may be considered “acceptable” (State CEQA Guidelines § 15093[a]). CEQA requires the agency to support, in writing, the specific reasons for considering a project acceptable when significant impacts are infeasible to mitigate. Such reasons must be based on substantial evidence in the FEIR or elsewhere in the administrative record (State CEQA Guidelines § 15093 [b]). The agency’s statement is referred to as a Statement of Overriding Considerations.

The following provides a description of the project’s significant and unavoidable adverse impact and the justification for adopting a statement of overriding considerations.

A. SIGNIFICANT AND UNAVOIDABLE IMPACTS

Although most potential project impacts have been substantially avoided or mitigated, as described above, there remains one project impact for which complete mitigation is not feasible. The DEIR identified the following significant unavoidable adverse impact of the project, which would continue to be applicable upon implementation of the proposed project:

Transportation

- **Impact 5.9-1:** The proposed project would conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities, as the proposed project would contribute to congestion at intersections #10, #11, and #12. Implementation of the applicable mitigation measure would provide improvements for intersections #10, #11, and #12. However, as Imperial Highway (SR-90) is within the jurisdiction of Caltrans, and not the City, the implementation of improvements is not guaranteed as they are subject to Caltrans review and approval. In addition, Caltrans has no mechanism by which projects can contribute fair share fees to offset impacts.

B. PROJECT BENEFITS IN SUPPORT OF THE STATEMENT OF OVERRIDING CONSIDERATIONS

The following section describes the benefits of the proposed project that outweigh the project's unavoidable adverse effects and provides specific reasons for considering the project acceptable even though the FEIR has indicated that there will be one significant project impact if the mitigation measures for Impact 5.9-1 cannot be implemented. Accordingly, this Statement of Overriding Considerations regarding potentially significant adverse environmental impacts resulting from the proposed project, as set forth below, has been prepared. Pursuant to CEQA Guidelines §15093(c), the Statement of Overriding Considerations will be included in the record of the project approval and will also be noted in the Notice of Determination. Each of the benefits identified below provides a separate and independent basis for overriding the significant environmental effects of the proposed project.

Having reduced the potential effects of the proposed project through all feasible mitigation measures as described previously herein, and balancing the benefits of the proposed project against its potential unavoidable adverse impacts on transportation if the mitigation measures for Impact 5.9-1 cannot be implemented, the City finds that the following legal requirements and benefits of the proposed project individually and collectively outweigh the potentially significant unavoidable adverse impacts for the following reasons:

1. Implements the Objectives Established for the Proposed Project

The project objectives include providing contemporary housing for Brea's workforce that is affordable, and within close proximity to Brea Downtown, which would promote healthy living and physical activity by providing recreational amenities, bicycle storage, and opportunities to utilize alternative transportation. The proposed project would provide residential growth on an infill parcel proximate to the Brea Downtown. The proposed project would improve the jobs-housing balance in the City by providing new housing within close proximity to jobs and services, which would meet the demand for housing of all income types in Orange County.

2. Provides High-Density Housing that Helps Achieve the City's Regional Housing Needs

The proposed project would introduce 114 units on an approximately one-acre site. To make meaningful reforms to the housing crisis in California, the state Department of Housing and Community Development (HCD) recently declared that cities and counties in Southern California will have to plan for the construction of 1.3 million new homes in the next decade. The Southern California Association of Governments (SCAG) will distribute the increased targets to jurisdictions based on factors such as jobs, households, and affordability, anticipated in October 2019 that will need to be considered in the next housing element update cycle for. For cities and counties that do not perform, the state can withhold state transportation revenue generated from Senate Bill 1 (2017).

3. Improves the Project Site

The project site is currently undeveloped and is on the eastern fringe of a primarily industrial area, proximate to Brea Downtown. The proposed project would introduce residential uses in an industrial

area; residential uses are valued higher on a per acre basis compared to light industrial uses. This is because residential uses represent and spur a substantial investment..

4. Implements the Objectives of Brea Envisions

The proposed project would provide community benefits, which include, providing the opportunity for urban living; workforce housing to meet low- and moderate-income categories; create site-specific standards to ensure quality design and rental affordability; provide connections to Brea Downtown via walking, bicycle, rideshare, motor vehicles, and buses; and provide access to destinations in Brea Downtown such as home, work, stores, restaurants, entertainment, and recreation. The proposed project's proximity to Brea Downtown and its provision of contemporary, affordable workforce housing satisfy the following objectives of Brea Envisions:

- Value: Balanced and Responsible Growth
 - **Initiative 3:** Enhance and promote pedestrian-friendly development throughout our community and within the public spaces.
 - Promote the Tracks at Brea as an alternative pathway through the community.
 - **Initiative 4:** Maintain a consistent and acceptable balance of both residential and commercial/ industrial development.
- Value: Workforce Housing Opportunities
 - **Initiative:** City and community planning will promote higher density living and mixed affordable housing where appropriate for the existing neighborhood.
 - Staying within public standards and guidelines, planning and development will account for and promote workforce housing solutions at every opportunity..

5. Consistency with the Regional Goals in the RTP/SCS

SCAG's 2016-2040 RTP/SCS was adopted April 7, 2016. The RTP/SCS identifies that land use strategies that focus on new housing and job growth in areas served by high quality transit and other opportunity areas would be consistent with a land use development pattern that supports and complements the proposed transportation network. The overarching strategy in the 2016-2040 RTP/SCS is to provide for a plan that allows the southern California region to grow in more compact communities in existing urban areas; provide neighborhoods with efficient and plentiful public transit and abundant and safe opportunities to walk, bike, and pursue other forms of active transportation; and preserve more of the region's remaining natural lands.

The proposed project would result in high density residential development proximate to Brea Downtown and major employers. As detailed in the project description, the project would enhance the pedestrian and bicycle linkages to Brea Downtown. Consequently, the project is consistent with the overall objectives of SCAG's RTP/SCS, which include maximizing mobility; ensuring safe, sustainable and reliable travel, encouraging active transportation; encouraging energy efficiency; and encouraging land use growth that facilitate transit and non-motorized transportation.

6. Other Considerations – Senate Bill 743 (2013)

The project's significant transportation impacts identified at the three Caltrans intersections on Imperial Highway are based on Caltrans' significance threshold that is derived from traditional delay metrics. Senate Bill (SB) 743 started a process that fundamentally changes the transportation impact analysis as part of CEQA compliance. Beginning in July 1, 2020 auto delay, level of service (LOS), and other similar measures of vehicular capacity or traffic congestion can no longer be used as the sole basis for determining significant impacts under CEQA.

The revised CEQA Guidelines establish new criteria for determining the significance of transportation impacts which require vehicle miles traveled (VMT)-related metric. However, the City of Brea has not yet adopted vehicle miles. The legislation does not preclude the application of local general plan policies, zoning codes, conditions of approval, or any other planning requirements that require evaluation of LOS, but these metrics may no longer constitute the sole basis for determining transportation impacts under CEQA. The City of Brea has not yet adopted significance thresholds for VMT under the new metric. However, beginning on July 1, 2020, transportation impact analyses in CEQA must use VMT as the new impact criterion. Thus, while the EIR currently identifies significant impacts to Caltrans intersections, this will no longer be considered a significant transportation impact under SB 743.

While transportation impacts were not evaluated under the new VMT criteria, the proposed project would introduce high-density residential near Brea Downtown and would improve the City's jobs-housing balance.

C. Conclusion

The City Council of Brea has balanced the project's benefits against the significant unavoidable impact. The City Council finds that the proposed project's benefits, which aim to meet the goals and policies of the City of Brea General Plan, outweigh project's significant unavoidable impact, and this impact, therefore, is considered acceptable in the light of the project's benefits. The City Council finds that each of the benefits described above is an overriding consideration, independent of the other benefits, that warrants approval of the project notwithstanding the project's significant unavoidable impact.

VI. FINDINGS ON RESPONSES TO COMMENTS ON THE DEIR AND REVISIONS TO THE FEIR

The Final EIR contains response to comments, revisions, clarifications, and corrections to the DEIR. The focus of the response to comments is on the disposition of significant environmental issues as raised in the comments, as specified by State CEQA Guidelines Section 15088(b). The City provided written responses to each comment made by a public agency, as set forth in Section 2 of the FEIR, pursuant to State CEQA Guidelines Section 15088(b).

City staff has reviewed this material and determined that none of this material constitutes the type of significant new information that requires recirculation of the DEIR for further public comment under CEQA Guidelines Section 15088.5. None of this new material indicates that the project will

result in a significant new environmental impact not previously disclosed in the DEIR. Additionally, none of this material indicates that there would be a substantial increase in the severity of a previously identified environmental impact that will not be mitigated, or that there would be any of the other circumstances requiring recirculation described in Section 15088.5 of the CEQA Guidelines.