

**FINDINGS AND FACTS IN SUPPORT OF FINDINGS FOR THE MAGNOLIA TANK
FARM PROJECT PROGRAM ENVIRONMENTAL IMPACT REPORT
(STATE CLEARINGHOUSE NO. 2017101041)**

1. INTRODUCTION

The California Environmental Quality Act ("CEQA") (California Public Resources Code, Section 21081) and the State CEQA Guidelines ("the Guidelines") (California Code of Regulations, Title 14, Section 15091 and 15093) require that no public agency approve or carry out a project in which a certified Environmental Impact Report ("EIR") identifies one or more significant effects of the project on the environment unless it (the public agency) makes one or more written findings for each significant effect, accompanied by a brief explanation of the rationale for each finding. Section 15091 of the Guidelines states the following:

- (a) No public agency shall approve or carry out a project for which an Environmental Impact Report (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 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 or 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.
- (b) The findings required by subdivision (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 materials 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.

State CEQA Guidelines Section 15093 further provides:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- (b) Where the lead agency approves a project, which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. This 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.

Having received, reviewed, and considered the Draft Program Environmental Impact Report (Draft Program EIR or DEIR) and the Final Program Environmental Impact Report (Final Program EIR or FEIR) for the Magnolia Tank Farm Project, SCH No. 2017101041 (collectively, the Program EIR), as well as all other information in the record of proceedings on this matter, the following Findings and Facts in Support of Findings (Findings) are hereby adopted by the City of Huntington Beach (City) in its capacity as the CEQA Lead Agency.

These Findings set forth the environmental basis for the discretionary actions to be undertaken by the City for the development of the Project. These actions include the certification and/or approval of the following for Magnolia Tank Farm Project:

- Final Program Environmental Impact Report Certification
- General Plan Amendment (GPA)
- Zoning Map Amendment (ZMA)
- Zoning Text Amendment (ZTA) (Specific Plan Adoption)

- Local Coastal Program Amendment
- Future entitlement applications for the construction of the Project such as Conditional Use Permit, Coastal Development Permit, Tentative and Final Tract Map(s)
- Development Agreement

These actions are collectively referred to herein as the Project.

A. Organization / Format of Findings

These Findings have been organized into the following sections:

1. Section 1 provides an introduction to these Findings.
2. Section 2 provides a summary of the Project, overview of the discretionary actions required for approval of the Project, and a statement of the Project's objectives.
3. Section 3 provides a summary of previous environmental reviews related to the Project area that took place prior to the environmental review done specifically for the Project, and a summary of public participation in the environmental review for the Project.
4. Section 4 sets forth findings regarding the environmental impacts that were determined to be less than significant or less than significant with compliance with project design features (PDFs) and regulatory requirements (RRs).
5. Section 5 sets forth findings regarding significant or potentially significant environmental impacts identified in the Draft Program EIR that the City has determined that can feasibly be mitigated to a less than significant level through implementation of mitigation measures (MMs). PDFs and compliance with RRs, may also be proposed in these instances. In order to ensure compliance and implementation, all of these measures will be included in the Mitigation Monitoring and Reporting Program (MMRP) for the Project and adopted as conditions of the Project by the Lead Agency. Where potentially significant impacts can be reduced to less than significant levels through implementation of MMs, PDFs, and adherence to RRs, these findings specify how those impacts were reduced to an acceptable level.
6. Section 6 sets forth findings regarding potential impacts of the proposed Project that cannot be feasibility mitigated to a less than significant level or that the City does not have the authority to implement MMs, as the impacts are within different jurisdictions. Thus, the impacts remain significant and unavoidable despite consideration of MMs.
7. Section 7 sets forth findings regarding alternatives to the proposed Project.
8. Section 8 sets forth the Statement of Overriding Considerations.

B. Record of Proceedings

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

- All Project application materials submitted to the City by the Applicant and its representatives.
- The Draft Program EIR for the Project and Technical Appendices A through L, including all supporting documentation as applicable, and specifically the source documents used in the Compilation Report of Environmental Investigations Update No. 1, prepared by Tait Environmental Services, Inc. (Appendix G-1), which were made available to the public upon request.
- Written comments submitted by agencies and members of the public during the 90-day public review comment period on the Draft Program EIR.
- The Responses to Comments received on the Draft Program EIR, which is inclusive of the comments received by the City during the public review period and late comments received, at the time of the Planning Commission study sessions, on the Draft Program EIR.
- All other public notices issued by the City in conjunction with the proposed Project.
- Proceedings of the Planning Commission study sessions focused on the Draft Program EIR on August 13 and 27, 2019 and Planning Commission hearing on October 22, 2019.
- Proceedings of the City Council hearing on _____, 2019.
- All final City Staff Reports submitted to the Planning Commission and City Council relating to the Draft Program EIR, Final Program EIR, and the Project.
- All other public reports, documents, studies, memoranda, maps, or other planning documents relating to the Project, the Draft Program EIR, and the Final Program EIR prepared by the City, consultants to the City, or Responsible or Trustee Agencies.
- The Mitigation Monitoring and Reporting Program (MMRP) adopted by the City for the Project; the Ordinances and Resolutions adopted by the City in connection with the proposed Project; and all documents incorporated by reference therein.
- These Findings of Fact adopted by the City for the Project, any documents expressly cited in these Findings of Fact.
- Matters of common knowledge to the City, including but not limited to, federal, state, and local laws and regulations.
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

The documents and other material that constitute the record of proceedings on which these findings are based are located at the City of Huntington Beach Community Development Department. The custodian for these documents is the City of Huntington Beach. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and 14 California Code Regulations Section 15091(e).

C. Custodian and Location of Records

The documents and other materials that constitute the administrative record for the City's actions related to the Project and on which these Findings of Facts are based are at the City of Huntington Beach, Department of Community Development, 2000 Main Street, Huntington Beach, California 92648. The City of Huntington Beach is the custodian of the Administrative Record for the Project. Copies of the documents that constitute the administrative record are, and at all relevant times have been and will be, available upon request at the City of Huntington Beach. This information is provided in compliance with Section 21081.6(a)(2) of the California Public Resources Code and with the California Code of Regulations, Title 14, Chapter 3, Section 15091(e).

2. PROJECT SUMMARY

A. Project Location

The 28.9-acre Magnolia Tank Farm project site is located at 21845 Magnolia Street, on the west side of Magnolia Street at Banning Avenue in the southeastern area of Huntington Beach in western Orange County, California. The City of Huntington Beach occupies approximately 27.3 square miles of land area, and it is surrounded by the cities of Westminster to the north; Seal Beach to the northwest; Fountain Valley to the east; and Costa Mesa to the southeast. The Pacific Ocean borders the City to the west. Regional access to the City is provided by Interstate 405 (I-405) to the north; State Route 1 (SR-1) or Pacific Coast Highway to the west; State Route 39 (SR-39) or Beach Boulevard, which bisects the City running north to south; and State Route 55 (SR-55) or Costa Mesa Freeway to the east.

Local access is from Magnolia Street with Hamilton Avenue and SR-1 being the nearest east-west access routes.

B. Project Description

The proposed Project would redevelop the project site with a mixed-use development comprised of a lodge/guest-house accommodations, ancillary and visitor-serving retail and dining, and residential units. The proposed Project consists of four planning areas: Planning Area 1 (PA 1) or Coastal Conservation (CC); Planning Area 2 (PA 2) or Open Space-Park and Recreation (OS-PR); Planning Area 3 (PA 3) or Residential (RM); and Planning Area 4 (PA 4) or Commercial Visitor (CV).

Under the proposed Project, the Specific Plan will establish a land use plan, development standards and guidelines to allow for the creation of the proposed mixed-use development comprised of a 211,000 square-foot lodge/guest-house accommodations with a maximum of 215 rooms, including 175 guest rooms and family/group overnight accommodations with 40 rooms, 19,000 square feet of ancillary and visitor-serving retail and dining, and up to 250-unit for-sale residential units (at 15 dwelling units per acre). Additionally, the proposed Project includes 2.8 acres of Coastal Conservation area adjacent to Magnolia Marsh and 2.8 acres of park.

The proposed Project includes various on- and off-site infrastructure improvements to facilitate the development. These improvements include, but are not limited to, the installation of potable water lines, storm water detention and conveyance systems, electrical lines, phone lines, gas lines, and sanitary sewers. The precise location of necessary infrastructure improvements would be determined as part of the final design process and coordination with the service providers. All infrastructure improvements are expected to be within the proposed development areas, properties that were previously developed and/or disturbed, or within existing public rights-of-way.

C. Legislative and Discretionary Actions

Implementation of the Project will require several actions by the City, including

- **Program Environmental Impact Report Certification (SCH#2017101041).** A Program Environmental Impact Report (EIR) to evaluate the environmental impacts resulting from the proposed Project, in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended (Public Resources Code Sections 21000 et seq.), and the State CEQA Guidelines for Implementation of CEQA (California Code of Regulations, Title 14, Sections 15000 et seq.).
- **General Plan Amendment:** To change the existing land use designation of the project site from Public (P) to allow for Commercial Visitor (CV) for the proposed Project only, Residential Medium Density (RM), Open Space–Park (OS-P), and Open Space – Conservation (OS-C) with a Specific Plan Overlay.
- **Zoning Map Amendment (ZMA) and Zoning Text Amendment (ZTA) (Specific Plan Adoption):** To change the existing zoning designation of the project site from Public-Semipublic with Oil Production Overlay and Coastal Zone Overlay (PS-O-CZ) to Specific Plan with Coastal Zone Overlay (SP-18-CZ). The amended designation would allow for customized land use regulations in response to the special characteristics of the site and to guide redevelopment. A Zoning Text Amendment would also be required to establish a Specific Plan that would establish the land use plan, policies, development standards, and design guidelines that would provide site-specific requirements for future development of the site. The designation would allow design flexibility to attain the intent of the vision of the development, sustainability, architecture, and site amenities
- **Local Coastal Program Amendment:** To amend the City's Local Coastal Program pursuant to the GPA, ZMA, and ZTA.
- **Future Entitlement Applications.** For construction of the Project such as Conditional Use Permit, Coastal Development Permit, Tentative and Final Tract Map(s).
- **Development Agreement:** The proposed Project includes a request for a Development Agreement between the City of Huntington Beach and the Applicant. The Development Agreement will provide community benefits determined by decision makers.
- The Final Program EIR would also provide environmental information to responsible agencies, trustee agencies, and other public agencies that may be required to grant approvals and permits or coordinate with the City of Huntington Beach as a part of Project implementation. These agencies include, but are not limited to:
 - California Coastal Commission. Local Coastal Program Amendment to amend the City's Local Coastal Program pursuant to the GPA, ZMA, and ZTA.

- Regional Water Quality Control Board, Santa Ana Region. Issuance of a National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharge and Clean Water Act Section 401 Certification if required.
- Orange County Flood Control District. Approval of discharges and connections into Huntington Beach Channel.
- South Coast Air Quality Management Agency. Issuance of permits, as necessary.
- Orange County Transportation Authority. Approval of design of transit shelters and compatible street furniture.

D. Statement of Project Objectives

The statement of objectives sought by the Project and set forth in the Final Program EIR is provided as follows:

1. Implement the Huntington Beach Local Coastal Program and the California Coastal Act.
2. Implement a project that is compatible with the surrounding land uses.
3. Provide a mix of land uses that include visitor-serving overnight accommodations with ancillary retail, a mix of residential housing types, and open space.
4. Develop visitor-serving overnight accommodations that promote ecotourism and provide opportunities for low cost facilities.
5. Provide for-sale housing in an area where housing is in high demand and create new opportunities for home ownership.
6. Provide internal and external pedestrian connectivity to Magnolia Street, and within proposed uses on site including, visitor-serving commercial areas, residential neighborhoods, and areas overlooking Magnolia Marsh.
7. Build a passive park adjacent to Magnolia Street to benefit area residents and visitors.
8. Provide an adaptable development designed to protect against natural hazards including seismicity, flooding, and sea level rise.
9. Create opportunities for public access and interpretive programs adjacent to Magnolia Marsh.
10. Provide for public parking to enhance coastal access.

3. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The EIR prepared for the Magnolia Tank Farm Project is the only environmental review conducted for the proposed Project. No other reviews have been previously conducted.

In conformance with CEQA and the State CEQA Guidelines, the City conducted an extensive environmental review of the Magnolia Tank Farm Project, as identified and listed below. The Final Program EIR includes the Draft Program Environmental Impact Report (Draft Program EIR) dated December 2018, written comments on the Draft Program EIR that were received during the 90-day public review period, written responses to those comments, clarifications/changes to the Final Program EIR, and MMRP.

- Completion of the Notice of Preparation (NOP), which was circulated for a 30-day public review period from October 19, 2017 through November 20, 2017. The NOP was sent to all responsible agencies, trustee agencies, and the Office of Planning Research and posted at the Orange County Clerk-Recorder's office and on the City's website.
- During the NOP review period, a Scoping Meeting was held to solicit additional suggestions on the content of the Magnolia Tank Farm Program EIR. Attendees were provided an opportunity to identify verbally or in writing the issues they felt should be addressed in the Program EIR. The scoping meeting was held on November 7, 2017, at Edison Community Center, 21377 Magnolia Street, Huntington Beach, California. The notice of the public scoping meeting was included in the NOP.
- The Draft Program EIR was made available for a 90-day public review period (December 17, 2018 to March 18, 2019). The Draft Program EIR consisted of analysis of the Magnolia Tank Farm Project and the following technical appendices:

Appendix

- A Magnolia Tank Farm Specific Plan
- B NOP, NOP Comment Letters, and Scoping Materials
- C Emissions Calculations
- D Biological Resources
 - D-1 Biological Technical Letter Report
 - D-2 Arborist Report
 - D-3 Tree Replacement for CEQA Compliance
 - D-4 Jurisdictional Delineation Report
- E Phase I Cultural and Paleontological Assessment
- F Geotechnical
 - F-1 Revised Geotechnical Study
 - F-2 Alternative 1 Site Configuration Recommendations – Addendum to Geotechnical Study

G Hazards and Hazardous Materials

- G-1 Compilation Report of Environmental Investigations Update No. 1
- G-2 Quarterly Groundwater Sampling Report (Second Quarter 2018)
- G-3 Groundwater Monitoring Well Installation Report

H Hydrology and Water Quality

- H-1 Infrastructure Technical Report for Hydrology
- H-2 Preliminary Water Quality Management Plan (WQMP)
- H-3 Sea Level Rise Vulnerability Assessment and Adaptation Plan
- H-4 Orange County Property Encroachment Permit

I Noise and Vibration Impact Analysis

J Traffic Impact Analysis

K Infratrature Water and Sewer

- K-1 Infrastructure Technical Report for Water and Sewer
- K-2 Infrastructure Technicqal Report for Water and Sewer –
Alternatives Memorandum

L Magnolia Tank Farm Supplemental Air Quality Analysis

The Notice of Availability (NOA) for the Draft EIR was published in the Huntington Beach Wave, a newspaper of general circulation. The NOA was sent to all interested persons, agencies and organizations. The Notice of Completion (NOC) was sent to the State Clearinghouse in Sacramento for distribution to public agencies. The NOA was also posted at the Orange County Clerk-Recorder's office. Copies of the Draft Program EIR were made available for public review at the City of Huntington Beach, Community Development Department, City of Huntington Beach Clerk's Office, and Huntington Beach Public Library Banning Ranch. The Draft Program EIR was also available for download via the City's website: <http://www.huntingtonbeachca.gov/government/departments/planning/major/>.

- Preparation of a Draft Final Program EIR included the Draft Program EIR and all appendices, comments on the Draft Program EIR, responses to those comments, clarifications/revisions to the Draft Program EIR, MMRP and supporting materials referenced therein. The Responses to Comments were provided to the Planning Commissioners and City Council members 10 days prior to the respective hearings and posted on the City's website on the same day.
- The Planning Commission held a public hearing for the Project on October 22, 2019, in the City Hall Council Chambers, at 2000 Main Street, Huntington Beach, California. Notices of time, place, and purpose of the public hearing were provided in accordance with CEQA and Huntington Beach Subdivision and Zoning Ordinance (HBZSO). The Final Program EIR, staff report, and evidence, both written and oral, were presented to and considered by the Planning Commission at this hearing. Notice for this public hearing was published in the Huntington

Beach Wave, a newspaper of general circulation; mailed to all property owners within a minimum of 1,000 feet of the Project site and to all interested persons, agencies and organizations; and posted at the Project site a minimum of 10 days in advance of the hearing, consistent with the HBZSO. Additionally, the item appeared on the agenda for the meeting, which was posted at City Hall and on the City website.

- In compliance with Section 15088(b) of Title 14 of the California Code of Regulations (State CEQA Guidelines), the City prepared written Responses to Comments to public agencies and posted the responses on the City's website, at least 10 days prior to certifying the Final Program EIR.
- The City Council held a public hearing on _____, 2019, in the City Hall Council Chambers, at 2000 Main Street, Huntington Beach, California. A notice of the time, place and purpose of the aforesaid meeting was provided in accordance with CEQA and HBZSO. The Final Program EIR, staff report, and evidence, both written and oral, were presented to and considered by the City Council at this hearing. Notice for the meeting was published in the Huntington Beach Wave, a newspaper of general circulation; mailed to all property owners within a minimum 1,000 feet of the Project site and to all interested persons, agencies and organizations; and posted at the Project site a minimum of 10 days in advance of the hearing, consistent with the HBZSO. Additionally, the item appeared on the agenda for the meeting, which was posted at City Hall and on the City website.

The Huntington Beach City Council hereby finds that no significant new information has been added to the Final Program EIR since public notice was given of the availability of the Draft Program EIR that would require recirculation of the EIR.

In compliance with Section 15088(b) of Title 14 of the California Code of Regulations (State CEQA Guidelines), the City has met its obligation to provide written Responses to Comments to public agencies at least ten days prior to certifying the Final Program EIR.

4. ENVIRONMENTAL ISSUES THAT WERE DETERMINED NOT TO BE POTENTIALLY AFFECTED BY THE PROPOSED PROJECT

(a) Impacts Determined Less than Significant In Section 2.0, Introduction, Project History, and Setting, of the Draft Program EIR

As an Initial Study was not prepared for the proposed Project, and only a Notice of Preparation was circulated by the City on October 19, 2017, the scope of the Program EIR is based on the findings of the technical studies, determination by the City, input received from the agencies and the public as part of the scoping process, and the analysis of topics and CEQA Checklist questions in Section 2.0 of the Draft Program EIR. Based on the City's determination, the Draft Program EIR addressed all environmental topics with potential to result in significant effects.

Using the CEQA Environmental Checklist Form, Section 2.0, Introduction, Project History, and Setting, of the Draft Program EIR, assessed the following issues as resulting in "No Impact" or "Less Than Significant Impact." Therefore, in accordance with Section 15128 of the State CEQA Guidelines, the following were identified as topical areas or subtopics/issues within topical areas that did not receive further evaluation in the Draft Program EIR:

- 1) Agriculture and Forest Resources: The Project site and surrounding areas are designated as Urban and Built-Up Land and is not zoned for agriculture. The site is not subject to a Williamson Act contract; and it does not contain Prime Farmland, Unique, or Farmland of Statewide Importance. Additionally, no part of the project site or adjacent areas is zoned forest land, timberland, or timberland zoned for Timberland Production, nor would the proposed Project result in the loss of forest land or conversion to non-forest use. This topic was focused out from further analysis in the Draft Program EIR, as no impact was anticipated.
- 2) Air Quality: The proposed Project does not propose any land uses that are identified by the South Coast Air Quality Management District as major odor sources (such as wastewater treatment plants, agricultural operations, landfills, composting facilities, food processing plants, chemical plants, or refineries). This checklist question was focused out from further analysis in the Draft Program EIR, as no impact was anticipated.
- 3) Biological Resources: The City of Huntington Beach, and thus the project site is not located within or near an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or any other approved local, regional, or state habitat conservation plan. As such, the proposed Project would not conflict with any provision related to such plans. This checklist question was focused out from further analysis in the Draft Program EIR, as no impact was anticipated.
- 4) Cultural/Scientific Resources: The project site is currently graded, undeveloped, and being used as a staging area for the demolition of the AES Generating Facility generating facility and construction of the replacement plant. From 1972 to 2009,

the project site was used as a fuel oil storage facility with three aboveground fuel storage tanks, and other oil-related infrastructure including roads, pipelines and ancillary buildings. The oil storage tanks provided fuel for the adjacent power generating facility (currently owned by AES Southland) until that facility was converted to a natural gas facility in the 1990s. The oil storage tanks were demolished July 2017. There are no structures or historic structures on the site. This checklist question was focused out from further analysis in the Draft Program EIR, as no impact was anticipated.

- 5) Geology and Soils: The project site and its immediately surrounding areas are relatively flat with no topographical relief and are not prone to landslides. There would be no impacts associated with landslides. Additionally, the proposed Project would be served by the public sewer system and would not require alternative wastewater disposal systems. These checklist questions were focused out from further analysis in the Draft Program EIR, as no impacts were anticipated.
- 6) Hazards and Hazardous Materials: Proposed uses on the project site would use hazardous materials for construction, operation, and maintenance. Some of these materials would be routine construction or household items identified as hazardous materials pursuant to Proposition 65.¹ However, existing federal and state regulations on the handling and transport of these materials provides sufficient safeguards to protect against a significant hazard to the community associated with an accidental release of hazardous materials.² Additionally, those involved in transportation of hazardous materials must apply for and obtain a hazardous materials transportation license from the California Highway Patrol. Additionally, the project site is not located within an airport land use plan or within two miles of a public airport nor is it in the vicinity of a private airstrip. The closest airport to the site is John Wayne Airport, which is over six miles from the project site. Thus, in the absence of a public airport or private airstrip in the vicinity of the site, the proposed Project would not expose future residents and employees of the site to safety hazards. Furthermore, the project site is not located within or adjacent to wildlands or an area susceptible to wildland fires. Therefore, the proposed Project would not expose future residents or structures to a risk of loss, injury, or death associated with wildland fires. These checklist questions were focused out from further analysis in the Draft Program EIR, as no impacts were anticipated.

¹ In compliance with the requirements of Proposition 65 (1986) the Office of Environmental Health Hazards Assessment (OEHHA) compiles a list of chemicals that may pose health risks. The list contains a wide range of naturally occurring and synthetic chemicals that are known to cause cancer or birth defects or other reproductive harm. These chemicals include additives or ingredients in medications, pesticides, common household products, food, drugs, dyes, or solvents. Proper handling of these substances reduces the potential for exposure of the public. The full listing of chemicals controlled by OEHHA under Proposition 65 can be found at http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

² There are extensive regulations pertaining to the transportation of hazardous materials. This includes standards established by the California Department of Toxic Substance Control, U.S. Occupational Safety and Health Administration, and both the U.S. and California Departments of Transportation. The U.S. Environmental Protection Agency's regulations on the designation of hazardous substances can be found in the Code of Federal Regulations (CFR) 40 CFR 116. A source for identifying federal regulations pertaining to the transport of hazardous materials can be 49 CFR 171.

- 7) Hydrology and Water Quality: The project site is not located downstream of a levee or dam. Thus, the project site would not be exposed to inundation hazards due to dam or levee failure, nor would it expose people or structures to a significant risk of loss, injury or death involving flooding as a result of the failure of a levee or dam. This checklist question was focused out from further analysis in the Draft Program EIR, as no impact was anticipated.
- 8) Land Use and Planning: The project site is not located within or near an adopted Habitat Conservation Plan or Natural Community Conservation Plan, and as such, it would not conflict with any applicable habitat conservation plan or natural community conservation plan. Additionally, the project site is currently undeveloped, and there is no existing residential development on the site. The site previously contained three oil storage tanks and was never developed with residential units. The proposed Project would create a residential community rather than divide an established one. These checklist questions were focused out from further analysis in the Draft Program EIR, as no impacts were anticipated.
- 9) Mineral Resources: The California Department of Conservation, Division of Mines and Geology, Generalized Mineral Land Classification of Orange County has designated the site and surrounding area as Mineral Resource Zone 3, “area containing mineral deposits the significance of which cannot be evaluated from available data.” There are three oil wells on the project site that were drilled in 1955 and 1956 and abandoned in 1972 (Tait 2018). As stated in Section 4.7, Hazards and Hazardous Materials, re-abandonment of these wells would be conducted in accordance with the current requirements of the Division of Oil, Gas, and Geothermal Resources through the Construction Site Well Review Program. The wells were discussed in detailed in Section 4.7 of the Draft Program EIR. This topic was focused out from further analysis in the Draft Program EIR, as no impacts were anticipated.
- 10) Noise: The proposed project site is not located within an airport land use plan or within two miles of a public airport. The closest airport to the site is John Wayne Airport, which is over six miles from the project site. Additionally, there are no private airstrips near the project site. Therefore, the proposed Project would not expose future residents, visitors, or employees to excessive noise levels. These checklist questions were focused out from further analysis in the Draft Program EIR, as no impacts were anticipated.
- 11) Population or Housing: The project site is currently undeveloped, and there are no existing housing units on the site. The site previously contained three oil storage tanks and was never developed with residential units. Therefore, the proposed Project or Alternative 1 would not result in the displacement of people or housing units from the site. These checklist questions were focused out from further analysis in the Draft Program EIR, as no impacts were anticipated.
- 12) Transportation/Traffic: The proposed Project would not introduce any features that would require a change in air traffic patterns or directly increase traffic levels, such

that would result in substantial safety risks. The proposed Project would not impact operations at John Wayne Airport, the nearest airport, which is over six miles from the site. This topic was focused out from further analysis in the Draft Program EIR, as no impacts were anticipated.

(b) Impacts Determined to be Less Than Significant in the Topical Sections of the Draft Program EIR

This section makes findings regarding the potential effects of the proposed Project that were determined to be less than significant. The following impacts were evaluated in the Draft Program EIR and determined to be less than significant without mitigation. While not required, for purposes of tracking compliance, applicable PDFs and RRs ensuring that impacts are less than significant without mitigation are also incorporated into the MMRP.

Based upon the environmental analysis presented in the Draft Program EIR, and the comments received by the public on the Draft Program EIR, no substantial evidence was submitted to or identified by the City indicating that the proposed Project would have an impact on the following environmental areas:

- 1) Aesthetics and Visual Resources: The proposed Project would not have a substantial adverse effect on scenic vistas; substantially damage scenic resources, including trees, rock outcroppings, and historic buildings within a state scenic highway; or generate substantial light or glare in the project area affecting day or nighttime views in the area. The proposed Project also would not substantially degrade the visual character or quality of the site and its surroundings through adherence to RR AES-1 which would ensure compliance with the development standards and design guidelines in the Specific Plan.

Regulatory Requirement

- RR AES-1 Design Review Board.** As part of the entitlement and review by the Design Review Board, the Project Applicant/Developer shall submit proposed site development and building plans for the review and approval by the City. The City shall review these plans for compliance with applicable development standards and design guidelines in the Specific Plan and pertinent requirements in the Huntington Beach Zoning and Subdivision Ordinance and Municipal Code.
- 2) Air Quality: The proposed Project would not conflict with or obstruct the applicable air quality plan; exceed SCAQMD threshold for operational mass (regional) emissions; exceed applicable standards for local CO emissions; or expose sensitive receptors to substantial pollutant concentrations.
 - 3) Biological Resources: The proposed Project would not result in direct impact on any riparian habitat or other sensitive natural communities; result in direct and indirect impacts on any federally protected wetlands or waters under the

jurisdiction of the USACE, the RWQCB, and the CDFW; or interfere with the planned regional wildlife movement corridor or result in fragmentation of habitat.

- 4) Cultural Resources: The proposed Project would not disturb human remains. Even though impacts are considered less than significant, and no mitigation is required, a regulatory requirement (RR CULT-1) is included per requirements of California Health and Safety Code if human remains are encountered during grading activities.

Regulatory Requirement

RR CULT-1 Procedures of conduct following the discovery of human remains on non-federal lands have been mandated by California Health and Safety Code Section 7050.5, PRC Section 5097.98 and the California Code of Regulations (CCR) Section 15064.5(e). In the event of the discovery of human remains during ground disturbing activities, the following shall occur:

According to the provisions in CEQA, should human remains be encountered, all work in the immediate vicinity of the burial shall cease, and any necessary steps to insure the integrity of the immediate area shall be taken. The Orange County Coroner shall be immediately notified. The Coroner must then determine whether the remains are Native American. If the Coroner determines the remains are Native American, the Coroner has 24 hours to notify the NAHC, who shall, in turn, notify the person they identify as the most likely descendent (MLD) of any human remains. Further actions shall be determined, in part, by the desires of the MLD. The MLD has 48 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery. If the MLD does not make recommendations within 48 hours, the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the owner or the descendent may request mediation by the NAHC.

- 5) Geology and Soils: The proposed Project would not result in impacts related to surface fault rupture, as the site is not included in an Alquist-Priolo Earthquake Fault Zone and there are no known active or potentially active faults traversing the site; and result in loss of top-soil. With incorporation of the construction Best Management Practices (MBPs) required with compliance with RR HWQ-1 through RR HWQ-4, the proposed Project would not result in substantial soil erosion, loss of topsoil, or changes in topography or unstable soil conditions from excavation, grading, or fill. RR HWQ-1 through RR HWQ-4 are included below under Item 7, Hydrology and Water Quality.

- 6) Hazards and Hazardous Materials: The proposed Project would not result in long-term impact pertaining to release of hazardous materials into the environment, as the Project use routine hazardous materials in small quantities or interfere with adopted response plans or emergency evacuation routes, including Magnolia Street.
- 7) Hydrology and Water Quality: The proposed Project would not: violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality through adherence to RR HWQ-1 through RR HWQ-5; substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level through compliance with RR HWQ-2; substantially alter the existing drainage pattern including through the alteration of the course of a stream or river, or substantially increase the rate or amount or surface runoff in a manner, which would result in flooding on or off-site through compliance with RR HWQ-1, RR HWQ-4, and PDF HWQ-1; create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems, or provide substantial additional sources of polluted through compliance with RR HWQ-1, RR HWQ-3, RR HWQ-5 and RR HWQ-6; expose housing to flood hazards or impede or redirect flood waters; cause inundation by seiche, tsunami, or mudflow; impact storm water runoff from construction through compliance with RR HWQ-1 and RR HWQ-2; impact storm water runoff from post-construction activities through compliance with RR HWQ-3 through RR HWQ-5; lead to the discharge of storm water pollutants from large areas dedicated to material storage, vehicle or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas, loading docks or other outdoor work areas through compliance with RR HWQ-1 and RR HWQ-3; result in the potential for discharge of storm water to affect the beneficial uses of the receiving waters through compliance with RR HWQ-3 and RR HWQ-5; cause harm environmental harm as a result of increased flow velocity and volume through compliance with RR HWQ-7; or result in significant erosion of the site or surrounding areas during construction or result in creating or contributing significant increases in erosion of the Project site or surrounding area through compliance with RR HWQ-1 and RR HWQ-4.

Regulatory Requirements

RR HWQ-1 Storm Water Pollution Prevention Plan. Prior to the issuance of any grading or building permits, the Project Applicant/Developer shall demonstrate compliance with California's General Permit for Stormwater Discharges Associated with Construction Activity by providing a copy of the Notice of Intent (NOI) submitted to the State Water Resources Control Board and a copy of the subsequent notification of the issuance of a Waste Discharge Identification (WDID) Number or other proof of filing in a manner meeting the satisfaction of the City's Department of Public Works. Projects subject to this requirement shall prepare and implement a Storm

Water Pollution Prevention Plan (SWPPP) during all phases of construction. A copy of the current SWPPP shall be kept at the construction site and be available for State and City review on request.

RR HWQ-2 General Waste Discharge Requirements. Prior to the issuance of any grading or building permits, If construction dewatering or discharges from other specific activities (e.g., dewatering from subterranean seepage, potable water system maintenance discharges, fire hydrant flushing, etc.) are required, the Project Applicant/Developer shall notify the Santa Ana RWQCB and any discharges into surface waters shall be conducted in compliance with the Santa Ana RWQCB's Order No. R8-2015-0004 (NPDES No. CAG998001), which includes General Waste Discharge Requirements (WDRs) for discharges to surface water that pose an insignificant (de minimis) threat to water quality. The General WDRs include provisions mandating notification, testing, and reporting of dewatering and testing-related discharges, and contain numeric and performance-based effluent limits depending upon the type of discharge.

RR HWQ-3 Water Quality Management Plan. Prior to the issuance of any grading or building permits, the Project Applicant/Developer shall submit for review and approval by the City's Public Works Department, the final Project Water Quality Management Plan (WQMP) specifically identifying Best Management Practices (BMPs) that address Pollutants of Concern. The WQMP shall comply with the requirements of the Orange County MS4 Permit, the Orange County Drainage Area Management Plan (DAMP), Model WQMP, and Technical Guidance Manual, and the City's LIP, CURMP, Project WQMP Preparation Guidance Manual, and pertinent regulations in the Municipal Code.

Prior to the issuance of a certificate of use and occupancy, the Project Applicant/Developer shall demonstrate to the satisfaction of the City's Public Works Department the following:

- All structural BMPs described in the Project's approved WQMP have been implemented, constructed, and installed in conformance with approved plans and specifications;
- Demonstrate that the Project Applicant/Developer has complied with all non-structural BMPs described in the Project's WQMP;
- Provide certifications from the Engineer of Record or Landscape Architect that the LID BMPs and treatment control

BMPs were constructed and installed per the approved plans and specifications;

- Copies of the Project's approved WQMP (with attached O&M Plan and Educational Materials) are available for each of the initial occupants and tenants of the Project; and
- The Covenants, Conditions, and Restrictions (CC&Rs) includes pertinent BMPs in the approved WQMP and O&M Plan.

RR HWQ-4 Grading and Erosion Control Plans. Prior to the issuance of any grading permit, the Project Applicant/Developer shall submit for review and approval by the City's Public Works Department, the grading and erosion control plans for the Project. The plans shall demonstrate that proposed grading and excavation activities on the site shall include the installation of permanent and semi-permanent erosion control measures in compliance with pertinent requirements of the City's Grading and Excavation Code, as contained in Chapter 17.05 of the Municipal Code.

RR HWQ-5 Full Capture Systems. In compliance with the Statewide Trash Provisions in Section 13383 of the Water Code, all BMPs shall be state certified full capture systems to ensure that trash does not discharged off-site.

RR HWQ-6 Storm Drainage Plan. Prior to the issuance of any grading or building permits, the Project Applicant/Developer shall submit for review and approval by the City's Public Works Department, the storm drainage plan for the Project. The plan shall include the installation of an on-site storm drain system that would accommodate 100-year flood flows, in accordance with Chapter 255 of the City's Municipal Code, the Orange County Hydrology Manual, and other City specifications. In addition, the Project Applicant/Developer shall pay the applicable fees for the City's local drainage fund in accordance with Chapter 14.48 of the Municipal Code.

Prior to the approval of final inspection, the on-site storm drain system shall be constructed, or provide evidence of financial security (such as bonding), in a manner meeting the approval of the City's Public Works Department.

RR HWQ-7 Huntington Beach Channel. Prior to the issuance of any grading or building permits, the Project Applicant/Developer shall submit for review and approval by the Orange County Flood Control District drainage plans for discharge of storm water into Huntington Beach Channel, in accordance with the Orange County Flood Control Act

and Titles 4 and 9 of the Orange County Code, which prohibit connections to the stormwater drainage system unless authorized by the County, with jurisdiction over the Huntington Beach Channel. A copy of the County's permit shall be submitted to the City's Department of Public Works.

PDF HWQ-1 The overall ground elevation of the interior portion of the site shall be raised to an average of over 10.5 feet (NAVD88) and the ground elevations of the building pads shall be raised an additional 1 to 2 feet above the elevation of the roads within the interior of the site.

- 8) Land Use and Planning: The proposed Project would generally be consistent with the applicable goals and policies of the General Plan and Local Coastal Program (LCP) and would not conflict with the goals and strategies of RTP/SCS and the growth projections used as part of the long-range planning programs for the region. While the proposed Project would result in an incremental direct growth, the level of growth is consistent with what was envisioned in the OCP-2014 Modified dataset. The proposed Project would not result in significant land use compatibility impacts with the existing uses, with the existing and proposed buffers.
- 9) Noise and Vibration: The proposed Project would not result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.
- 10) Population and Housing: The proposed Project would not exceed the growth levels used in the regional long-range planning programs and result indirect growth-inducing impact related to the proposed Project due to its infill nature.
- 11) Public Services: The proposed Project would not create significant impacts related to fire protection through compliance with RR PS-1 and RR PS-2; police protection services through compliance with RR PS-3; schools through compliance with RR PS-4; and libraries through compliance with RR PS-5; such that would result in substantial adverse physical impacts (provision of new or physically altered governmental facilities) and need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts.

Regulatory Requirements

RR PS-1 Prior to the issuance of certificate of occupancy or final building permit approval, the Project Applicant/Developer shall pay the required development impact fees for fire suppression facilities, as required by Huntington Beach Municipal Code Chapter 17.74.

RR PS-2 During Project construction phases, Fire/Emergency Access and Site Safety shall be maintained in compliance with California Fire Code (CFC) Chapter 33, Fire Safety during Construction and Demolition.

RR PS-3 Prior to the issuance of certificate of occupancy or final building permit approval, the Project Applicant/Developer shall pay required development impact fees for police facilities as required by Huntington Beach Municipal Code Chapter 17.75.

RR PS-4 The Project Applicant/Developer shall pay all applicable development impact fees in effect at the time of building permit issuance to the Huntington Beach City School and Union High School Districts to cover additional school services required by the new development. The applicable development impact fees would be consistent with SB 50.

RR PS-5 Prior to the issuance of certificate of occupancy or final building permit approval, the Project Applicant/Developer shall pay required library development impact fees as required by Huntington Beach Municipal Code Chapter 17.67.

- 12) Recreation: The proposed Project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur; require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment; or affect existing recreational opportunities through compliance with RR REC-1 and RR REC-2.

Regulatory Requirements

RR REC-1 The Applicant shall comply with the Huntington Beach General Plan requirement of 5 acres of parkland per 1,000 residents through payment of in-lieu fees for improvements to existing City parks, to the satisfaction of the Community Services Department, prior to the issuance of certificate of occupancy or final building permit approval.

RR REC-2 The Applicant shall pay the Parkland Acquisition and Park Facilities Development Impact Fee for the non-residential component of the proposed Project, prior to the issuance of a certificate of occupancy, temporary certificate of occupancy, or final building permit approval.

- 13) Transportation and Traffic: The proposed Project-generated traffic would not affect the existing circulation system by conflicting with applicable City plans governing the performance of the area-wide circulation system (would not result in increased trip generation); construction traffic; conflicting with an applicable congestion management program; substantially increasing hazards due to a design feature or incompatible uses; resulting in inadequate emergency access; resulting in inadequate parking capacity; conflicting with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decreasing the performance or safety of such facilities; and resulting in impacts in the existing plus project traffic under Caltrans methodology and Year 2026 cumulative plus

Project condition. Additionally, the proposed Project would not result in any impacts to the 34 key study intersections (using ICU methodology) and 14 state-controlled study intersections (using HCM methodology). While no significant impacts from construction traffic would results, to minimize the potential impact of construction related traffic on the local circulation system, the City routinely requires the implementation of a construction management plan (RR TRAN-1).

Regulatory Requirement

RR TRAN-1 To ensure impacts to the surrounding street system are kept at a minimum, a Construction Management Plan shall be developed in coordination with the City of Huntington Beach and adjacent cities, prior to commencement of construction. The Construction Management Plan shall meet standards established in the current California Manual on Uniform Traffic Control Device (MUTCD) as well as City of Huntington Beach requirements.

The Plan shall:

- Address traffic control for any street closure, detour, or other disruption to traffic circulation.
- Identify the routes that construction vehicles would utilize for the delivery of construction materials (i.e. lumber, tiles, piping, windows, etc.), to access the project site, traffic controls and detours, and proposed construction phasing plan for the proposed project or Alternative 1.
- Specify the hours during which transport activities can occur and methods to mitigate construction-related impacts to adjacent streets.
- Require the Applicant to keep all haul routes clean and free of debris including but not limited to gravel and dirt as a result of its operations. The Applicant shall clean adjacent streets, as directed by the City Engineer (or representative of the City Engineer), of any material, which may have been spilled, tracked, or blown onto adjacent streets or areas.
- All hauling or transport of oversize loads between the hours of 7:00 AM and 5:00 PM only, Monday through Friday, unless approved otherwise by the City Engineer. No hauling or transport shall be allowed during nighttime hours, weekends or Federal holidays.
- Prohibit use of local streets.
- Require that haul trucks entering or exiting public streets shall at all times yield to public traffic.

- Include that if hauling operations cause any damage to existing pavement, street, curb, and/or gutter along the haul route, the Applicant shall be fully responsible for repairs. The repairs shall be completed to the satisfaction of the City Engineer.
 - Require that all construction-related parking and staging of vehicles will be kept out of the adjacent public roadways and will occur on-site.
- 14) Tribal Cultural Resources: The proposed Project would not result in an impact pertaining to a substantial adverse change in the significance of a tribal cultural resources.
- 15) Utilities and Service Systems: The proposed Project would not exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board; result in the construction of new storm water drainage facilities or expansion of existing facilities; result in insufficient water supplies to serve the proposed Project from existing entitlements and resources; or result in a determination by the wastewater treatment provider that it has inadequate capacity to serve the proposed Project's projected demand in addition to the provider's existing commitments. Additionally, the proposed Project would be served by a landfill with sufficient permitted capacity and comply with federal, state, and local statutes and regulations related to solid waste. The proposed Project would result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental impact; however, through compliance with RR UTIL-1, impacts would be less than significant. The Project would include new or retrofitted storm water treatment control BMPs (e.g., water quality treatment basin, constructed treatment wetlands); the construction of which could cause significant environmental impact; however, through compliance with RR HWQ-1 and RR HWQ-3, pollutants in the runoff would be reduced, water quality standards would not be violated, and surface and groundwater quality would not be degraded. Impacts would be less than significant. Please refer to RR HWQ-1 and RR HWQ-3, above.

Regulatory Requirement

RR UTIL-1 In accordance with the Public Works' requirements (Huntington Beach Zoning and Subdivision Ordinance 230.84 and Municipal Code 14.36.010), during the final design/plan check, the Applicant shall prepare a sewer study, which would include a 14-day or longer flow test data and submit to the Public Works Department for review and approval. The location and number of monitoring test sites shall be determined by the Public Works Department. The sanitary sewer system shall be designed and constructed to serve the development, including any offsite improvements necessary to accommodate any increased flow associated with the project.

5. SIGNIFICANT EFFECTS THAT CAN BE FEASIBLY MITIGATED TO BELOW SIGNIFICANCE

The following potentially significant environmental impacts were analyzed in the Draft Program EIR, and the effects of the proposed Project were considered. As a result of environmental analysis of the Project, identification of feasible MMs, PDFs, and compliance with RRs (together referred herein as the Mitigation Program), potentially significant impacts have been determined by the City to be reduced to a less than significant level, and the City has found—in accordance with CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a)(1)—that “Changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant effects on the environment. This is referred to herein as “Finding 1.”

A. Air Quality

- (1) **Potential Impact:** Implementation of the proposed Project could violate an air quality standard or contribute substantially to an existing or projected air quality violation.

Finding 1: Mitigation Measure AQ-1 and Regulatory Requirement AQ-1 have been imposed to address potentially significant impacts from the violation of an air quality standard or contribution to an existing or projected air quality violation. The City hereby makes Finding 1 and determines that this impact is mitigated to less than significant.

Facts in Support of Finding

The EIR analyzed the construction and operation emissions of both the Project and Alternative 1. All construction and operation emissions of criteria pollutants, including localized emissions and carbon monoxide hotspots, are below the SCAQMD thresholds of significance except for emissions of NO_x during construction of Alternative 1. (DEIR, pp. 4.2-27 to 4.2-37.) With implementation of MM AQ-1, emissions of all criteria pollutants, including NO_x emissions to during construction of Alternative 1, will be reduced below the SCAQMD thresholds, to a less than significant level. (*Id.*, p. 4.2-34.)

MM AQ-1 (SCAQMD Tier 3 off-road emissions) and RR AQ-1 require scrapers to meet Tier 3 or better off-road emissions standards. Additionally, RR AQ-1 (SCAQMD Rule 403, Fugitive Dust) requires measures such as watering and control of track-out from the site. These measures would reduce NO_x emissions during construction of Alternative 1 below SCAQMD thresholds, to a less than significant level. Therefore, all impacts pertaining to violation of an air quality standards or contribution to an existing or projected air quality violation would be less than significant.

Mitigation Measures and Regulatory Requirements

MM AQ-1 Scrapers used for construction of the proposed Project or Alternative 1 after January 1, 2020 shall meet Tier 3 or better off-road emissions standards; Tier 4 should be used if available. The Construction

Contractor shall provide a copy of each unit's certified Tier and/or engine specification to the City of Huntington Beach at the time of mobilization of each applicable unit of equipment.

- a. Maintain vehicle and equipment maintenance records for the construction portion of the Proposed Project. All construction equipment and vehicles must be tuned and maintained in compliance with the manufacturer's recommended maintenance schedule and specifications. All maintenance records for each vehicle and equipment and their construction contractor(s) should be made available for inspection and remain on-site for a period of at least two years from completion of construction.
- b. Enter into a contract that notifies all construction vendors and contractors that vehicle idling time will be limited to no longer than five minutes or another time-frame as allowed by the California Code of Regulations, Title 13 section 2485-CARE's Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. For any vehicle delivery that is expected to take longer than five minutes, each project applicant, project sponsor, or public agency will require the vehicle's operator to shut off the engine. Notify the vendors of these idling requirements at the time that the purchase order is issued and again when vehicles enter the gates of the facility. To further ensure that drivers and operators understand the idling requirement, post signs at the entry of the construction site and throughout the Project site stating that idling longer than five minutes is not permitted.
- c. Encourage construction contractors to apply for SCAQMD "SOON" funds. The "SOON" program provides funds to applicable fleets for the purchase of commercially available low emission heavy-duty engines to achieve near-term reduction of NOx emissions from in-use off-road diesel vehicles. More information on this program can be found at SCAQMD's website: http://www.aqmd.gov/home/programs/business/business_detail?title=off-road-diesel-engines.

RR AQ-1 SCAQMD Rule 403. The construction of the proposed Project or Alternative 1 shall comply with all the fugitive dust control measures listed within SCAQMD Rule 403. These may include the use of water controls, vehicle speed limits, clean-up of dirt track-out from the site,

signage with contact information of the site supervisor and other measures.

- (2) **Potential Impact:** Implementation of the proposed Project could result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standards (including releasing emissions which exceed quantitative thresholds for ozone precursors).

Finding 1: Mitigation Measure AQ-1 has been imposed to address the potentially cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standards. The City hereby makes Finding 1 and determines that this impact is mitigated to less than significant.

Facts in Support of Finding

The Orange County portion of the SoCAB is in nonattainment for PM₁₀, PM_{2.5}, and O₃. The proposed Project or Alternative 1 would contribute PM₁₀, PM_{2.5}, and O₃ precursors (i.e., VOC and NO_x) to the project area during short-term construction and long-term operational activities. However, SCAQMD guidance indicates that “Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant.” (SCAQMD 2003) As discussed in connection with Funding A(1) above, With implementation of MM AQ-1, construction emissions and all criteria pollutants would be below SCAQMD thresholds for the proposed Project or Alternative 1. Therefore, the cumulative impact of the proposed Project or Alternative 1 for construction emissions would be less than significant. (DEIR, p. 4.2-38.)

MM AQ-1 (SCAQMD Tier 3 off-road emissions) requires scrapers to meet Tier 3 or better off-road emissions standards, reducing construction emissions and therefore, all criteria pollutants to below SCAQMD thresholds, resulting in a less than significant impact. Therefore, impacts pertaining to cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standards would be mitigated to less than significant.

Mitigation Measures and Regulatory Requirements

MM AQ-1, above, would apply.

B. Biological Resources

- (1) **Potential Impact:** Implementation of the proposed Project could have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

Finding 1: Mitigation Measures BIO-1 through BIO-4 have been imposed to address and mitigate the Project and Alternative 1's potentially substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. The City hereby makes Finding 1 and determines that this potential impact is mitigated to less than significant.

Facts in Support of Finding

Due to the adjacency of the Magnolia Marsh and ESHA, the proposed Project has the potential to impact active burrowing owl burrows and/or nests of migratory birds. (DEIR, pp. 4.3-16 to 4.3-18.) Additionally, indirect impacts to wildlife using Magnolia Marsh and ESHA would result with the proposed Project. Indirect impacts include noise, light, dust, bird strikes, domestic animals, and invasive plant species. (DEIR, pp. 4.3-18 to 4.3-21.) All of these impacts would be less than significant with implementation of regulations, mitigation measures and project design features. (*Id.*, p. 4.3-22.) MM BIO-1 (pre-construction surveys) requires pre-construction surveys to minimize adverse effects to potentially occurring sensitive wildlife species. It would also allow the biologist to redirect construction activities if it is determined that nesting birds are being disrupted by noise and/or other project activities. As a result, BIO-1 would mitigate the only potentially significant direct impact (impacts on burrowing owl burrows and/or nests of migratory birds) to a less than significant level. All indirect impacts (described above) would be mitigated with implementation of regulations, mitigation measures MM BIO-2 through MM BIO-4, and PDF BIO-1, which require measures that lessen impacts on nearby habitat. Therefore, all potential Project and Alternative 1 impacts associated with direct or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service would be mitigated to a less than significant level.

Mitigation Measures and Project Design Features

MM BIO-1 Nesting Bird and Pre-Construction Survey. Prior to the issuance of any grading permits, the Community Development Director or designee shall verify that the following requirements for nesting birds and preconstruction surveys are completed by the Project Applicant:

- To the extent feasible, conduct vegetation removal outside of the nesting bird season (generally between February 1 and August 31).
- If vegetation removal is required during the nesting bird season, conduct pre-construction avoidance surveys for MBTA and CDFW-protected nesting birds within 100 feet of areas proposed for vegetation removal and/or initial grading activities; additionally, surveys shall be extended to 500 feet for raptors, and be included from January 1 to July 15. Belding's savannah sparrow, California black rail and light-footed Ridgway's rail nest surveys shall also be conducted during their nesting seasons up to 500 feet from the Project site.
- Burrowing owl clearance surveys should be included any time of year within the Project site.
- Surveys shall be conducted by a qualified biologist(s) within seven days (=168 hours) of vegetation removal and/or initial grading activities.
- If active, protected nests or burrows are observed within the survey area(s), a qualified biologist will determine appropriate minimum disturbance buffers or other adaptive mitigation techniques (e.g., biological monitoring of active nests during construction-related activities, staggered work schedules, altered work locations, sound walls, noise abatement, etc.) to ensure that direct and indirect impacts to all protected nesting birds are avoided until such nests are no longer active.
- For project activities during the nesting season adjacent to known occupied nesting habitat, the qualified biologist will passively monitor nesting bird activity at the nest(s). If the biologist determines that nesting birds are being disrupted by project noise and/or other project activities, then work will be suspended until more effective minimization measures (e.g., additional noise attenuation structures, delayed/ staggered/ repositioned or postponed work activities) are developed in coordination with the USFWS and CDFW, and become implemented, or until after the nest cycles are complete (e.g., the subject nest(s) fledge or fail).

MM BIO-2 Construction Sound Wall. Prior to the issuance of any grading permits, a construction sound wall shall be erected by the Project Applicant and remain in place during the construction phase to serve as a visual and sound barrier from the adjacent land uses along the project site's western boundary with Magnolia Marsh, across the Huntington Beach Channel. The sound wall is anticipated to be a 14-foot tall plywood wall, with boards fitted tightly together to eliminate gaps, and would reduce typical construction noise levels to 60 dBA

or no more than 3 dBA above ambient levels (whichever is greater) when measured from 100 feet away from the project boundary.

MM BIO-3 Bird Strike. Prior to the issuance of any building permits, the Community Development Director or designee shall verify that the Project incorporates bird safe elements in architectural design including but not limited to decals, UV treatment, window film, frittering (using ceramic dots, or frits), and tilted glass to minimize potential bird strikes.

MM BIO-4 Invasive Plant Species. Prior to the issuance of any grading and building permits, the Community Development Director or designee shall ensure that no accidental introduction of non-native, invasive plant material and/or seed stock to the project environment occurs during construction by requiring the following note on the grading and building plans: “all vehicles must arrive to the Project site clean and free of mud and debris.” Prior to approval of any landscape plans, the project landscape architect shall certify that no invasive species, according to the California Invasive Plant Council, are included in the Landscaping Plans (including the Plant Palette).

PDF BIO-1 Prior to the issuance of occupancy permit, the Applicant shall prepare a Domestic Animal Control Plan, subject to approval by the Community Development Director, that details methods to be used to prevent pets from entering the Coastal Conservation area (PA 1). These include, but are not limited to, appropriate fencing and barrier plantings. Upon approval, the Plan shall be included in the Covenants, Conditions, and Restriction (CC&Rs) and distributed to each homeowner and the Lodge operator.

(2) Potential Impact: Implementation of the proposed Project could have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service.

Finding 1: Mitigation Measure BIO-4 has been imposed to address and mitigate the Project and Alternative 1's potentially significant adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service. The City hereby makes Finding 1 and determines that this potential impact is mitigated to less than significant.

Facts in Support of Finding

The project site does not include sensitive natural communities or riparian areas, and therefore no such areas would be disturbed by project activities. (DEIR. pp. 4.3-22 to 4.3-32.) However, indirect impacts could result with the potential of

invasive plant species impacting Magnolia Marsh, which is situated adjacent to the west and southwest of the project site, across Huntington Beach Channel. (*Id.*) MM BIO-4 (invasive plant species) requires that all grading and building plans include a sign that all vehicles must arrive to the site clean of mud and debris, in addition to ensuring that no invasive species are included in the Landscaping Plans, which would prevent the introduction of invasive species into Magnolia Marsh. Therefore, potential indirect impacts on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service would be mitigated to less than significant level. (*Id.*)

Mitigation Measure

MM BIO-4 Invasive Plant Species. Prior to the issuance of any grading and building permits, the Community Development Director or designee shall ensure that no accidental introduction of non-native, invasive plant material and/or seed stock to the project environment occurs during construction by requiring the following note on the grading and building plans: “all vehicles must arrive to the Project site clean and free of mud and debris.” Prior to approval of any landscape plans, the project landscape architect shall certify that no invasive species, according to the California Invasive Plant Council, are included in the Landscaping Plans (including the Plant Palette).

- (3) **Potential Impact:** Implementation of the proposed Project could interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.

Finding 1: Mitigation Measure BIO-1 has been imposed to ensure the Project and Alternative 1 avoids interfering with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impeding the use of native wildlife nursery sites. The City hereby makes Finding 1 and determines that these potential impacts are mitigated to less than significant.

Facts in Support of Finding

The project site is not located within an established wildlife movement corridor, and no suitable habitat for native or migratory fish species is present the project area. As such, the proposed Project or Alternative 1 would not interfere with the movement of any native resident or migratory fish or wildlife species nor would it impede the use of native wildlife nursery sites and would not have any direct impacts in this regard. The Project or Alternative 1 would not impede wildlife movement in the Huntington Beach Channel, or otherwise impact the same. (DEIR, 4.3-26.)

As discussed above, the proposed Project may impact active nests of migratory birds and/or raptors. In particular, nesting bird species could incur temporary, short-term indirect impacts from construction noise. . MM BIO-1 (pre-construction surveys) requires pre-construction surveys to minimize adverse effects to potentially occurring sensitive wildlife species, including migratory and/or nesting birds and raptors. (DEIR, pp. 4.3-26 to 4.3-27.) Therefore, the potential impact associated with interfering with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impeding the use of native wildlife nursery sites would be mitigated to a less than significant level. (*Id.*, at 4.3-27.)

Mitigation Measures

MM BIO-1, set forth above, would apply.

- (4) **Potential Impact:** Implementation of the proposed Project could conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

Finding 1: Mitigation Measure BIO-5 has been imposed to ensure that the Project and Alternative 1 avoid conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. The City hereby makes Finding 1 and determines that these potential impacts are mitigated to less than significant.

Facts in Support of Finding

The proposed Project would involve removal of all 92 on-site trees to accommodate the development. Based on the Arborist Report, per the City of Huntington Beach Memorandum CI-74, removal of mature trees would require replacement at a minimum 2:1 ratio. The tree inventory conducted on site identified 50 trees as mature trees requiring replacement. However, MM BIO-5 (tree replacement) requires replacement of the existing 50 mature trees at a ratio of 2:1 resulting in 100, 36-inch box size replacement trees. Therefore, the potential impact associated with conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, would be mitigated to less than significant. (DEIR, pp. 4.3-28 to 4.3-30; Exhibit 4.3-1.)

Mitigation Measures

MM BIO-5 Tree Replacement. The Project Applicant shall provide a total of 100, 36-inch box size replacement trees (at a minimum 2:1 ratio) for the existing 50 mature trees (i.e., exceeding 10 inches in diameter measured approximately 4 feet above grade) that will be removed to accommodate the proposed development. The replacement trees shall be included in the project's landscaping plan that is required to

be submitted to the Community Development Department for review and approval prior to the issuance of building permits.

C. Cultural Resources

- (1) **Potential Impact:** Implementation of the proposed Project could cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.

Finding 1: Even though potential impacts to cultural resources are less than significant in light of the records search, the survey, the limited amounts of archaeological finds near the site, and expected depth of excavation, to further ensure no potential impacts would occur, mitigation measure is introduced to further ensure no potential impacts associated with change in the significance of an archaeological resource, pursuant to Section 15064.5 would occur. The City hereby makes Finding 1 and determines that this potential impact is less than significant.

Facts in Support of Finding

Based on the records search, the survey, the limited amounts of archaeological finds near the site, and expected depth of excavation, the potential impacts to cultural resources would be less than significant. (DEIR, pp. 4.4-12 to 4.4-13.) However, to further ensure no potential impacts would occur, implementation of MM CULT-1 (requiring a qualified archeologist to monitoring grading activities) is recommended should project activities occur within native sediment because there is always the possibility that undiscovered intact archaeological deposits may be present below the surface in native sediments and may be subject to direct impact that could be mitigated Therefore, with implementation of MM CULT-1, impacts associated with significance of an archaeological resources pursuant to Section 15064.5 would be less than significant.

Mitigation Measures

MM CULT-1 Prior to the issuance of the first grading permit, the Project Applicant shall provide written evidence to the City, that Applicant has retained a County-certified archaeologist who has previous experience working in the Los Angeles basin within the ancestral tribal territory of the Kizh Gabrieleno, to observe grading activities and salvage and catalogue archaeological resources, as necessary. The archaeologist shall be present at the pre-grade conference, shall establish procedures for archaeological resource surveillance until the initial 5 feet of excavations have been completed, and, in cooperation with the Project Applicant, procedures for temporarily halting or redirecting work to permit the sampling, identification, and evaluation of the artifacts as appropriate. If the archaeological resources are found and determined to be significant, the

archaeological observer shall determine appropriate actions, in cooperation with the Project Applicant, for exploration and/or salvage. The following procedures shall be implemented to insure impacts are less than significant:

- The current anticipation of vertical ground disturbance is approximately 5 feet below surface. Fill is expected to extend up to 2.5 feet below surface, but this could fluctuate throughout the project site. Excavations below 2.5 feet in depth are likely to reach below the fill soils where intact cultural resources are typically located, especially in coastal settings such as the project site. When ground disturbing activities occur within previously undisturbed native sediment a qualified County-certified Archaeologist shall perform archaeological monitoring. The Archaeologist, in coordination with the City of Huntington Beach, may re-evaluate the necessity for monitoring after the initial 5 feet of excavations have been completed.
- In the event that resources are discovered during ground-disturbing activities, all work shall be halted within 50 feet of the find until it can be evaluated by a qualified archaeologist. Construction activities could continue in other areas. If the discovery proves to be significant, additional work, such as data recovery excavation, may be warranted and shall be discussed in consultation with the appropriate regulatory agency(ies).
- Any potentially significant artifacts, sites or features observed shall be collected and recorded in conjunction with best management practices and professional standards. Any cultural items recovered during mitigation should be deposited in an accredited and permanent scientific institution for the benefit of current and future generations.
- A report documenting the results of the monitoring efforts, including any data recovery activities and the significance of any cultural resources shall be prepared and submitted to the Community Development Department.

(2) Potential Impact: The Project would directly or indirectly destroy a unique paleontological resource or site.

Finding 1. Although there is a low potential to directly or indirectly impact a unique paleontological resource or site, and even though no significant impacts have been identified, Mitigation Measure CULT-2 has been imposed to ensure that the Project and Alternative 1 do not directly or indirectly destroy a unique

paleontological resource or site. The City hereby makes Finding 1 and determines that this impact is less than significant.

Facts in Support of Finding

On August 8, 2017, a pedestrian survey of the project site was conducted by a cross-trained paleontologist. The pedestrian survey of the project site revealed no unique paleontological resources or fossil localities. Although no significant impact have been identified, MM CULT-2 requires a paleontologist monitor to be present during ground-disturbing activities impacting native soils at a depth greater than 5 feet below surface. If fossil remains are discovered, the paleontologist would have the authority to redirect construction activities to avoid impacts to paleontological resources; collect and record resources; deposit them in an accredited institution; and prepare a report. Therefore, impacts associated with destroying a unique paleontological resource directly or indirectly would be less than significant. (DEIR, p. 4.4-14.)

Mitigation Measures

MM CULT-1, above, would apply.

MM CULT-2 Prior to the issuance of the first grading permit, the Project Applicant shall provide written evidence to the City, that Applicant has retained a County-certified paleontologist, to observe grading activities and salvage and catalogue paleontological resources, as necessary. If paleontological resources are discovered during ground-disturbing activities impacting the native soils, the following shall occur:

- A Qualified Orange County Paleontologist shall perform paleontological monitoring of any ground disturbing activities impacting native soils at a depth greater than 5-feet below surface. The monitor shall have the ability to redirect construction activities to ensure avoidance of significant impacts to paleontological resources. The Project Paleontologist, in coordination with the City of Huntington Beach, may also re-evaluate the necessity for monitoring after the initial 5 feet of excavations have been completed.
- Any potentially significant fossils observed shall be collected and recorded in conjunction with best management practices and Society of Vertebrate Paleontology professional standards.
- Any fossils recovered during mitigation shall be deposited in an accredited and permanent scientific institution for the benefit of current and future generations.

- A report documenting the results of the monitoring, including any salvage activities and the significance of any fossils shall be prepared and submitted to the Community Development Department.

B. Geology and Soils

(1) Potential Impact: The project would expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

- Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault.
- Strong seismic ground shaking
- Seismic-related ground failure, including liquefaction

Finding 1. Mitigation Measure GEO-1 has been imposed to address and mitigate potential impacts relating to exposing people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault; strong ground shaking; and seismic-related ground failure. The City hereby makes Finding 1 and determines that this impact is mitigated to less than significant.

Facts in Support of Finding

The Project site is in a seismically active area that would likely experience strong ground shaking during the life of any project developed thereon. Additionally, the site is located within a high to very high liquefaction potential zone. However, conformance with existing regulations, latest adopted edition of the California Building Code, and MM GEO-1 requiring the preparation of a geotechnical report with specific elements, in addition to specific recommendations for the Project pertaining to ground improvements at the southwestern pad, would reduce potentially significant impacts associated with seismic shaking and seismic ground failure in the form of liquefaction, seismically induced settlement, and lateral spreading. (DEIR, pp. 4.5-8 to 4.5-11.) Therefore, impacts associated with exposure of people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault; strong ground shaking; and seismic-related ground failure would be mitigated to less than significant. (*Id.*, p. 4.5-11.)

Mitigation Measures

MM GEO-1 Prior to issuance of a grading and building permit, a geotechnical report evaluating the existing geotechnical conditions as they pertain to the final design shall be submitted to and approved by the City's Public Works Department and Building Division. The report shall specify mitigation measures for potential liquefaction, slope

displacement, lateral spread, and static settlement, and provide recommendations for foundation designs based on the results of the previous geotechnical investigations, updated field investigation, laboratory data, and any further geotechnical engineering analysis as deemed necessary by the geotechnical engineer of record.

- (2) **Potential Impact:** The Project would be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.

Finding 1. Mitigation Measure MM-GEO has been imposed to address and mitigate potentially significant impacts associated with unstable soil resulting in on- or off-site landslides, lateral spreading, subsidence, liquefaction, or collapse. The City hereby makes Finding 1 and determines that this impact is mitigated to less than significant.

Facts in Support of Finding

Collapse, also referred to as settlement, occurs when loose to moderately dense, unsaturated granular soils, separate due to liquefaction. According to the State of California's Seismic Hazard Zone Map for Anaheim and Newport Beach 7.5-Minute Quadrangle, and the Natural and Environmental Hazards Element of the updated General Plan "Seismic Hazard Zones (Liquefaction and Landslide)" Map c (City of Huntington Beach 2017), the project site is located within a high to very high liquefaction potential zone. As previously discussed, the site-specific liquefaction analysis performed for the site indicated a potential settlement of up to 2 inches. However, as discussed above under Threshold 4.5-1, the Geotechnical Study indicates that the project site is suitable for development of the proposed Project or Alternative 1, provided that it incorporates all engineering recommendations from Section Geotechnical Study (see MM GEO-1).

Subsidence is defined within the Natural and Environmental Hazards Element of the updated General Plan as a drop in the ground surface (City of Huntington Beach 2017). The amount of observed subsidence (in inches) decreases outward from the location of the Huntington Beach Oil Field, which experiences the highest amount of subsidence in the city (LGC 2018). The project site is located in a zone of subsidence designated as 0 to -0.1 inch, or as the lowest possible hazard level designated within the City limits (DEIR, Exhibit 4.5-4, Subsidence. Therefore, the potential for subsidence is not considered to be a hazard at the site under any of the development alternatives. (LGC 2018). (DEIR, pp. 4.5-13 to -14.)

The project site contains severe corrosivity to ferrous metals. Conformance with the latest adopted edition of the California Building Code (CBC 2016) and implementation of MM GEO-1 requiring a geotechnical study would reduce potentially significant impacts associated with unstable soils/site conditions and any impacts associated with, collapse/subsidence, or corrosion would reduce the

impact. Similarly, any impacts related to liquefaction, seismically induced settlement, and lateral spreading would be reduced to a less than significant level with conformance with the latest adopted edition of the California Building Code (CBC 2016) and implementation of MM GEO-1 for the proposed Project. Therefore, all impacts associated with located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse would be mitigated to less than significant level. (DEIR, p. 4.5-14.)

Mitigation Measures

MM GEO-1, above, would apply.

- (3) **Potential Impact:** The Project would be located on expansive soils, as defined in Table 18-1-B of the California Building Code (1994), creating substantial risks to life or property.

Finding 1. Mitigation Measure GEO-1 has been imposed address and mitigate impacts related to on expansive soil, as defined in Table 18-1-B of the California Building Code (1994). The City hereby makes Finding 1 and determines that this impact is mitigated to less than significant.

Facts in Support of Finding

Based on the Geotechnical Study, the project site soil has medium expansion potential. Implementation of MM GEO-1 requires that a more detailed evaluation of near-surface soils would be conducted, and appropriate design measures imposed. Impacts associated with expansive soils would be less than significant with implementation of MM GEO-1 for the proposed Project. Therefore, the Project's impacts associated with unstable soils resulting to substantial risks to life or property would be mitigated to less than significant. (DEIR, p. 4.5-15.)

Mitigation Measures

MM GEO-1, above, would apply.

C. Hazards and Hazardous Materials

- (1) **Potential Impact:** The Project would create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Finding 1. Mitigation Measures HAZ-1 and HAZ-2 have been imposed to address and mitigate potentially significant impacts related to hazards to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. The City hereby makes Finding 1 and determines that this impact is mitigated to less than significant.

Facts in Support of Finding

Construction and grading activities at the site have the potential to result in the use and transport of hazardous materials. These materials would include fuel, oils and other chemicals and liquids used during construction or grading activities as well as the disturbance of potentially contaminated soils on site. Contaminated soil will be remediated (as needed) to the satisfaction of Department of Toxic Substances Control (DTSC) prior to site development work. Despite regulatory closure status, it is possible that construction workers may encounter residual impacted soil during grading and other earthwork activities. The Soil Management Plan required by MM HAZ-1 includes regulatory requirements and additional guidance concerning the proper handling, segregation, stockpiling, dust control, testing, transport and disposal of soils that are potentially impacted by hazardous materials and/or petroleum hydrocarbons. (DEIR, pp. 4.7-11 to 4.7-12.)

Implementation of MM HAZ-2 (DTSC No Further Action approval) would ensure that any known contaminated soils would be remediated, removed or otherwise addressed to DTSC standards prior to issuance of grading permits. Therefore, the potential for creating a hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment would be mitigated to a less than significant level. (DEIR, p. 4.7-12 to 4.7-13.)

Impacts during Project operation would be less than significant because the proposed Project contemplates a mixed-residential and visitor serving commercial use while Alternative 1 does not include visitor-serving commercial. These land uses typically only use routine hazardous materials (e.g. cleaners, fertilizers, paints, pesticides) in household quantities for maintenance, cleaning, and landscaping activities. The amount of hazardous materials that are handled at any one time is relatively small, reducing the potential consequences of an accident during handling that would result in impact to the environment. Storage and use of these materials would comply with all applicable federal, state, and local laws and regulations related to the use, handling, transport and storage of hazardous materials on site.

Mitigation Measures

MM HAZ-1 Prior to issuance of any grading permit, a site-specific Soil Management Plan shall be developed to be implemented during grading and shall include measures for monitoring soil conditions for evidence of impacts and contingency measures in the event that impacted soils are encountered during grading as evidenced by visual staining, olfactory perception, or field testing. The Soil Management Plan shall include contingency procedures for, identification of potential contaminants through use of field screening equipment; sampling and laboratory analyses, if necessary; soil segregation; temporary soil stockpiling specifications; on-site or off-site treatment

and disposal options for soil in accordance with applicable law; and a health and safety plan for workers involved in the earthwork phase of the project. The Soil Management Plan shall be submitted to the City of Huntington Beach Fire Department for review and approval.

MM HAZ-2 Prior to issuance of grading permits, the Project Applicant shall have implemented all required site assessment and remedial actions to address residual contamination in soil, soil gas, and groundwater as prescribed by the California Department of Toxic Substances Control (DTSC) and under DTSC oversight. Risk-based target concentrations (RBTCs) approved by DTSC will serve as the screening level (i.e. cleanup threshold) for each constituent of concern. All soil exceeding the screening level shall be removed from the site and transported to a facility licensed to accept the waste. The RBTCs shall be calculated based on exposure assumptions and toxicity criteria published by DTSC as sufficiently conservative for residential land use. The Project Applicant shall obtain a “No Further Action” letter or other written concurrence from DTSC indicating the successful completion of remediation activities and submit this written documentation to the City of Huntington Beach Fire Department for approval. Prior to issuance of grading permits, the Project Applicant shall demonstrate compliance with Fire Department Specification #429 (Methane) and #431-92 (Soil Quality).

- (2) **Potential Impact:** The Project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

Finding 1. Mitigation Measures HAZ-1 and HAZ-2 have been imposed to address and mitigate all impacts related to hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. The City hereby makes Finding 1 and determines that this impact is mitigated to less than significant.

Facts in Support of Finding

Existing schools within ¼ mile of the project Site include John H. Eader Elementary School, located at 9291 Banning Avenue, and Edison High School, located at 21400 Magnolia Street; both located in Huntington Beach. Implementation of MM HAZ-1 requires the preparation of a Soil Management Plan that contains procedures for responding to previously unknown contaminated soils that are encountered during grading. The Soil Management Plan describes how such soils would be handled in accordance with specific procedures approved in advance by the lead oversight agency, as well as citing other applicable regulatory requirements. In addition, MM HAZ-2 requires remedial actions to address residual contamination and removal of contaminated soil exceeding the screening level and hauling it to a facility licensed to accept the waste. Additionally, it requires the

Project Applicant to obtain a No Further Action letter or equivalent closure documentation from DTSC prior to approval by Huntington Beach Fire Department (and compliance with Fire Department specifications) and issuance of grading permits. This would ensure that DTSC, as the lead regulatory oversight agency, has indicated that all onsite conditions have been addressed to DTSC-approved standards, which are deemed to be protective of human and public health. Therefore, the potential for emitting hazardous emissions or handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school would be mitigated to a less than significant level. (DEIR, pp. 4.7-13 to 4.7-14.)

Mitigation Measures

MM HAZ-1 and MM HAZ-2, above, would apply.

- (3) **Potential Impact:** The Project located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and would create a significant hazard to the public or the environment.

Finding 1. Mitigation Measures HAZ-1 through HAZ-4 have been imposed to address and mitigate all impacts related to the location of the Project on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and any resulting significant hazard to the public or the environment. The City hereby makes Finding 1 and determines that this impact is mitigated to less than significant.

Facts in Support of Finding

The project site's past land use activities associated with a fuel storage facility and adjacency to ASCON Landfill have resulted in the release of hazardous substances to project site soils, soil gas and groundwater. These impacts would be potentially significant. Implementation of MM HAZ-1 through MM HAZ-4 are identified to mitigate potential impacts at the project site. MM HAZ-1 requires that, prior to issuance of grading permits for the proposed Project, the Project Applicant would prepare and receive HBFD approval of a Soil Management Plan (SMP) that contains procedures for dealing with the potential encounter of unknown, impacted soils during grading. MM HAZ-2 requires Applicant to obtain a No Further Action or similar written concurrence from the DTSC prior to issuance of grading permits by the HBFD. MM HAZ-3 prescribes that the Project Applicant will record a DTSC Land Use Covenant (LUC) that prohibits the use of groundwater beneath the project site for potable use. MM HAZ-4 required the Project Applicant to, prior to issuance of grading permits, submit the site development plans to DOGGR for Construction Site Plan review and follow DOGGR recommendations to bring the three abandoned oil wells located on the project site into compliance with current regulatory requirements for well abandonment, setbacks, leakage and venting, as may be required. Therefore, all potential impacts pertaining to location on a site which is included on a list of hazardous materials sites compiled pursuant to

Government Code Section 65962.5 and, as a result, creating a significant hazard to the public or the environment, would be mitigated to less than significant level. (DEIR, pp. 4.7-14 to 4.7-15.)

Mitigation Measures

MM HAZ-1 and HAZ-2, above, would apply.

MM HAZ-3 Prior to issuance of grading permits, the Project Applicant shall record a DTSC Land Use Covenant (LUC) that prohibits the use of groundwater at the project site as a potable water source. Proof of the LUC agreement from the DTSC shall be provided to the Huntington Beach Fire Department for approval.

MM HAZ-4 Prior to issuance of grading permits, the Project Applicant shall submit site development plans to the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR) for Construction Site Plan review. The Project Applicant shall implement any actions recommended by DOGGR, including but not limited to, well abandonment to current standards, venting, leak testing and setbacks. Documentation of compliance shall be provided to the Huntington Beach Fire Department for approval.

D. Noise

- (1) **Potential Impact:** The Project would expose persons to or generation of noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.

Finding 1. Mitigation Measures NOI-1 and NOI-4 have been imposed to address and mitigate impacts associated with exposing persons to or generation of noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies. The City hereby makes Finding 1 and determines that this potential impact is mitigated to less than significant.

Facts in Support of Finding

Short Term Impacts

The noise-generating construction activities for the proposed Project would be limited to the hours specified in MM NOI-1, which would provide for consistency with the hours governing construction activities in the City's noise ordinance. Even though construction noise is exempt from the City's noise ordinance within these hours, the potential noise generated was still studied, and implementation of MM NOI-4 is also required, which would require demonstration of consistency with interior and exterior noise standards as provided for in the City's Municipal Code. (DEIR, pp. 4.10-18 to 4.10-19.)

Long Term Impacts

As set forth in the EIR, noise levels from project-generated traffic, stationary onsite sources, exterior noise and interior noise would all be less than significant. (DEIR, pp. 4.10-19 to 4.10-25.)

Therefore, the potential impacts associated with exposure of persons to or generation of noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies, during both Project construction and operation, would be mitigated to a less than significant level.

Mitigation Measures

MM NOI-1 Construction Noise. Prior to issuance of a grading or building permit, the Community Development Department of the City of Huntington Beach (City) shall verify that all construction plans include notes stipulating the following:

- The construction contractor shall comply with the Municipal Code which specifies that construction activities are prohibited between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sundays and federal holidays.
- The construction contractor shall place noise- and vibration-generating construction equipment and locate construction staging areas away from sensitive uses whenever feasible.
- The construction contractor shall use on-site electrical sources to power equipment rather than diesel generators where feasible.
- All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule at least 14 days prior to commencement of construction. A sign legible at a distance of 50 feet shall also be posted at the construction site. All notices and the signs shall indicate the dates and durations of construction activities, as well as provide a telephone number for the “noise disturbance coordinator.”
- A “noise disturbance coordinator” shall be established. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise within a reasonable amount of time, and initial response shall be within 48 hours. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad

muffler) and shall be required to implement reasonable measures to reduce noise levels.

MM NOI-4 Final Acoustical Report. Prior to issuance of building permits, the Project Applicant/Developer shall submit a Final Acoustical Report, prepared by a qualified acoustical consultant, to the City of Huntington Beach. The Building Official, or designee, shall verify that the Final Acoustical Report demonstrates that all exterior private living areas comply with the City's exterior noise level standard and that all residences with exterior façades, including all bedrooms and living rooms, comply with the City's interior noise standard. Noise reduction techniques that may be incorporated into construction plans in order to reduce interior noise levels include, but are not limited to, incorporation of upgraded windows and doors, improved wall construction, or reduced window and door sizes should oversized windows and door be originally designed. Additionally, the Final Acoustical Report shall assess all potential off-site noise impacts associated with on-site operations to insure compliance with the City's Noise Ordinance criteria for off-site sensitive land uses.

F. Transportation/Traffic

- (1) **Potential Impact:** The Project would result in cumulative impacts at two intersections within the City of Huntington Beach (i.e., Brookhurst Street at Adams Avenue and Brookhurst Street at Hamilton Avenue) under the buildout plus Project traffic conditions.

Finding 1. Mitigation Measure MM TRAN-1 have been imposed to address the Project's contribution to the above cumulative impacts, along with the Regulatory Requirement TRAN RR-2, which further reduces these potential impacts. The proposed intersection improvements, for which the Project Applicant would be required to make a fair share payment to fund, would address and mitigate all the potentially significant impacts. The City hereby makes Finding 1 and determines that these cumulative impacts are reduced to less than significant with incorporation of mitigation measures.

Facts in Support of Finding

No significant traffic impacts would occur under the existing conditions plus Project or Alternative 1 scenarios; see, DEIR, p. 4.14-29 to -34. However, the proposed Project would result in cumulative impacts at two City controlled intersections (i.e., Brookhurst Street at Adams Avenue and Brookhurst Street at Hamilton Avenue) under the 2026 buildout plus Project traffic conditions. (DEIR, pp. 4.14-53 to -54.) The buildout scenario assumes full build out of the City's General Plan, regional growth, and development of 18 known cumulative projects in the City and neighboring cities. (DEIR, p. 4.14-39 to -42.)

Implementation of improvements³ at the two aforementioned impacted intersections would be required to offset the cumulative impacts of the proposed Project (and Alternative 1) traffic in the 2026 buildout scenario and ensure that all intersections would operate at acceptable LOS during the AM and PM peak hours. (DEIR, p. 4.14-57.) The improvement at the Brookhurst Street at Adams Avenue intersection is identified in the City of Huntington Beach Development Impact Fee Calculation and Nexus Report, which was incorporated into the Fair Share Traffic Impact Mitigation Fee Program (Chapter 17.65 of the City of Huntington Beach Municipal Code)⁴. Additionally, these improvements are consistent with those identified in the City of Huntington Beach General Plan Circulation Update. The requirement to participate in the Fair Share Traffic Impact Mitigation Fee Program is identified in the Regulatory Requirement (RR) TRAN-2 as part of the Mitigation Program. Based on coordination with the City of Huntington Beach, as required by MM TRAN-1, the improvement (upgraded traffic signal) for the Brookhurst Street at Hamilton Avenue intersection would also be accommodated under the Fair Share Traffic Impact Mitigation Fee Program, and the Project Applicant would be required to make a fair share payment in accordance therewith. Specifically, Project LC 020 (Miscellaneous Traffic Signal/Intersection Improvements) is included in the Program to fund minor improvements at various locations throughout the City.⁵ Therefore, by participating in the adopted Fair Share Traffic Impact Mitigation Fee Program, all project-related contributions to cumulative traffic impacts would be mitigated to a less than significant level. (DEIR, pp. 4.14-57 to -58, -78 to -79; see also, FEIR Sections 3.1.1, 3.1.3.)

Mitigation Measures and Regulatory Requirements

MM TRAN-1 Intersection No. 20 – Brookhurst Street at Hamilton Avenue. Prior to issuance of building permits, the Project Applicant shall enter into an agreement with the City of Huntington Beach to provide a fair share contribution toward the modification or upgrading of the traffic signal at the Brookhurst Street/Hamilton Avenue intersection.

³ Brookhurst Street at Adams Avenue: Widen and restripe the eastbound approach of Adams Avenue and convert the eastbound right-turn lane to a shared through/right-turn lane (i.e. fourth through lane). Widen and restripe the westbound approach of Adams Avenue to provide a fourth westbound through lane. Modify the existing traffic signal, as necessary.

Brookhurst Street at Hamilton Avenue: Modify the existing traffic signal to provide a westbound right-turn overlap phase during the PM peak period (i.e. 4:00 PM – 6:00 PM). Install signage to restrict southbound U-turns during the PM peak period (i.e., 4:00 PM – 6:00 PM).

⁴ The Fair Share Traffic Impact Mitigation Fee Program is a bona-fide impact fee program prepared in accordance with AB 1600 and the Mitigation Fee Act. The program works as follows: The City adopts and periodically amends a capital improvement budget, which identifies transportation infrastructure necessary to accommodate future growth in the City. As development projects are approved, such projects pay into the fund and City monitors traffic patterns, prioritize needs, and uses the fund to construct identified public improvements.

⁵ This line item in the *Fair Share Traffic Impact Mitigation Fee Program* is used to upgrade signal equipment and related infrastructure, modify existing traffic signals, and provide other related intersection improvements including, but not limited to, intersection restriping, bicycle and pedestrian enhancements, and other related improvements to improve intersection traffic flow and safety over a twenty-year development window.

RR TRAN-2 The Project Applicant shall pay the applicable Fair Share Traffic Impact Mitigation Fee consistent with the requirements of Chapter 17.65 of the City of Huntington Beach Municipal Code. Consistent with the ordinance, the final fee amount shall be calculated based on the land use category and the vehicle trip-miles for the use based upon the proposed size of the development at the time a building permit is issued.

G. Tribal Cultural Resources

- (1) **Potential Impact:** The Project would cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in PRC Section 5020.1(k).

Finding 1. Mitigation Measures TCR-1 through TCR-3, CULT-1 and Regulatory Requirement CULT-1 have been imposed to address and mitigate any potential impacts related to a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in PRC Section 5020.1(k). The City hereby makes Finding 1 and determines that this impact is mitigated to less than significant.

Facts in Support of Finding

The proposed Project has a low potential to cause a substantial adverse change in the significance of a tribal cultural resource pursuant to Section 15064.5. While no significant impact has been identified, to further ensure no potential impacts would occur, MM TCR-1 through MM TCR-3 and MM CULT-1 in Section 4.4, Cultural Resources have been imposed. RR CULT-1 in Section 4.4, Cultural Resources would also apply. Therefore, all of the Project's impacts associated with adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in PRC Section 5020.1(k), would be avoided and be less than significant. (DEIR, pp. 4.15-7 to 4.15-10.)

Mitigation Measures

MM TCR-1 Tribal Cultural Resources Observation and Recovery. Prior to commencement of any ground disturbance activities of previously undisturbed soil, or soil that has not been previously monitored, the project Applicant shall obtain the services of a qualified Native American Monitor during initial construction-related ground disturbance activities. Ground disturbance is defined by the Tribal Representatives from the Gabrieleño Band of Mission Indians-Kizh Nation as activities that include, but are not limited to, pavement removal, pot-holing or auguring, grubbing, weed abatement, boring, grading, excavation, and trenching, within the project area. The monitor(s) must be approved by the Tribal Representatives and will be present on-site during the construction phases that involve any ground disturbing activities of soils that have not been previously subject to monitoring. The Native American Monitor(s) will complete monitoring logs on a daily basis. The logs will provide descriptions of the daily activities, including construction activities, locations, soil, and any cultural materials identified. The monitor(s) shall possess Hazardous Waste Operations and Emergency Response (HAZWOPER) certification. In addition, the monitor(s) will be required to provide insurance certificates, including liability insurance, for any archaeological resource(s) encountered during grading and excavation activities pertinent to the provisions outlined in the California Environmental Quality Act, California Public Resources Code Division 13, Section 21083.2 (a) through (k). The onsite monitoring shall end when the project site grading and excavation activities are completed, or when the Tribal Representatives and monitor have indicated that the site has a low potential for archeological resources. **Hazwoper is needed only if the site has hazardous concerns.

MM TCR-2 All archaeological resources unearthed by project construction activities shall be evaluated by the qualified archaeologist and native monitor. If evidence of an archaeological site or other suspected historical resource are discovered during any project-related earth-disturbing activities, all earth-disturbing activity within 50 feet of the find shall be halted. If the resources are Native American in origin, the Tribe shall coordinate with the landowner regarding treatment and curation of these resources. Typically, the Tribe will request reburial or preservation for educational purposes. If a resource is determined by the Qualified Archaeologist to constitute a "historical resource" pursuant to CEQA Guidelines Section 15064.5(a) or has a "unique archaeological resource" pursuant to Public Resources Code Section 21083.2(g), the Qualified Archaeologist shall coordinate with the Applicant and the City to develop a formal treatment plan that would serve to reduce impacts to the resources.

The treatment plan established for the resources shall be in accordance with CEQA Guidelines Section 15064.5(f) for historical resources and Public Resources Code Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If preservation in place is not feasible, treatment may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. Any historic archaeological material that is not Native American in origin shall be curated at a public, non-profit institution with a research interest in the materials, such as the Natural History Museum of Los Angeles County or the Fowler Museum, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be donated to a local school or historical society in the area for educational purposes.

MM TCR-3 Unanticipated discovery of human remains and associated funerary objects: Prior to the start of initial ground disturbing activities, the land owner shall arrange a designated site location within the footprint of the project site for the respectful reburial of the human remains and/or funerary objects discovered on site.

Funerary objects are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later; other items made exclusively for burial purposes or to contain human remains can also be considered as associated funerary objects. If funerary objects are discovered during grading or archeological excavations, they shall be treated in the same manner as bone fragments that remain intact and the construction contractor and/or qualified archeologist shall consult with the Gabrieleno Band of Mission Indians – Kizh Nation (Tribe). All feasible care shall be taken to avoid any unnecessary disturbance, physical modification, or separation of human remains and associated funerary objects.

As specified by California Health and Safety Code Section 7050.5, if human remains are found on the project site during construction or during archaeological work, the County Coroner's office shall be immediately notified and no further excavation or disturbance of the discovery within a minimum of 50 feet or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code 5097.98. If the Coroner recognizes the remains to be Native American, he or she shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC would make a determination as to the Most Likely Descendent. The discovery is to be kept confidential and secure to

prevent any further disturbance. If Native American, the coroner will notify the NAHC as mandated by state law who will then appoint a Most Likely Descendent. In the case where discovered human remains cannot be fully documented and recovered on the same day, the remains will be covered with muslin cloth and a steel plate that can be moved by heavy equipment placed over the excavation opening to protect the remains. If this type of steel plate is not available, a 24-hour guard should be posted outside of working hours. The Tribe will make every effort to recommend diverting the project and keeping the remains in situ and protected. If the project cannot be diverted, it may be determined that burials will be removed. The Tribe will work closely with the Qualified Archaeologist to ensure that the excavation is treated carefully, ethically and respectfully. If data recovery is approved by the Tribe, documentation shall be taken which includes at a minimum detailed descriptive notes and sketches. Additional types of documentation shall be approved by the Tribe for data recovery purposes. Cremations will either be removed in bulk or by means as necessary to ensure completely recovery of all material. If the discovery of human remains includes four or more burials, the location is considered a cemetery and a separate treatment plan shall be created. The Project Applicant/Developer shall consult with the Tribe regarding avoidance of all cemetery sites. Once complete, a final report of all activities is to be submitted to the NAHC. The Tribe does not authorize any scientific study or the utilization of any invasive diagnostics on human remains.

Each occurrence of human remains and associated funerary objects will be stored using opaque cloth bags. All human remains, funerary objects, sacred objects and objects of cultural patrimony will be removed to a secure container on site if possible. These items shall be retained and reburied within six months of recovery. The site of reburial/repatriation shall be on the project site but at a location mitigated between the Tribe and the landowner at a site to be protected in perpetuity. There shall be no publicity regarding any cultural materials recovered.

MM CULT-1 and RR CULT-1, under Cultural Resources, would apply.

6. SIGNIFICANT EFFECTS THAT CANNOT BE FEASIBLY MITIGATED TO BELOW SIGNIFICANCE

The following section sets forth the significant unavoidable effects of the proposed Project. For these significant unavoidable impacts, the City has determined that (1) even with compliance with existing laws, codes, and statutes and/or the identification or imposition of feasible mitigation measures, potentially significant impacts cannot be reduced to a level of less than significant or (2) no feasible mitigation measures or alternatives are available to mitigate the potentially significant impact. Therefore, for each significant unavoidable effect of the proposed Project, the City, in accordance with Section 21081 of CEQA and Section 15091 of the State CEQA Guidelines, makes one or more of the following findings:

Finding 2 Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

Finding 3 Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

A. Greenhouse Gas Emissions

(1) Potential Impact: The Project would generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.

Finding 3: Mitigation Measures MM GHG-1 through MM GHG-5 and Regulatory Requirements RR GHG-1, RR GHG2, and RR GHG-4 through RR GHG-7 have been imposed to reduce Project-operational greenhouse gas (GHG) emissions to the maximum extent feasible. However, even with mitigation, the impact would remain significant and unavoidable, and no additional mitigation measures that would further reduce project impacts are available. The City hereby makes Finding 3 that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible any additional mitigation measures or the alternatives identified in the environmental impact report, as no additional feasible mitigation measures are available. Therefore, the City determines that this impact, even with all feasible mitigation measures imposed, would be significant and unavoidable.

Facts in Support of Finding

Construction activities would result in the temporary generation of GHGs through worker vehicles and off-road and on-road construction equipment. The total estimated annual GHG emissions for the proposed Project would be 5,588 MTCO₂e/year at buildout, which is the sum of the construction emissions amortized over 30 years (the project lifetime) and the yearly operational emissions,

and therefore, the significance construction and operational emissions are analyzed together (DEIR, pp. 4.6-20 through 4.6-22.) Accordingly, the proposed Project's estimated GHG emissions at buildout (2026) would exceed the SCAQMD's draft interim significance threshold of 3,000 MTCO₂e for residential projects. (DEIR, p. 4.6-22.) Therefore, the impact would be potentially significant and mitigation measures to reduce GHG emissions would be required.

Mitigation measures (MM) GHG-1 through MM GHG-5 would be implemented for the proposed Project. Implementation of RR GHG-1, RR GHG-2, RR GHG-4 through RR GHG-7, and MM GHG-1 through MM GHG-5 would reduce emissions to 4.859 MTCO₂e/year, but not below the SCAQMD's interim threshold. (DEIR, pp.4.6-23 to -24.) In addition, the proposed Project would be required to comply with the applicable Title 24 Energy Efficiency Standards for Residential and Nonresidential Buildings (see RR GHG-1) and the applicable California Green Building Standards (CALGreen) Code (see RR GHG-2 and RR GHG-4 through RR GHG-7). However, even with the implementation of all these feasible mitigation measures and other reduction strategies, the GHG emissions for the proposed Project would remain significant and unavoidable, and no other feasible mitigation measures that would reduce impacts to a less than significant level are available.

Unlike the Project, unmitigated combined amortized construction and operational GHG emissions for Alternative 1 would be 2,852 MTCO₂e/year, below the applicable threshold of significance of 3,000. (DEIR, p. 4.6-24 to -25.) Accordingly, the impact of alternative 1's GHG emissions would be less than significant and no mitigation is required, although MM GHG-2 would still be applicable and imposed on Alternative 1. (*Id.*, p. 4.6-26.)

Mitigation Measures, Regulatory Requirements, and Project Design Features

- MM GHG-1** The proposed hotel shall install solar photovoltaic panels on available roof space. It is anticipated that 50 percent of the roof space would be used for equipment, stairwells, elevator banks, skylights, etc. The remaining 50 percent of the roof space (approximately 30,000 square feet) would be used for the installation of solar photovoltaic panels.
- MM GHG-2** The proposed Project shall use electric powered landscaping equipment (i.e., mowers, blowers, chainsaws in Planning Area 4 (Commercial Visitor or CV area) and common areas maintained by the Home Owners Association in Planning Area 3 (Residential or RM area). The proposed Project shall use electric or alternatively fueled sweepers with HEPA filters, if available.
- MM GHG-3** Any future hotel in Planning Area 4 (Commercial Visitor or CV area) shall utilize a hotel energy management system to minimize unnecessary energy use.

- MM GHG-4** Swimming pools shall be heated with a solar swimming pool heater.
- MM GHG-5** Employers in Planning Area 4 (Commercial Visitor or CV area) shall establish a mechanism to encourage and coordinate ride sharing, vanpooling/carpooling or other transit opportunities and shall offer transit incentives to employees. This measure may be satisfied through the creation of a public message board or other reasonable alternative means of communication.
- RR GHG-1** The Project shall be designed in accordance with the applicable Title 24 Energy Efficiency Standards for Residential and Nonresidential Buildings (*California Code of Regulations* [CCR], Title 24, Part 6). These standards are updated, nominally every three years, to incorporate improved energy efficiency technologies and methods. The Building Manager, or designee shall ensure compliance prior to the issuance of each building permit. The 2019 Title 24 Energy Efficiency standards for residential uses require that solar photovoltaic electricity be installed equal to the amount used annually.
- RR GHG-2** Projects shall be designed in accordance with the applicable California Green Building Standards (CALGreen) Code (24 CCR 11). The Building Manager, or designee shall ensure compliance prior to the issuance of each building permit. These requirements include but are not limited to:
- Install electric vehicle and plug-in hybrid vehicle charging stations to reduce emissions from vehicle trips, as detailed under Section A4.106.8 for residential uses and 5.106.5.3 for nonresidential uses within the 2016 California Green Building Standards Code. This Section facilitates future installation and use of electric vehicle chargers.
 - Provide designated parking for any combination of low-emitting, fuel-efficient and carpool/vanpool vehicles under Section 5.106.5.2.
 - During the construction phase, all construction will comply with the CalGreen Code through recycling and reuse of at least 65 percent of the nonhazardous construction debris from the site.
- RR GHG-3** For the proposed Project, the hotel shall develop a solid waste recycling program that is consistent with the goals established by Assembly Bill 323.
- RR GHG-4** The proposed Project shall install water efficient interior (i.e., showers, faucets, toilets) and exterior fixtures (i.e., decorative

amenities) per Section 4.303 and 4.304 of the CALGreen Code for residential uses.

RR GHG-5 The proposed Project shall install water efficient interior (i.e., showers, faucets, toilets) and exterior fixtures (i.e., decorative amenities) per Section 5.303 and 5.304 of the CALGreen Code for nonresidential uses.

RR GHG-6 The proposed Project shall install electric vehicle charging for new construction per Section 4.106.4 and 5.106.5.3 of the CALGreen Code for residential and nonresidential uses, respectively.

RR GHG-7 The proposed Project shall include bicycle racks and pedestrian amenities to encourage non-automotive transportation for nonresidential uses.

Project Design Features

The proposed Project and Alternative 1 would incorporate elevated ground elevations for the interior of the project site as a climate change adaptation measure related to sea level rise. The need for these adaptation measures were evaluated in Section 4.8 Hydrology and Water Quality of the Draft Program EIR. To mitigate sea level rise impacts, the overall ground elevations of the interior of the site would be raised to over 10.5 feet (NAVD88) and building pads raised an additional one to two feet above the elevation of the roads within the interior of the site (see PDF HWQ-1).

Per the Specific Plan guidelines, the proposed Project would also reduce the heat absorption of onsite pavement, roofs and exterior walls through the application of heat reflecting surface color palette and selection of building/paving materials. Reduction in heat absorbent structures would reduce the amount of energy and GHG emissions required to reduce indoor temperatures. Additionally, the proposed Project would use minimal amounts of concrete and asphalt and install permeable pavement to allow for storm water infiltration, which would further help reduce the GHG emissions.

- (2) Potential Impact:** The Project would conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

Finding 3: Mitigation Measures, Project Design Features, and Regulatory Requirements have been imposed to help reduce Project-operational GHG emissions, but the Project would conflict with the plans and regulations adopted to achieve AB 32's goals because the quantitative assessment of the Project's GHG emissions would exceed SCAQMD's numerical bright line threshold of significance. The City hereby makes Finding 3 and determines that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained

workers, make infeasible any additional mitigation measures or the alternatives identified in the environmental impact report, as no such additional mitigation measures are available. Therefore, the City determines that this impact, even with all feasible mitigation measures imposed, would be significant and unavoidable.

Facts in Support of Finding

As set forth in detail in the DEIR, the proposed Project would advance the goals outlined in the vast majority of applicable plans, policies and regulations adopted for the purpose of reducing the emissions of greenhouse gases. (DEIR, pp. 4.6-26 through 4.6-32.)

However, the Project would exceed SCAQMD's brightline threshold, which has been established to capture projects that represent approximately 90 percent of GHG emissions from new sources to avoid EIR-level analysis only for relatively small impacts. This approach requires a focused evaluation on project-specific mitigation measures to reduce impacts to less than significant. Although, the proposed Project would be required to incorporate design provisions identified in the Specific Plan and mitigation measures have been recommended, these impacts remain significant and unavoidable. Therefore, the proposed Project would conflict with these plans and regulations adopted to achieve AB 32's goals. (DEIR, pp. 4.6-26 to -27.) Therefore, even with the implementation of all feasible mitigation measures, implementation of project design features, and compliance with regulatory requirements, this impact would remain significant and unavoidable.

Regulations adopted for the purpose of reducing GHG emissions applicable to the proposed Project include (1) California's Title 24, Part 6 Energy Efficiency Standards for Residential and Nonresidential Buildings and (2) California's Title 24, Part 11 California Green Building Standards Code (CALGreen Code). The focus of the 2019 Building Energy Efficiency Standards includes updating residential requirements to move closer to California's zero net energy goals. The proposed Project would advance the goals outlined in the applicable plans, policies, and regulations adopted for the purpose of reducing the emissions of greenhouse gases. The proposed Project is in close proximity to transit; it would provide a compact mixed-use residential community; the mixed-use nature of the proposed Project would facilitate internal trip capture; and the proposed Project includes mitigation measures that are projected to minimize GHG emissions.

Alternative 1 complies with SCAQMD's brightline threshold, and therefore would not conflict with plans, policies and regulations adopted for the purpose of reducing GHG emissions. Accordingly, impacts would be less than significant. (DEIR, pp. 4.6-32 to -33.)

Mitigation Measures and Regulatory Requirements

MM GHG-1 through MM GHG-5 and RR GHG-1 through RR GHG-7, and project design features, set forth above, would apply.

B. NOISE

- (1) **Potential Impact:** The Project would expose persons to or generation of excessive groundborne vibration or groundborne noise levels.

Finding 3: Mitigation Measures NOI-1 through NOI-5 have been imposed to reduce exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels to the maximum extent feasible, but the Project would still result in a significant impact as a result of pile driving activities in the CV Zone of the Project. The City hereby makes Finding 3 that, specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible any additional mitigation measures or the alternatives identified in the environmental impact report that would further reduce the significant effect, as no such additional mitigation measures are available. Therefore, the City determines that this impact, even with all feasible mitigation imposed, would be significant and unavoidable.

Facts in Support of Finding

With typical construction activities, the closest adjacent uses would not be exposed to excessive groundborne vibration or groundborne noise levels, utilizing the FTA vibration standards. (DEIR, pp. 4.10-25 to 4.10-27.) Long term ground born noise and vibration impacts are less than significant. (*Id.*, pp. 4.10-27 to 4.10-28.)

However, in the CV Zone, the proposed Project may require pile driving activities for the construction of lodge/guesthouse uses due to the deep foundation system required. The vibration levels at the closest off-site residence would be below the FTA threshold for potential damage to buildings; however, it would exceed the threshold of significance associated with potential annoyance to the surrounding uses, which is 72 VdB. (DEIR, p. 4.10-27.) Therefore, even after the imposition of MM NOI-1 through MM NOI-4 (including MM NOI-3, which ensures pile driving activities will not exceed 80 VdB), this remains significant and unavoidable impact and no additional feasible mitigation measures that would further reduce this impact are available for the proposed Project. (*Id.*, 4.10-27 to -29.) Alternative 1 would not result in significant short-term construction or long-term operational vibration impacts. (*Id.*)

Mitigation Measures

MM NOI-1 Construction Noise. Prior to issuance of a grading or building permit, the Community Development Department of the City of

Huntington Beach (City) shall verify that all construction plans include notes stipulating the following:

- The construction contractor shall comply with the Municipal Code which specifies that construction activities are prohibited between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sundays and federal holidays.
- The construction contractor shall place noise- and vibration-generating construction equipment and locate construction staging areas away from sensitive uses whenever feasible.
- The construction contractor shall use on-site electrical sources to power equipment rather than diesel generators where feasible.
- All residential units located within 500 feet of the construction site shall be sent a notice regarding the construction schedule at least 14 days prior to commencement of construction. A sign legible at a distance of 50 feet shall also be posted at the construction site. All notices and the signs shall indicate the dates and durations of construction activities, as well as provide a telephone number for the “noise disturbance coordinator.”
- A “noise disturbance coordinator” shall be established. The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler) and shall be required to implement reasonable measures to reduce noise levels.

MM NOI-2 Pile Driving Noise Analysis. Prior to issuance of building permits, if pile driving is to be used during construction, a study shall be conducted by the Project Applicant and approved by the Community Development Department to determine if noise levels exceed 80 dBA L_{eq} at the nearest noise sensitive receptors. If noise levels exceed 80 dBA L_{eq} should pile driving occur, additional requirements shall be incorporated such that noise levels are reduced to below 80 dBA L_{eq} , if possible. Potential noise reducing measures may include, but are not limited to, temporary perimeter walls, portable sound walls, pile driver enclosures, and alternative pile driving methods. Feasible noise reduction methods shall be implemented during construction, even if the City’s construction noise standard cannot be achieved.

MM NOI-3 Construction Vibration. The results of the construction vibration analysis indicate that vibration damage could occur at structures within 100 feet of pile driving activities and would exceed the threshold associated with potential annoyance to sensitive uses

within 300 feet. Therefore, a vibration control plan shall be developed by the Project Applicant and approved by the City Community Development Department prior to issuance of building permits for any structure requiring pile driving. As part of this plan, documentation on the feasibility of alternative methods of construction that would avoid or substantially reduce the impacts associated with pile driving shall be presented. The plan shall consider all potential vibration-inducing activities that would occur and require implementation of sufficient measures to prevent exposure of nearby sensitive receptors to vibration levels in excess of the Vibration Damage Criteria presented in Table 4.10-9. The plan shall identify minimum setback requirements for pile driving activities for the purpose of preventing damage to nearby structures and preventing negative human response. The setback requirements shall be established based on the proposed construction activities and locations and the maximum allowable vibration levels identified for the site. Factors to be considered include the specific nature of the vibration producing activity, local soil conditions, and the fragility/resiliency of the nearby structures. In addition, measures to reduce vibration levels to the maximum extent possible shall be identified to minimize the exposure of uses to vibration resulting in annoyance.

MM NOI-4 Final Acoustical Report. Prior to issuance of building permits, the Project Applicant/Developer shall submit a Final Acoustical Report, prepared by a qualified acoustical consultant, to the City of Huntington Beach. The Building Official, or designee, shall verify that the Final Acoustical Report demonstrates that all exterior private living areas comply with the City's exterior noise level standard and that all residences with exterior façades, including all bedrooms and living rooms, comply with the City's interior noise standard. Noise reduction techniques that may be incorporated into construction plans in order to reduce interior noise levels include, but are not limited to, incorporation of upgraded windows and doors, improved wall construction, or reduced window and door sizes should oversized windows and door be originally designed. Additionally, the Final Acoustical Report shall assess all potential off-site noise impacts associated with on-site operations to insure compliance with the City's Noise Ordinance criteria for off-site sensitive land uses.

- (2) **Potential Impact:** The Project would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the Project.

Finding 3: Mitigation Measures NOI-1 and NOI-2 has been imposed to reduce temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project. However, the temporary increase in ambient

noise during construction due to pile driving activities would remain significant. The City hereby makes Finding 3 that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible any additional mitigation measures or the alternatives identified in the environmental impact report, as no such additional mitigation measures are available. Therefore, the City determines that this impact, even with mitigation imposed, would be significant and unavoidable.

Facts in Support of Finding

There would be a temporary increase in ambient noise levels in the Project vicinity due to construction activities, which would all be less than significant except for noise generated by pile driving activities. The noise increase for the proposed Project would be potentially significant and unavoidable as it relates to pile-driving noise. As set forth above, implementation of MM NOI-1 and MM NOI-2 would serve to reduce the severity of the impacts; however, because of distance, source to receiver geometry, length of pile driving, and other site conditions that may render mitigation implementation infeasible or ineffective, MM NOI-1 and MM NOI-2 would not guarantee that construction noise impacts related to pile driving would be reduced to less than significant levels. (DEIR, pp. 4.10-30 to 4.10-33.) (*Id.*, p. 4.10-32.) Therefore, the proposed Project would result in a significant and unavoidable impact associated with a substantial temporary or periodic increase in ambient noise levels in the Project vicinity, and no additional mitigation measures are available. All noise impacts from Alternative 1 would be less than significant.

Mitigation Measures

MM NOI-1 and MM NOI-2, above, would apply.

B. Transportation/Traffic

- (1) **Potential Impact:** The Project would result in cumulative impacts at two Caltrans-controlled intersections (within the City of Newport Beach) under the Year 2026 plus Project traffic condition at Superior Avenue/Balboa Boulevard at Pacific Coast Highway and Newport Boulevard at Pacific Coast Highway. The Superior Avenue/Balboa Boulevard at Pacific Coast Highway intersection is impacted under both traffic conditions of Year 2026 plus Project and the buildout plus Project.

Finding 2. Mitigation Measure TRAN-2 has been imposed to address and lessen the Project's impact on the said Caltrans-controlled intersections (exceeding the allowable thresholds) within the City of Newport Beach. (DEIR, pp. 4.14-51 to 4.14-61.) The City hereby makes Finding 2 that those changes or alterations are within the responsibility and jurisdiction of another public agency (Caltrans and/or the City of Newport Beach) and have been, or can and should be, adopted by that other agency. However, because the City of Huntington Beach cannot control

implementation of the recommended improvements to these intersections, the impacts on the two intersections identified above remain significant and unavoidable, and no further mitigation measures that would further reduce the impacts are available.

Facts in Support of Finding

Although the identified improvements⁶ Superior Avenue/Balboa Boulevard at Pacific Coast Highway and Newport Boulevard at Pacific Coast Highway are feasible and the Project Applicant is required by MM TRAN-2 to enter into an agreement with the City of Newport Beach and/or Caltrans regarding payment to offset the Project's contribution of cumulative impacts at these intersections, these impacts were identified as significant and unavoidable because the City of Huntington Beach does not have the authority to implement mitigation measures in those jurisdictions. (DEIR, pp. 4.14-39 to 4.14-76; see also, FEIR Section 3.1.1.) Therefore, even with the fair share agreement, the proposed Project's impact at these locations would remain significant and unavoidable because the City of Huntington Beach is unable to require the implementation of the improvement.

Mitigation Measures

MM TRAN-2 Prior to issuance of building permits, the Project Applicant shall provide the City of Huntington Beach Public Works Department proof of an executed agreement with the City of Newport Beach and/or Caltrans regarding fair share payment to offset the project's contribution of cumulative impacts at the applicable location(s) (i.e., No. 28: Superior Avenue/Balboa Boulevard at Pacific Coast Highway and No. 29: Newport Boulevard at Pacific Coast Highway).

⁶ Superior Avenue-Balboa Boulevard/Pacific Coast Highway intersection: Widen and/or restripe the westbound approach of Pacific Coast Highway to provide a second westbound left-turn lane and modify the existing traffic signal as necessary.

Newport Boulevard at Pacific Coast Highway intersection: Restripe the second southbound left-turn lane on Newport Boulevard to a shared southbound left-turn/right-turn lane and modification of the existing traffic signal is recommended.

7. FINDINGS REGARDING ALTERNATIVES

A. Alternatives Selected for Analysis

The following two alternatives in addition to Alternative 1 (residential) evaluated throughout the Draft Program EIR at an equal level of consideration with the proposed Project, have been determined to represent a reasonable range of alternatives that could potentially attain most of the basic objectives of the Project and have the potential to avoid or substantially lessen one or more of the significant effects of the Project. These alternatives are analyzed in detail in the following sections.

- Alternative 1 – Residential Development
- Alternative 2 A - No Project/No Development Alternative
- Alternative 2B – No Project/Existing Designation-Senior Campus

An EIR must identify an “environmentally superior” alternative, and where the No Project Alternative is identified as environmentally superior, the EIR is required to identify as environmentally superior an alternative from among the others evaluated. Each alternative's environmental impacts are compared to the proposed Project and determined to be environmentally superior, neutral, or inferior. However, only significant impacts are used in making the final determination of whether an alternative is environmentally superior or inferior to the proposed Project. Subsection 5.4 in Section 5.0, Alternatives, of the Draft Program EIR identifies the environmentally superior alternative.

The proposed Project is analyzed in detail in Section 5.0 of the Draft Program EIR.

1. Alternatives Comparison

Table 1, Comparison of Alternatives Impacts to Proposed Project Impacts, below, provides a summary matrix that compares the impacts associated with the Project with the impacts of each of the proposed alternatives.

TABLE 1
COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
Aesthetics				
Threshold 4.1-1 Have a substantial adverse effect on a scenic vista.	No significant impact	Same as the proposed Project	Same as the proposed Project	Same as the proposed Project
Threshold 4.1-2 Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway.	No significant impact	Same as the proposed Project	Same as the proposed Project	Same as the proposed Project
Threshold 4.1-3 Substantially degrade the existing visual character or quality of the site and its surroundings.	Less than significant impact	Less than the proposed Project	Greater than the proposed Project	Greater than the proposed Project
Threshold 4.1-4 Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area.	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Greater than the proposed Project
Air Quality				
Threshold 4.2-1 Conflict with or obstruct implementation of the applicable air quality plan.	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.2-2 Violate any air quality standard or contribute substantially to an existing or projected air quality violation.	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project

TABLE 1
COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
Threshold 4.2-3 Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
Threshold 4.2-4 Expose sensitive receptors to substantial pollutant concentrations.	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
Biological Resources				
Threshold 4.3-1 Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Services.	Less than significant impact after mitigation	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.3-2 Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Services.	Less than significant impact after mitigation	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project

TABLE 1
COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
Threshold 4.3-3 Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.3-4 Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	Less than significant impact after mitigation	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.3-5 Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	Less than significant impact after mitigation	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Cultural and Scientific Resources				
Threshold 4.4-1 Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.	Less than significant impact after mitigation	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.4-2 Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	Less than significant impact after mitigation	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.4-3 Disturb any human remains, including those interred outside of formal cemeteries.	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project

TABLE 1
COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
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Geology and Soils				
Threshold 4.5-1 Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: (i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. (ii) Strong seismic ground shaking. (iii) Seismic-related ground failure, including liquefaction.	Less than significant impact after mitigation	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.5-2 Result in substantial soil erosion or the loss of topsoil.	Less than significant impact	Same as the proposed Project	Greater than the proposed Project	Same as the proposed Project
Threshold 4.5-3 Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.	Less than significant impact after mitigation	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.5-4 Be located on expansive soils, as defined in Table 18-1-B of the California Building Code (1994), creating substantial risks to life or property.	Less than significant impact after mitigation	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project

TABLE 1
COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
Greenhouse Gas Emissions				
Threshold 4.6-1 Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.	Potentially significant and unavoidable impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
Threshold 4.6-2 Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.	Potentially significant and unavoidable impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
Hazards and Hazardous Materials				
Threshold 4.7-1 Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	Less than significant impact after mitigation	Less than the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.7-2 Emit hazardous emissions or handle hazardous or acutely hazardous material, substances, or waste within one-quarter mile of an existing or proposed school.	Less than significant impact after mitigation	Less than the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.7-3 Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment.	Less than significant impact after mitigation	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project

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COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
Threshold 4.7-4 Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Hydrology and Water Quality				
Threshold 4.8-1 Violate any water quality standards or waste discharge requirements.	Less than significant impact after mitigation	Less than the proposed Project	Greater than the proposed Project	Same as the proposed Project
Threshold 4.8-6 Otherwise substantially degrade water quality.				
Threshold 4.8-2 Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted).	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.8-3 Substantially alter the existing drainage pattern of the site or area including the alteration of the course of a stream or river, in manner which would result in substantial erosion or siltation on or off-site.	Less than significant impact after mitigation	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.8-4 Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a				

TABLE 1
COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
manner which would result in flooding on- or offsite.				
Threshold 4.8-5 Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.	Less than significant impact	Same as the proposed Project	Greater than the proposed Project	Same as the proposed Project
Threshold 4.8-7 Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map. Threshold 4.8-8 Place within a 100-year flood hazard area structures which would impede or redirect flood flows.	No impact	Same as the proposed Project	Same as the proposed Project	Same as the proposed Project
Threshold 4.8-9 Cause inundation by seiche, tsunami, or mudflow.	Less than significant impact after mitigation	Same as the proposed Project	Same as the proposed Project	Same as the proposed Project
Threshold 4.8-10 Potentially impact storm water runoff from construction activities.	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.8-11 Potentially impact storm water runoff from post-construction activities.	Less than significant impact	Less than the proposed Project	Greater than the proposed Project	Same as the proposed Project
Threshold 4.8-12 Result in a potential for discharge of storm water pollutants from areas of material storage, vehicle	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Same as the proposed Project

TABLE 1
COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
or equipment fueling, vehicle or equipment maintenance (including washing), waste handling, hazardous materials handling or storage, delivery areas, loading docks or other outdoor work areas.				
Threshold 4.8-13 Result in the potential for discharge of storm water to affect the beneficial uses of the receiving waters.	Less than significant impact	Less than the proposed Project	Greater than the proposed Project	Same as the proposed Project
Threshold 4.8-14 Create or contribute significant increases in the flow velocity or volume of storm water runoff to cause environmental harm.	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.8-15 Create or contribute significant increases in erosion of the project site or surrounding areas.	Less than significant impact	Same as the proposed Project	Greater than the proposed Project	Same as the proposed Project
Land Use and Planning				
Threshold 4.9-1 Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Greater than the proposed Project

TABLE 1
COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
Noise				
Threshold 4.10-1 Result in exposure of persons to or generation of noise levels in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.	Less than significant impact after mitigation	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
Threshold 4.10-2 Result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.	Significant and unavoidable impact even after mitigation	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
Threshold 4.10-3 Result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
Threshold 4.10-4 Result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project.	Significant and unavoidable impact even after mitigation	Less than the proposed Project	Less than the proposed Project	Same as the proposed Project
Population and Housing				
Threshold 4.11-1 Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure).	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Greater than the proposed Project

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Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
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Public Services				
Threshold 4.12-1 Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
(i) Fire protection	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
(ii) Police protection	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
(iii) Schools	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
(iv) Other Public Facilities	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
Recreation				
Threshold 4.13-1 Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
Threshold 4.13-2 Include recreational facilities or require the construction or expansion of recreational facilities	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Same as the proposed Project

TABLE 1
COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
which might have an adverse physical effect on the environment.				
Threshold 4.13-3 Affect existing recreational opportunities.	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Less than the proposed Project
Transportation/Traffic				
Threshold 4.14-1 Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.	Significant and unavoidable impact	Less than the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.14-2 Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Less than the proposed Project
Threshold 4.14-3 Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.14-4 Result in inadequate emergency access.	Less than significant impact	Same as the proposed Project	Same as the proposed Project	Same as the proposed Project

TABLE 1
COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
Threshold 4.14-5 Result in inadequate parking capacity.	Less than significant impact	Same as the proposed Project	Same as the proposed Project	Same as the proposed Project
Threshold 4.14-5 Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
<i>Tribal Cultural Resources</i>				
Threshold 4.15-1 Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: i) Listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in PRC § 5020.1(k) or	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project

TABLE 1
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Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
Utilities and Service Systems				
Threshold 4.16-1 Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board.	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Greater than the proposed Project
Threshold 4.16-2 Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental impacts.	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Greater than the proposed Project
Threshold 4.16-3 Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.	Less than significant impact	Same as the proposed Project	Less than the proposed Project	Same as the proposed Project
Threshold 4.16-4 Have insufficient water supplies available to serve the Project from existing entitlements and resources, or if are new or expanded entitlements are needed.	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Greater than the proposed Project
Threshold 4.16-5 Result in a determination by the wastewater treatment provider, which serves or may serve the Project that it has inadequate capacity to serve the Project's projected demand in addition to the provider's existing commitments.	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Greater than the proposed Project

TABLE 1
COMPARISON OF ALTERNATIVES IMPACTS TO PROPOSED PROJECT IMPACTS

Impact Category	Proposed Project Mixed Use Development	Alternative 1 Residential Development	Alternative 2	
			Alternative 2A No Project/No Development	Alternative 2B No Project/Existing Designation-Senior Campus
Threshold 4.16-6 Be served by a landfill with insufficient permitted capacity to accommodate the Project's solid waste disposal needs?	Less than significant impact	Less than the proposed Project	Less than the proposed Project	Greater than the proposed Project
Threshold 4.16-7 Comply with federal, state, and local statutes and regulations related to solid waste.	Less than significant impact	Same as the proposed Project	Less than the proposed Project.	Same as the proposed Project
Threshold 4.16-8 Include a new or retrofitted storm water treatment control Best Management Practice (BMP), (e.g. water quality treatment basin, constructed treatment wetlands).	Less than significant impact	Same as the proposed Project	Less than the proposed Project.	Same as the proposed Project

a) Alternative 2A - No Project/No Development.

Description: Section 15126.6(e) of the State CEQA Guidelines requires that an EIR evaluate a “No Project” alternative to allow decision makers to compare the impacts of approving a proposed project with the impacts of not approving that project. Section 15126.6(e)(3) of the State CEQA Guidelines describes the two general types of no project alternative: (1) when the project is the revision of an existing land use, regulatory policy, or ongoing operation, the no project alternative would be the continuation of that plan and (2) when the project is other than a land use/regulatory plan (e.g., a specific development on an identifiable property), the no project alternative is the circumstance under which that project is not processed (i.e., no development).

The proposed Project involves both a land use regulatory component and specific development proposals for the identifiable Project site. Thus, in the interest of informed decision making, this EIR includes both types of no project alternatives. The alternative described in this subsection of the EIR assumes the site would continue to remain in its existing state without permanent active uses on site.

Under the No Project/No Development Alternative, as required by CEQA, the City would not approve a proposed General Plan Amendment (GPA) and Zone Change (ZC) nor would the City adopt or implement the proposed Magnolia Tank Farm Specific Plan. None of the uses identified in the Specific Plan included as part of the proposed Project would occur. No infrastructure improvements would be constructed, and the project site would remain in its existing graded and undeveloped condition after temporary construction staging activities end.

Environmental Effects: A full discussion of the No Project environmental impacts as compared to the proposed Project is set forth in Subsection 5.3.1 in Section 5, Alternatives, of the Draft Program EIR, which is hereby incorporated by reference. In comparison to the proposed Project, as shown above in Table 5-4, the No Project/No Development Alternative would avoid potentially significant impacts related to Air Quality, Biological Resources, Geology and Soils, and Hazards and Hazardous Materials, which would occur with implementation of the proposed Project, albeit reduced to less than significant with mitigation measures. Additionally, this alternative would avoid the significant and unavoidable impacts of the proposed Project related to Greenhouse Gas Emissions, Noise, and Transportation/Traffic (impacts to the two intersections outside the jurisdiction of the City of Huntington Beach). Because no development would occur under the No Project/No Development Alternative, there would also be no impacts for the following environmental topics: Land Use and Planning, Population and Housing, Public Services, Recreation, and Utilities and Service Systems. The Project’s impacts for these topics are less than significant with no mitigation. While the impacts related to Cultural Resources and Tribal Cultural Resources would be less than significant, mitigation measures are included to further ensure that no impacts would result. The No Project/No Development Alternative would have greater Water Quality impacts than the proposed Project as the undeveloped site may result in the transport of sediment and loose soils to downstream receiving water ways and water bodies. It would also allow stormwater runoff to sheet flow into Magnolia Street untreated. (DEIR, pp. 5-9 to 5-15.)

Ability to Achieve Project Objectives: By not developing the site with the proposed development and maintaining the current undeveloped condition, the No Project/No Development Alternative would not attain any of the proposed Project objectives set forth in Section 5.2.1 of the DEIR and Section 2(D) of these Findings, above.

Feasibility: Since the No Project/No Development Alternative would maintain the existing condition of the site, which is undeveloped and currently used as the staging area for construction of the AES Generating Plant, the feasibility of this alternative would rely on the decision of the future landowners to develop the site. But, until such time, the site would remain vacant.

Finding: In comparison to the proposed Project, the No Project Alternative would avoid impacts to Air Quality, Biological Resources, Geology and Soils, and Hazards and Hazardous Materials. This alternative would also avoid the significant and unavoidable impacts of the proposed Project related to Greenhouse Gas Emissions, Noise, and Transportation/Traffic (impacts in other jurisdictions). Additionally, because no development would occur under the No Project/No Development Alternative, there would also be no impacts for the following environmental topics: Land Use and Planning, Population and Housing, Public Services, Recreation, and Utilities and Service Systems. While the impacts related to Cultural Resources and Tribal Cultural Resources would be less than significant, mitigation measures are included to further ensure that no impacts would result. The No Project/No Development Alternative would have greater Water Quality impacts than the proposed Project as the undeveloped site may result in the transport of sediment and loose soils to downstream receiving water ways and water bodies. By not developing the site with the proposed Project, the No Project Alternative would not attain any of the Project Objectives identified in Subsection 5.2.1 in Section 5.0 , Alternatives, of the Draft Program EIR and Section 2(D) of these Findings. Overall, the No Project/No Development Alternative would have fewer environmental impacts than the proposed Project, making it the environmentally superior alternative. However, since the No Project Alternative fails to meet any of the Project objectives, it has been rejected by the City in favor of the proposed Project.

b) Alternative 2B – No Project/Existing Designation-Senior Campus Alternative

Description: The No Project/Existing Designation-Senior Campus Alternative is a variation of the No Project alternative included in the EIR's analysis, as this alternative could be built under the existing General Plan and Zoning designations without the need for a Specific Plan or the processing of a General Plan Amendment or Zone Change. The General Plan land use designation of Public allows government facilities, utilities and public parking lots, and the Zoning designation of Public-Semipublic allows public, quasi-public, and institutional land uses. The City does not foresee the need for a government facility on the site. In addition, no known need for schools, hospitals, religious, or utility uses have been identified for the area. The institutional use (such as a general residential care or assisted living facility) is allowed on-site and the development of such an assisted living facility is assumed under Alternative 2B.

Alternative 2B would involve the development of the site with a 650-unit residential care senior community, consisting of up to three-story buildings (maximum height of 50 feet).

The facility would include various living arrangements, including assisted living, memory care, and skilled nursing. As a part of assisted living and memory care, a host of services such as meals and snacks; activities including a wellness program; housekeeping; transportation; 24-hour emergency response; and assistance with activities of daily living including medication monitoring and assistance with dressing and bathing would be provided. Skilled nursing would include 24-hour nursing care, a licensed physician to supervise each resident's care, as well as therapy services (i.e., speech, occupational, and physical therapy). The entire campus would be licensed by the State of California Department of Social Services and subject to applicable regulations for Residential Care Facilities for the Elderly (RCFE).

Surface parking lots and other supportive site improvements would also be constructed (e.g., coastal park, dog park, putting green, and BBQ and picnic tables). The proposed facility would be located at the center of the site and would provide a Coastal Conservation (CC) area along the Huntington Beach Channel, similar to the proposed Project, and a landscaped setback along Magnolia Street, similar to the existing condition.

Environmental Effects: A full discussion of Alternative 2B – No Project/Existing Designation-Senior Campus' environmental impacts compared to those of the proposed Project is set forth in Subsection 5.3.2 in Section 5.0, Alternatives, of the Draft Program EIR, which is hereby incorporated by reference.

Impacts related to Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, and Tribal Cultural Resources would be similar to those of the proposed project. However, impacts associated with Aesthetics, Land Use (land use compatibility), Population and Housing, Utilities and Service Systems would be greater than the Project. Impacts on Air Quality, GHG Emissions, Noise, Public Services, and Transportation/Traffic would be less than the proposed Project under Alternative 2B. However, the significant and unavoidable impacts on Greenhouse Gas Emissions and Transportation/Traffic are expected to remain. (DEIR, pp. 5-17 to 5-26.)

Ability to Achieve Project Objectives: Alternative 2B is consistent with the assumed type of development in the City's land use plan. However, this alternative would not meet six of the ten Project objectives. Alternative 2B proposes a senior living facility and would not provide a mix of land uses at the site and would not provide visitor-serving overnight accommodations. Additionally, Alternative 2B would not provide for-sale housing and would not result in opportunities for home ownership. This alternative would not provide the amenities as stated in the objectives, as it does not propose walking trails at the linear park and within the CC area that would provide pedestrian connections from Magnolia Street to areas overlooking Magnolia Marsh. Also, no visitor-serving commercial areas or residential neighborhoods would be developed under this alternative. Further, this alternative would not provide opportunities for public access and interpretive programs for Magnolia Marsh. Lastly, this alternative does not propose any public parking that would provide for convenient access to coastal areas. (DEIR, pp. 5-26 to 5-28.)

This alternative would partially meet three of the ten objectives. While it would be consistent with LCP and CCA policies addressing public access and recreation, visual resources, alteration to existing landforms, habitat protection, and development in the Coastal Zone, it would not provide visitor-serving accommodations. Additionally, it would partially meet Objective 2 with higher intensity and taller structures interfacing the existing residential development to the east, across Magnolia Street. Additionally, the No Project/Existing Designation-Senior Campus Alternative would provide an improved landscaped area along Magnolia Street but would not provide a fully improved park with amenities that would benefit the future residents and enhance the visual quality of the site. This alternative would only fully meet one objective, as it includes components such as raised site elevations that would protect against natural hazards.

Feasibility: The No Project/Existing Designation-Senior Campus Alternative would be physically feasible, and it could be economically feasible.

Finding: The No Project/Existing Designation-Senior Campus Alternative would generally result in less environmental impacts on some issues. A key factor in the reduction of impacts is associated with the number of vehicle trips generated. The vehicle trips not only result in transportation impacts, they are associated with the generation of additional air emissions, incremental noise increases, and GHG emissions. Generally, the greater the number of trips, the greater the level of impacts in these topical areas. Alternative 2B would reduce the overall trip generation from 5,526 ADT with the Project to 2,294 ADT with Alternative 2B, but the number of intersections with direct impacts would be comparable to the proposed Project, specifically including significant and unavoidable impacts the intersections of Pacific Coast Highway at Superior Avenue/Balboa Boulevard and at Newport Boulevard. (DEIR, p. 5-24.) This alternative would only fully meet 1 of the 10 project objectives, partially meet 3 objectives, and not meet 6 objectives. Accordingly, it has been rejected by the City in favor of the proposed Project for failure to meet the Project objectives.

Based on the detailed analyses in the Draft EIR Section 5.3.2 (Alternative 2B – No Project/Existing Designation-Senior Campus Alternative) and the summaries above and in Tables 5-1, and 5-4 in the Draft Program EIR, Alternative 1 (residential) is environmentally superior alternative to the No Project Alternative.

8. STATEMENT OF OVERRIDING CONSIDERATIONS

A. Introduction

Section 15093 of the State CEQA Guidelines provides the following:

- (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 of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”
- (b) When the lead agency approves a project, which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to supports its action based on the final EIR and/or other information in the record. This 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.

In accordance with the provisions of CEQA and the State CEQA Guidelines and as part of its certification of the adequacy of the Final Program EIR for the proposed Project, the City Council finds that the mitigation program discussed in these Findings of Fact and the MMRP, when implemented, avoid or substantially lessen the significant effects identified in the Final Program EIR. Nonetheless, certain significant effects of the Project are unavoidable even after incorporation of all feasible mitigation measures. As disclosed in the Final Program EIR, even with the approval of the Project and implementation of the mitigation program described in the MMRP, the effects described in more detail in Section 6.0 of these Findings of Fact are considered to be significant and unavoidable at this time.

B. Significant Unavoidable Adverse Environmental Impacts

Most potential adverse environmental impacts identified in the Final Program EIR for the Project have been substantially avoided or mitigated through the identification of mitigation measures and adoption of the MMRP, which has been fully described in the Findings of Fact. A more detailed discussion of the Project's significant and unavoidable impacts is included in Sections 6.0 of the Findings of Fact. As disclosed in Section 6.0, the Project would have significant and unavoidable impacts in the following topical areas: (i) Greenhouse Gas Emissions, (ii) Noise (Vibration annoyance during construction), and (iii) Transportation/Traffic.

C. Overriding Considerations

In approving the Project, the City Council has (i) independently reviewed the information in the Final Program EIR and the record of proceedings; (ii) made a reasonable and good faith effort to eliminate or substantially lessen the significant impacts resulting from the Project to the extent feasible by adopting the Magnolia Tank Farm Specific Plan development standards and mitigation measures identified in the Final Program EIR and the MMRP; and (iii) balanced the economic, legal, social, technological, or other benefits of the Project against its unavoidable environmental risks. The City Council finds that the Project's significant, unavoidable effects remaining are acceptable due to specific overriding economic, legal, social, technological, or other considerations described in this section of the Findings of Fact. All considerations are based on the facts set forth in these Findings of Fact, the MMRP, Final EIR, and the administrative record for the Project.

The City Council finds that the following overriding considerations, as components of the Project and as identified in the Development Agreement No. 19-001 between City of Huntington Beach and SLF-HB Magnolia, LLC, individually and cumulatively, are relevant and valid reasons that make the Project acceptable despite the fact that significant, unavoidable adverse effects of the Project remain. The following described economic, legal, social, technological, or other benefits of the Project outweigh the Project's significant unavoidable adverse environmental impacts.

- **Economic Vitality.** The Project will provide additional facilities and supporting uses that will create local jobs and improve the economic vitality in Huntington Beach. It is projected that the Project would create temporary construction jobs as well as permanent jobs post-construction. The site is currently undeveloped, and does not contribute to any economic benefits, including employment generation. The Project would increase the availability of temporary jobs and permanent jobs.
- As indicated above, the proposed development would generate both short-term (e.g., construction) and long-term (e.g., service and retail) employment in the City and the region, representing approximately 2.3 percent of the City's OCP-2014 Modified projected employment growth between 2012 and 2040. As discussed on page 4.11-9 in Section 4.11, Population and Housing, of the Draft Program EIR, the proposed Project is estimated to generate approximately 261 long-term jobs in addition to approximately 207 short-term construction related jobs during the six-year construction period. During this time, the available job opportunities will be filled by the existing local and regional labor pool, thus not inducing substantial housing demand or an influx of permanent residents.
- **Tax Generating.** As identified in the Development Agreement, in Section 3.1, Public Benefits, the Project would revitalize and convert a vacant, under-developed, disturbed property to a site that generates substantially greater property tax revenue, based on the increase valuation of the improvements and additional transient occupancy tax and sales tax revenue for the City of Huntington Beach.

- **Community Enhancements.** The Project will pay applicable development impact fees, which will provide funding toward improvements identified by the City as necessary for the long-term orderly growth in the City. In addition, the Project would provide funding that could be used to enhance the City-owned community facilities, including open space and recreation facilities. The City could use the total funding in the amount of \$3,000,000 (to be provided in increments) to implement the public improvements, as selected by the City. However, the priority will be given to capital improvement projects (within a one-mile radius of the project site) that would serve to improve the quality of life of residents within the area.
- **Public Improvements.** As identified in the Development Agreement, in Section 3.3, the Project will implement extensive improvements to the intersection of Magnolia Street and Hamilton Avenue and along the adjacent ASCON property frontage on Magnolia Street (e.g., full width street improvements, including but not limited to, sidewalk, curb, gutter, streetlights, undergrounding of utilities, and signalization improvements). The Hamilton Avenue improvements will include full width street improvements with the exception of undergrounding of utilities.
- **Brownfield, Infill Site.** As indicated throughout the Draft Program EIR, the proposed Project will redevelop an underutilized brownfield site that has been functioning as a construction staging site for the AES Power Plant, into a development that will provide a mixed-use development on an in-fill location that accommodates local and area growth without requiring the disturbance of previously undeveloped lands with sensitive resources. As identified in Section 3.0, Project Description, of the Draft Program EIR, redeveloping the project site presents an opportunity to create a comprehensive land plan for the site that addresses the current needs of the City consistent with the Chapter 3 policies of the California Coastal Act (CCA) that includes issues such as shoreline public access and recreation, lower cost visitor-serving accommodations, terrestrial and marine habitat protection, visual resources, landform alteration, and other types of development in the Coastal Zone. The property's unique location in proximity to the ocean and the Magnolia Marsh (the Marsh) and with access to all required infrastructure is conducive to land uses that advance the objectives of the CCA, including public access to the shoreline, visitor-serving accommodations, resource protection, and some housing.
- **Sensitivity to Surrounding Neighborhoods.** The Project is designed to be compatible with the existing residential uses to the east, across Magnolia Street. Since 1972, the site has supported a heavy industrial use (i.e., three above-ground, 25 million-gallon tanks). The demolition of the fuel storage tanks in 2017 allows the City the opportunity to re-envision the uses on this property. The Project will allow the extension of residential uses and allow the Huntington Beach Channel to serve as a boundary for Industrial uses, located west of the Channel. Project elements such as Magnolia Park, the Coastal Conservation area, and landscaping would enhance the visual characteristic of the area and unify the community character. As discussed in detail on page 4.9-71 in Section 4.9, Land Use and Planning, of the Draft Program EIR, the Project will create a mixed-use

development surrounded by existing residential to the east; the Huntington Beach Channel to the west and southwest; the Magnolia Marsh and the AES Generating Facility to the southwest and west; the proposed Poseidon Desalination Plant to the west; and the ASCON landfill site to the north. However, the existing features (i.e., Magnolia Street along the eastern boundary of the site and Huntington Beach Channel running the whole length of the southern, southwestern, and western boundaries) and planned features (i.e., Coastal Conservation area along the Huntington Beach Channel and Magnolia Park along Magnolia Street with additional landscaping) would create ample buffers between the existing and proposed uses. Therefore, the Project has been designed with sensitivity to the existing neighborhoods.

- **Quality Design Character.** The Magnolia Tank Farm Specific Plan establishes a cohesive design character for the site that creates a high-quality living environment, as discussed in Section 4.1, Aesthetics, of the Draft Program EIR. As identified on page 4.1-12 in Section 4.1, the future implementing development would change the existing condition of the project site from an undeveloped construction staging area for the AES Generating Facility to a developed site consistent with the development standards and design guidelines of the Magnolia Tank Farm Specific Plan and compliant with the City's development requirements. Some of the proposed features and amenities include, Magnolia Park, Marsh Park, Coastal Conservation area, pedestrian trails, and landscaping. Additionally, future implementing developments will be reviewed by the Design Review Board to ensure that applicable design guidelines are met.

The proposed hotel/lodge quality standards and amenities will be according to Exhibit "D" of the Development Agreement, and as specified under design, entrance, amenities, and guest rooms. Additionally, the Specific Plan identifies that the retail would be visitor-serving retail and dining, with culinary-oriented retail. As such, the existing undeveloped and highly disturbed character of the site will be replaced by modern and environmentally friendly facilities and features that can accommodate the interests of future residents of the development and provide dining opportunities for members of the broader Huntington Beach community.

- **Growth Rate.** The growth rate for new housing in Orange County has lagged behind the growth rates for population and employment for several years. This sustained rate imbalance has resulted in a shortage of housing opportunities in Orange County, the effects of which are manifest through higher housing costs, the elimination and displacement of existing affordable housing units, and increased commute times for Orange County workers. The proposed Project could provide up to a total of 250 residential units that would assist the City of Huntington Beach in meeting its Regional Housing Needs Assessment (RHNA) goals for the upcoming 6th cycle. Thus, implementation of the Project will assist the City, County, and the region in achieving their goals of providing an adequate supply of housing for current and future residents.

- **Affordable Housing.** As identified in the Responses to Comments document (Section 5.2, Key Issues Raised), the Project would facilitate the provision of more affordable housing in the City of Huntington Beach, per Section 230.26 of the Huntington Beach Zoning and Subdivision Ordinance, which requires new residential projects of three or more units in size to provide for affordable housing. This can be accommodated by providing a minimum of 10 percent of the new residential construction as affordable units or through the payment of an affordable housing in-lieu fee. The Project Applicant is proposing to comply with the City's affordable housing requirements, as described in the Magnolia Tank Farm Specific Plan.

In light of the foregoing, and in recognition of additional information contained within the Final Program EIR and other portions of the record of proceedings, the Huntington Beach City Council concludes that implementation of the Project will result in economic, social, technological, or other benefits. The City Council further concludes that these benefits outweigh the significant, unavoidable environmental impacts associated with the Project and, accordingly, adopts these Findings and Statement of Overriding Considerations.