

**FINDINGS OF FACT REGARDING SIGNIFICANT EFFECTS  
PURSUANT TO STATE CEQA GUIDELINES SECTIONS 15090  
AND 15091**

**Pacifica Development Project**

**SCH No. 2022110021**

**December 2023**

INTENTIONALLY LEFT BLANK

## **I. INTRODUCTION**

The City of Oceanside (“City”) City Council hereby certifies that the City Council has reviewed and considered the information contained in the Final Environmental Impact Report (“EIR”), identified below, for the Pacifica Development Project (“project” or “proposed project”). The City Council further certifies that the Final EIR has been completed in compliance with the California Environmental Quality Act (“CEQA”), Public Resources Code §§21000 et seq., the State CEQA Guidelines, California Code of Regulations, Title 14, §§15000 et seq. (“CEQA Guidelines”), and City requirements, and that the Final EIR reflects the independent judgment of the City Council (Pub. Resources Code § 21082.1(c)(3)). In certifying the Final EIR as adequate under CEQA, the City Council hereby adopts these CEQA Findings.

These findings address the environmental effects associated with the project, which consists of development of a multi-family residential development project. The project involves development of a residential attached townhome infill project, which would include 164 multifamily for sale residential units on the 14.55-acre project site, in the City of Oceanside (City). The proposed site consists of the former Pacifica Elementary School located at 4991 Macario Drive (Assessor’s Parcel Numbers [APNs] 122-190-19, 122-190-22, and 157-070-42). The proposed project site is located at the corner of Monica Circle and Macario Drive. The project site is bound to the north by single-family homes fronting Claire Drive; to the east by single-family homes fronting Roja Drive; to the south by single-family homes fronting North Redondo Drive; and to the west by open space. The project site is approximately 0.5 miles from the San Luis Rey Transit Center. The project site is located approximately 2 miles north of State Route (SR) 76 and approximately 6 miles north of SR 78.

These findings are made pursuant to CEQA, specifically Public Resources Code sections 21081, 21081.5, and 21081.6; and the State CEQA Guidelines (Cal. Code Regs., tit. 14, §15000 et seq.), specifically section 15091. The potentially significant effects of the project were identified in both the Pacifica Development Project Draft EIR (June 2023) and Final EIR (September 2023) (collectively, “Final EIR”). Public Resources Code section 21081 and State CEQA Guidelines section 15091 require that the lead agency, in this case the City of Oceanside, prepare written findings for identified significant impacts, accompanied by a brief explanation of the rationale for each finding. Specifically, State CEQA Guidelines section 15091 states, in part, that:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects accompanied by a brief explanation of the rationale for each finding. The possible findings are:
  - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the final EIR.

- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

If significant impacts cannot be mitigated to less than significant levels, the decision-making agency is required to balance, as applicable, the benefits of the proposed project against its significant unavoidable environmental impacts when determining whether to approve the project. (Pub. Resources Code, § 21081, CEQA Guidelines § 15093.) If the benefits of a proposed project outweigh the significant unavoidable adverse environmental impacts, the adverse effects may be considered “acceptable.”

Chapter 4, Environmental Analysis, of the EIR describes the potential environmental impacts of the proposed project, and recommends mitigation measures to reduce impacts, where feasible. As discussed in the EIR, implementation of the proposed project would result in potentially significant impacts to air quality, biological resources, cultural resources, geology and soils, and tribal cultural resources before mitigation. However, all of these impacts would be reduced to below a level of significance through mitigation. Implementation of the proposed project would not result in any significant and unavoidable impacts. Additionally, it has been determined that the project would not result in any adverse impacts on public health or safety.

Therefore, in accordance with CEQA, Pub. Resources Code, § 21081, and the CEQA Guidelines, section 15091, the City Council certifies the Final EIR for the Pacifica Development project, adopts these findings, and the Mitigation Monitoring and Reporting Plan (“MMRP”), and approves the Pacifica Development project. In adopting the MMRP for the project, the City Council finds that the MMRP meets the requirements of Public Resources Code section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project.

The City Council further, based on separate findings, adopts the following related project approvals to facilitate implementation and development of the Pacifica Development project: (i) Planned Development Plan; (ii) General Plan Amendment; (iii) Zone Amendment; and (iv) Tentative Map.

## **A. Project Description**

### **1) Project Location**

The proposed site consists of the former Pacifica Elementary School located at 4991 Macario Drive (Assessor’s Parcel Numbers 122-190-19, 122-190-22, and 157-070-42) and

encompasses 14.55 acres. The proposed project site is located at corner of Monica Circle and Macario Drive. The project site is bound to the north by single-family homes fronting Claire Drive; to the east by single-family homes fronting Roja Drive; to the south by single-family homes fronting North Redondo Drive; and to the west by open space. The project site is approximately 0.5 miles from the San Luis Rey Transit Center. The project site is located approximately 2 miles north of State Route (SR) 76 and approximately 6 miles north of SR-78.

The project site has a General Plan designation of CI – Civic Institutional. Properties abutting the project site are designated as SFD-R – Single Family Detached Residential to the north, east, and south, and OS – Open Space to the west. Areas in the surrounding neighborhood are designated with various residential designations (SFD-R, MDA-R, MDB R, and MDC-R), Civic Institutional (CI), Open Space (OS), and various commercial designations (GC, NC, and SC).

## **2) Summary of Project Description**

The proposed project would amend the General Plan land use designation to Medium Density Residential (MDB-R) and would amend the zoning to Planned Development (PD). The proposed project consists of development of 164 three-story attached townhomes. Approximately 1.73 acres of the 14.55-acre project site consists of 20- to 30-foot-tall slopes along the northern, southeastern, and western portions of the project site, resulting in a net area of 12.82 acres and a net density of 12.8 dwelling units per acre (du/ac). Of the 12.82 net acres, only 10.23 are proposed for development. The remaining undeveloped areas include natural setbacks to the adjacent open space to the west.

All 164 three-story townhomes would range in size from approximately 1,200 square feet to 1,800 square feet with two, three, or four bedrooms and an attached two-car garage. Each townhome would include private open space in the form of a patio and/or deck. Common recreational spaces, consisting of approximately 59,460 square feet, would be designed with amenities such as tot lots, an off-leash dog park, pickleball courts, barbecue areas, and a space for a variety of outdoor games.

The proposed residential development would be set back 15 feet from Monica Circle, approximately 74 feet from the northern and southern boundary, and approximately 65 feet from the eastern boundary. The western boundary is bordered by open space, and a habitat setback and stormwater basin would buffer the development from the adjacent open space area. This buffer area would be a minimum of 100 feet.

Primary access to the site would utilize a new driveway at the corner of Monica Circle and Macario Drive. This main entrance would be enhanced with decorative paving,

landscaping, signage, and a small publicly accessible pocket park. A secondary driveway for emergency vehicle access only would be provided via an extension of Malaga Drive on the eastern boundary of the project site.

The approvals required for the project include a General Plan land use amendment and a change in zoning. The project would be redesignated as a General Plan land use of MDB-R – Medium Density Residential-B (10-15 du/ac), and a zone of PD – Planned Development. The proposed Planned Development District would provide zoning, use regulations, and development standards for future development of the site. A Planned Development Plan (The Pacifica Planned Development Plan) has been prepared in accordance with the City of Oceanside Zoning Ordinance – Article 17, and is included herein as Appendix B. The Planned Development Plan provides direction for the assignment of land uses, development intensities, and development regulation, as well as design guidelines that will provide a framework for the specific development of the site.

Consistent with the City’s General Plan and Zoning Ordinance, the project requires certain entitlements be submitted, reviewed, and approved by the City. The requested entitlements include a Planned Development Plan, General Plan Amendment, Zone Amendment, and Tentative Map Approval.

### ***Project Components***

- ***Recreation and Open Space:*** A total of approximately 59,460 square feet of common open space is proposed, and a total of 23,950 square feet of private open space is proposed. The common open space areas consist of a dog park, fire pits for community gathering, pickleball courts, open lawn, a barbeque area, internal trails, and landscaping to help encourage pedestrian connectivity. Private open space would consist of balconies or patios within residences. Overall, a total of 83,410 square feet of usable space would be provided within the project site, which breaks down to 508 square feet per unit.
- ***Landscaping and Walls:*** Proposed landscaping is designed to provide a distinct visual character and enhance the project. The landscaping on site is designed to take advantage of the existing slopes, with a plant palette slanted towards drought-tolerant planting and plants that would help stabilize the slopes over the long term. The entrance at the corner of Monica Circle and Macario Drive would include the addition of trees and vegetation. Additional landscape opportunities are provided throughout the project site and along the boundaries and walkways.

The proposed project would be required to comply with Article 3049, Urban Forestry Program, of the City’s Zoning Ordinance. The Urban Forestry Program requires new development over 1 acre in size to provide a minimum tree canopy area of 12% and a minimum permeable surface area of 22%. The proposed project would exceed both requirements, providing 62,847 square

feet of tree canopy coverage, or 18.9% (39,880 square feet would be required), and 336,283 square feet of permeable surface area, or 53% (139,436 square feet would be required).

Retaining walls would be located at the toe of the northern and eastern slopes of the project site to support the slopes in that area. The walls range in height from 1 foot to 13 feet with any segment over 4 feet in height required to be plantable. Additional wall and fence regulations are detailed in the Pacifica Planned Development Plan, and compliance would be required unless otherwise modified by a development permit.

- ***Architectural Design:*** The project would provide a contemporary interpretation of traditional architectural styles found in the existing single-family neighborhood surrounding the site. Two acceptable architectural styles would be used for the proposed project; however, it should be noted that architectural styles would not be limited to these two types. Additional styles may be permitted if they are found to be appropriate with the City Development Services Department.

The project involves two variations of the Spanish Eclectic style that blend classic elements from the Spanish vernacular with modern construction techniques. Simple massing with a combination of hipped and gabled roof forms are accentuated with stylistic features found in traditional Spanish homes such as arched stucco column porches and decks, clay tile vents, shutters, and stucco over foam window and door trim.

Massing and scale provide the visual identity between residential dwelling units and the environment. Those qualities help dictate the placement, size, and form of multifamily residential buildings within the project site. Building type placement within the project site was studied to achieve the best possible groupings and provide transition massing from the street, thereby enhancing the visual character of the neighborhood. Incorporation of the following design concepts should be considered for the architecture within the project site:

- Utilize building-form elements, such as plane breaks, roof forms, and changes in material, to define individual units
- Vertically and horizontally articulate building design for both front and rear elevations
- Break up long unbroken surfaces on front elevations by providing a change in plane at least every 25 feet
- Break up long unbroken surfaces on rear elevations by providing second/third-floor cantilevers above garage doors

All outdoor lighting would meet Chapter 39 of the City Municipal Code (light pollution ordinance) and would be shielded appropriately. Street lighting featured throughout the site would be appropriately shielded to reduce lighting impacts to the surrounding residences and improve dark sky regulation compliance.

- ***Vehicular Circulation and Parking:*** Primary access to the site would utilize a new driveway at the corner of Monica Circle and Macario Drive. A secondary driveway for emergency vehicle access only would be provided via an extension of Malaga Drive on the eastern boundary of the project site. The proposed residential buildings would be connected by a private loop road within the project site with two internal drive aisles that connect the northern and southern portions of the loop road. Circulation and emergency access drives have been designed in consultation with Oceanside Fire staff to provide 28-foot minimum widths with designated truck turnarounds and key staging areas throughout the project site.

The project would provide a total of 328 garage parking spaces for each residence (two spaces for each residence). The project would also provide an additional 61 guest parking spaces. Guest parking is provided throughout the community.

- ***Pedestrian Circulation:*** Sidewalks are present along both sides of the roadway for all roadways within a 0.5-mile walking distance from the project site. These existing pedestrian facilities are mostly surrounded with single-family residential land uses with exception of the commercial land use fronting North Redondo Drive and Vandegrift Boulevard. Sidewalks are proposed along the project frontage along Monica Circle and Macario Drive. Sidewalks are also proposed throughout the project site providing direct access to the dwelling units and on-site amenities (pet station, play areas, picnic pavilion, benches, and gardens).
- ***Utilities:*** Water service would be provided via the existing water connections to the existing public water system. Water service for the project would be provided by the City via connections to the existing developments adjacent to the project site. Existing water facilities in Monica Circle and Macario Drive will be upsized to accommodate development proposed for this project.

Sewer service would be provided via a new public lift station, new on-site sewer facilities, and the existing public sewer system in the vicinity of the project. The project site currently includes an existing public lift station on site, which will be decommissioned once existing flows are rerouted to the newly constructed lift station. The project would connect to an existing sewer pipeline adjacent to the site, which flows to the San Luis Rey Wastewater Reclamation Facility.

Storm drain systems and connections would be designed to collect on-site runoff and convey it through the project site into existing drainage facilities. Stormwater treatment to meet water quality requirements will include the installation of inlets, storm drain facilities, and a biofiltration basin.

The project would connect to existing dry utilities. Electricity would be provided by San Diego Gas & Electric. The project would connect to existing electrical lines within existing roadways adjacent to the project site.

- **Project Design Features:** In addition to the project’s infill location, the project would include several sustainability design features to reduce potential energy and water usage, promote pedestrian and bicycle travel, and reduce potential greenhouse gas emissions. The proposed sustainability features include electric vehicle parking; photo-voltaic system installed on each building; and drought-tolerant landscaping and water efficient irrigation system.

Signage will include all code-required signage, including but not limited to, unit plaques, wayfinding, emergency exit signage, and entry monument signage. Throughout the development, buildings would be marked with building numbers or letters for ease of navigation. The project would also include signage at the project entrance identifying to motorists that the residential complex is private/not a through street, as well as signage within the site to identify parking and visitor parking.

- **Construction:** It is anticipated that development of the project would occur over approximately 21 months. Construction is anticipated to begin in January 2024. The anticipated sequence of construction is as follows, with some phases overlapping:
  - Demolition (Phase 1): January 2024 to February 2024 (1 month)
  - Site Preparation (Phase 1): February 2024 (2 weeks)
  - Grading (Phase 1): February 2024 to March 2024 (1 month)
  - Utility Installation (Phase 1): April 2024 to May 2024 (1 month)
  - Paving (Phase 1): May 2024 to June 2024 (1 month)
  - Building Construction (Phase 2): June 2024 to December 2024 (7 months)
  - Architectural Coating (Phase 2): December 2024 to January 2025 (1 month)
  - Building Construction (Phase 3): January 2025 to August 2025 (8 months)
  - Architectural Coating (Phase 3): September 2025 (1 month)

Demolition would involve removal of the asphalt pad, shade structure, and any other features left over from the previous school that remains on site. Demolition would require the use of concrete/industrial saws, excavators, and rubber-tired dozers. Of the entire 14.55-acre site, only 10.23 acres would be graded. The site would include a balanced earthwork solution. Approximately 28,645 cubic yards of cut and fill would be required with no import or export required. Construction is proposed to occur Monday through Saturday, between 7:00 a.m. and 7:00 p.m., to comply with Section 6.25 of the City’s Code of Ordinances. The utility installation phase would require trenching for utilities and stormwater drainage facilities. The building and architectural coating phases would involve construction of the townhouses, landscaping, parking, architectural coating, and painting.

- **Associated Project Approvals:** As stated above, the approvals required for the project include a General Plan land use amendment and a change in zoning. The project would be redesignated

as a General Plan land use of MDB-R – Medium Density Residential-B (10-15 du/ac), and a zone of PD – Planned Development. The proposed Planned Development District would provide zoning, use regulations, and development standards for future development of the site. A Planned Development Plan (The Pacifica Planned Development Plan) has been prepared in accordance with the City of Oceanside Zoning Ordinance – Article 17, and is included herein as Appendix B. The Planned Development Plan provides direction for the assignment of land uses, development intensities, and development regulation, as well as design guidelines that will provide a framework for the specific development of the site.

Consistent with the City’s General Plan and Zoning Ordinance, the project requires certain entitlements be submitted, reviewed, and approved by the City. The requested entitlements include a Planned Development Plan, General Plan Amendment, Zone Amendment, and Tentative Map Approval.

## **B. Project Objectives**

Section 15124(b) of the CEQA Guidelines requires that an environmental impact report (EIR) include a statement of the project objectives that “include[s] the underlying purpose of the project and may discuss the project benefits.” The following objectives have been identified for the project:

1. Support the housing needs of the City of Oceanside (City) by developing high-quality, workforce housing that balances density with price points and long-term maintenance costs, such that new homes remain financially attainable to entry-level home buyers
2. Maximize residential densities, to the extent feasible, within proximity to transit, education facilities, commercial uses, and trails to reduce reliance on automobiles and potentially minimize greenhouse gas (GHG) emissions
3. Show sensitivity to adjacent properties, open space, and community amenity areas with appropriate setbacks and orientation of buildings and facades
4. Design the community using compatible architectural styles to the existing neighborhood with a scale and treatment that improve the visual image of the surrounding area
5. Create a highly connected and efficient system of sidewalks and pathways layered with a vehicular circulation system that adequately accommodates traffic and connects to the existing neighborhood
6. Provide well-designed common open space areas that are connected throughout the project site while utilizing current water and energy conservation practices
7. Preserve natural land resources by redeveloping underutilized parcels and promoting infill development to reduce urban sprawl

### C. Environmental Impact Report

The Draft EIR was prepared under the direction and supervision of the City. Public review of the Draft EIR is intended to focus “on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated” (14 CCR 15204). The Notice of Completion of the Draft EIR was filed with the State Clearinghouse as required by CEQA Guidelines Section 15085. In addition, the Notice of Availability of the Draft EIR was distributed pursuant to CEQA Guidelines Section 15087. Interested parties could provide comments on the Draft EIR in written form. The EIR and related technical appendices were available for review during the 45-day public review period at the City of Oceanside Development Services Department, and City of Oceanside Public Library (both the Civic Center and Mission Branch locations), as well as on the City’s website.

Interested agencies and members of the public were able to submit written comments on the adequacy of the Draft EIR to the City’s Development Services Department starting on July 19, 2023 and ending on September 1, 2023, the last day of the review period.

Once the 45-day public review period concluded, the City reviewed all public comments on the Draft EIR and provided a written response to all written comments pertaining to environmental issues as part of the Final EIR. A total of four written comment letters were received on the Draft EIR from different agencies. Responses to each comment letter received, has been included as part of the Final EIR. Each of the written comment letters have been assigned an alphanumeric label, and the individual comments within each written comment letter are bracketed and numbered. For example, Comment Letter A1 contains four comments that are numbered A1-1 through A1-4.

The responses to each comment on the Draft EIR represent a good-faith, reasoned effort to address the environmental issues identified by the comments. Under the CEQA Guidelines, the City, as lead agency, is not required to respond to all comments on the Draft EIR, but only those comments that raise environmental issues. In accordance with CEQA Guidelines Sections 15088 and 15204, the City has independently evaluated the comments and prepared the written responses describing the disposition of any significant environmental issues raised (see the Final EIR). CEQA does not require the City to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters.

Rather, CEQA requires the lead agency to provide a good faith, reasoned analysis supported by factual information. To fulfill these requirements, the City’s experts in planning and environmental sciences consulted with, and independently reviewed, the analysis responding to the Draft EIR comments prepared by Dudek and other experts, each of whom has years of educational and field experience in these categories of environmental sciences; is familiar with the project and the environmental conditions in the City; and is familiar with the federal, state, and local rules and regulations (including CEQA) applicable to the proposed project. Accordingly, the final analysis provided in the responses to comments are supported by substantial evidence. Changes have been made to the Final EIR in ~~strikeout~~/underline format in response to comments and to provide updates and clarifications to

information provided therein. Consistent with CEQA Guidelines Section 15088.5(b), these revisions have been made to clarify text for consistency or revise punctuation as appropriate throughout the document, and these revisions do not result in what constitutes new significant information that would require recirculation of the document.

**II. ENVIRONMENTAL IMPACTS FOUND TO BE NOT SIGNIFICANT OR LESS THAN SIGNIFICANT**

State CEQA Guidelines Section 15091 does not require specific findings to address environmental effects that an EIR evaluates and identifies as “no impact” or a “less than significant” impact. The City finds that, based upon substantial evidence in the record, the following impacts associated with the project would either have no impact or a less than significant impact without the implementation of mitigation measures in the following resource areas, pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a).

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
<i>Aesthetics (EIR Section 4.1)</i>	<ul style="list-style-type: none"> <li>• Less than significant effect on a scenic vista.</li> <li>• No impact from substantially damage to scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway.</li> <li>• Less than significant impact related to substantially degrading the existing visual character or quality of the site and its surroundings in non-urbanized areas and related to conflicts with applicable zoning and other regulations governing scenic quality in urbanized areas.</li> <li>• Less than significant creation of a new source of substantial light or glare, which will adversely affect day or nighttime views in the area.</li> <li>• No cumulatively considerable impact on aesthetics.</li> </ul>
<i>Agricultural and Forest Resources (EIR Chapter 5)</i>	<ul style="list-style-type: none"> <li>• No impact from the conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural uses.</li> <li>• No impact from conflict with existing zoning for agricultural use, or a Williamson Act contract.</li> <li>• No impact from conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))</li> <li>• No impact from loss of forest land or conversion of forest land to non-forest use.</li> <li>• No impact from other changes in the existing environment which, due to their location or nature, could result in conversion of</li> </ul>

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
	<p>Farmland, to non-agricultural use or conversion of forest land to non-forest use.</p> <ul style="list-style-type: none"> <li>• No cumulatively considerable impact on agricultural resources.</li> </ul>
<p><i>Energy</i> (EIR Section 4.5)</p>	<ul style="list-style-type: none"> <li>• Less than significant impact related to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation.</li> <li>• Less than significant impact related to conflict with or obstruction of state or local plans for renewable energy or energy efficiency.</li> <li>• No cumulatively considerable impact with respect to energy.</li> </ul>
<p><i>Greenhouse Gas Emissions</i> (EIR Section 4.7)</p>	<ul style="list-style-type: none"> <li>• Less than significant impact related to the generation of greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.</li> <li>• Less than significant impact related to conflicts with applicable plans, policies, or regulations adopted for the purpose of reducing the emissions of greenhouse gases.</li> <li>• No cumulatively considerable impact with respect to greenhouse gases.</li> </ul>
<p><i>Hazards and Hazardous Materials</i> (EIR Section 4.8)</p>	<ul style="list-style-type: none"> <li>• Less than significant impact creating a hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.</li> <li>• Less than significant impact 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.</li> <li>• Less than significant impact related to the emissions or handling of hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</li> <li>• Less than significant impact from being 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, will create a significant hazard to the public or the environment.</li> <li>• Less than significant impact related to project location within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport, which will result in a safety hazard or excessive noise for people residing or working in the project area.</li> <li>• Less than significant impact related to impairing implementation of or physically interfering with an adopted emergency response plan or emergency evacuation plan.</li> <li>• Less than significant impact from exposing people or structures to a significant risk of loss, injury or death involving wildland fires.</li> <li>• No cumulatively considerable impact with respect to hazards and hazardous materials.</li> </ul>

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
<p><i>Hydrology and Water Quality – Hydrology</i> (EIR Section 4.9)</p>	<ul style="list-style-type: none"> <li>• Less than significant impact related to violation of any water quality standards or waste discharge requirements.</li> <li>• Less than significant impact related to the substantial decrease of groundwater supplies or interference with groundwater recharge such that the project may impede sustainable groundwater management of the basin.</li> <li>• Less than significant impact related to substantial alteration of the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through addition of impervious surfaces, in a manner which will result in substantial erosion or siltation on or off site.</li> <li>• Less than significant impact related to substantial alteration of the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through addition of impervious surfaces, in a manner which will substantially increase the rate or amount of surface runoff in a manner which will result in flooding on or off site.</li> <li>• Less than significant impact related to substantial alteration of the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through addition of impervious surfaces, in a manner which will create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.</li> <li>• Less than significant impact related to substantial alteration of the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through addition of impervious surfaces, in a manner which will impede or redirect flood flows.</li> <li>• Less than significant impact related to risk release of pollutants due to project inundation in flood hazard, tsunami, or seiche zones.</li> <li>• Less than significant impact related to conflict with or obstruction of a water quality control plan or sustainable groundwater management plan.</li> <li>• No cumulatively considerable impact with respect to hydrology or water quality.</li> </ul>
<p><i>Land Use and Planning</i> (EIR Section 4.10)</p>	<ul style="list-style-type: none"> <li>• Less than significant impact related to the physical division of an established community.</li> <li>• Less than significant impact related to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.</li> <li>• No cumulatively considerable impact with respect to land use and planning.</li> </ul>
<p><i>Noise</i> (EIR Section 4.11)</p>	<ul style="list-style-type: none"> <li>• Less than significant impact related to the generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local</li> </ul>

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
	<p>general plan or noise ordinance, or applicable standards of other agencies.</p> <ul style="list-style-type: none"> <li>• Less than significant impact related to the generation of excessive groundborne vibration or groundborne noise levels.</li> <li>• Less than significant impact related to the project’s proximity to a private airstrip or an airport land use plan or, where such plan has not been adopted, and would not expose people residing or working in the project area to excessive noise levels.</li> </ul>
<i>Mineral Resources</i> <i>(EIR Chapter 5)</i>	<ul style="list-style-type: none"> <li>• No impact related to loss of availability of a known mineral resource that will be of value to the region and the residents of the state.</li> <li>• No impact related to the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.</li> <li>• No cumulatively considerable impact to mineral resources.</li> </ul>
<i>Population and Housing</i> <i>(EIR Section 4.12)</i>	<ul style="list-style-type: none"> <li>• Less than significant impact related to the direct or indirect inducement of substantial unplanned population growth.</li> <li>• Less than significant impact related to the displacement of substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere.</li> <li>• No cumulatively considerable impact related to population and housing.</li> </ul>
<i>Public Services</i> <i>(EIR Section 4.13)</i>	<ul style="list-style-type: none"> <li>• Less than significant impacts from creation of adverse physical impacts associated with the provision of, or 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: <ul style="list-style-type: none"> <li>○ Fire Protection</li> <li>○ Police Protection</li> <li>○ Schools</li> <li>○ Parks</li> <li>○ Other Public Facilities</li> </ul> </li> <li>• No cumulatively considerable impact related to fire protection, police protection, schools, parks, or other public facilities.</li> </ul>

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
<p><i>Recreation</i> (EIR Section 4.14)</p>	<ul style="list-style-type: none"> <li>• Less than significant impact from increase in use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated.</li> <li>• Less than significant impact from inclusion of recreational facilities or requirement of the construction or expansion of such facilities which might have an adverse physical effect on the environment.</li> <li>• No cumulatively considerable impact related to recreation.</li> </ul>
<p><i>Traffic and Circulation</i> (EIR Section 4.15)</p>	<ul style="list-style-type: none"> <li>• Less than significant impact related to conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities</li> <li>• Less than significant impact related to conflicts or inconsistencies with CEQA Guidelines Section 15064.3, subdivision (b), as it is not applicable.</li> <li>• Less than significant impacts related to the substantial increase in hazards due to a geometric design features (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).</li> <li>• Less than significant impacts related to inadequate emergency access.</li> <li>• No cumulatively considerable impact related to geometric design or emergency access.</li> </ul>
<p><i>Utilities and Service Systems</i> (EIR Section 4.17)</p>	<ul style="list-style-type: none"> <li>• Less than significant impacts from requiring or resulting in the relocation or construction of new or expanded water, wastewater treatment, or storm drainage, electric power, natural gas, or telecommunications facilities.</li> <li>• Less than significant impact related to having sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years.</li> <li>• Less than significant impact related to determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.</li> <li>• Less than significant impacts related to the generation of solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.</li> <li>• Less than significant impact related to compliance with federal, state, and local management and reduction statutes and regulations related to solid waste.</li> <li>• No cumulative impact related to utilities and service systems.</li> </ul>
<p><i>Wildfire</i> (EIR Section 4.18)</p>	<ul style="list-style-type: none"> <li>• Less than significant impacts related to substantial impairment of an adopted emergency response plan or emergency evacuation plan.</li> </ul>

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
	<ul style="list-style-type: none"> <li data-bbox="651 275 1430 401">• Less than significant impacts related to the exposure of project occupants to pollutant concentrations from wildfire or the uncontrolled spread of a wildfire due to slope, prevailing winds, and other factors.</li> <li data-bbox="651 422 1430 579">• Less than significant impact from requiring the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.</li> <li data-bbox="651 600 1430 726">• Less than significant impacts related the exposure of people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.</li> <li data-bbox="651 747 1430 768">• No cumulatively considerable impact related to wildfire.</li> </ul>

### **III. POTENTIALLY SIGNIFICANT IMPACTS THAT CAN BE MITIGATED BELOW A LEVEL OF SIGNIFICANCE (CEQA GUIDELINES § 15091(A)(1))**

Pursuant to Section 21081(a) of the Public Resources Code and Section 15091(a)(1) of the State CEQA Guidelines, the City Council finds that, for each of the following significant effects identified in the Final EIR, changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the identified potentially significant effects on the environment to less than significant levels. The significant effects and mitigation measures are stated fully in the Final EIR. Analysis of the individual findings is set forth below and the record of proceedings includes the substantial evidence supporting the findings.

#### **A. Air Quality**

##### **1) Impacts to sensitive receptors.**

**Threshold of Significance:** *Would the project expose sensitive receptors to substantial pollutant concentrations?*

**Description of Significant Effect:** The results of the Health Risk Analysis (HRA) demonstrate that the Toxic Air Contaminant (TAC) exposure from construction diesel exhaust emissions would result in cancer risk above the 10 in 1 million threshold, and the Chronic Hazard Index less than 1 for off-site receptors. Therefore, TAC emissions from construction of the project would result in a potentially significant impact to off-site receptors, and thus mitigation is required.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment (MM-AQ-1).

#### **Mitigation Measures:**

**MM-AQ-1 Tier 4 Interim Construction Equipment.** Prior to the commencement of any construction activities, the applicant or its designee shall provide evidence to the City of Oceanside (City) that for off-road equipment with engines rated at 300 horsepower or greater, no construction equipment shall be used that is less than Tier 4 Interim or equivalent (i.e., Tier 4 Final or other diesel particulate filter control that achieves equal or increased coarse particulate matter [PM<sub>10</sub>] exhaust reduction). An exemption from these requirements may be granted by the City if the applicant documents that equipment with the required tier is not reasonably available and equivalent reductions in PM<sub>10</sub> exhaust emissions are achieved from other construction equipment. The applicant shall be responsible for preparation of a new air quality assessment demonstrating that health risks are below significance thresholds of 10 in 1 million with the revised equipment mix. Before an exemption may be considered by the City, the applicant shall be required to demonstrate that two construction fleet owners/operators in the San Diego region were contacted and

that those owners/operators confirmed Tier 4 equipment or equivalent could not be located within the San Diego region. The City shall review the exemption request and provide a determination within 10 business days from receipt of the request.

**Rationale:** Implementation of MM-AQ-1 would require the use of Tier 4 interim construction equipment, thereby reducing diesel exhaust emissions and reducing the TAC exposure to off-site receptors to below a level of significance.

## **B. Biological Resources**

### **1) Indirect impacts to nesting birds.**

**Threshold of Significance:** *Would the project 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?*

#### **Description of Significant Effects:**

**Special-Status Wildlife Species:** No special-status wildlife species were observed during the focused surveys and the project is not expected to directly or indirectly impact populations of special-status wildlife species. However, the California Fish and Game Code protects bird nests and the MBTA prohibits the intentional take of any migratory bird or any part, nest, or eggs of any such bird. If clearing, grubbing, or other activities that result in the removal of vegetation occur during the nesting bird season, any impacts to active nests or the young of nesting bird species would be a potentially significant impact. This impact would be mitigated to less than significant through nesting bird surveys and establishment of appropriate buffers, as described in MM-BIO-1 (Nesting Bird Surveys).

**Finding:** Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment (MM-BIO-1).

#### **Mitigation Measures:**

**MM-BIO-1 Nesting Bird Survey.** To avoid any direct impacts to raptors and/or any migratory birds protected under the Migratory Bird Treaty Act (16 USC 703 et seq.) and California Fish and Game Code (3503 and 3503.5), removal of habitat shall occur outside of the nesting season for these species (i.e., outside of February 15 January 1 through August 31, annually). If, however, removal of habitat must occur during the nesting period, the proposed project applicant or its designee shall retain a biologist to conduct a pre-construction survey to determine the presence or absence of nesting birds in the proposed area of disturbance, as well as a 500-foot buffer

around the project site, to the extent the applicant has access within the buffer. The pre-construction survey must be conducted within 72 hours prior to the start of construction and shall be repeated if construction activities discontinue for more than 3 consecutive days.

Impacts to active nests are typically avoided as follows. Clearing and construction shall be postponed or halted within the following buffers to be established by the biologist: (1) no work within 50 feet of a non-listed and non-raptor avifauna nest; and (2) no work within 500 feet of a raptor nest. Raptor nests are not anticipated within the immediate project site due to lack of suitable nesting habitat; however, trees within 500 feet of the project boundary could support raptor nesting. The construction avoidance area shall be clearly demarcated in the field with highly visible construction fencing or flagging, and construction personnel shall be instructed on the sensitivity of nest areas. To the extent possible, the no-construction buffer zones shall be avoided until the nesting cycle is complete. If construction-related activities must take place within an active nest buffer area, the proposed project applicant or its designee shall present a plan to the City with measures to monitor and minimize impacts to nesting birds. No ground-disturbance activities shall occur within the avoidance buffer zone until the qualified biologist has determined that the nest is no longer active and the young are not dependent on the nest.

**Rationale:** Implementation of MM-BIO-1 would mitigate any impact regarding active nests or the young of nesting bird species to less than significant. Implementation of the proposed project mitigation measure would reduce potentially significant impacts to biological resources to a level below significance and ensure the project's compliance with the federal MBTA and California Fish and Game Code.

## **C. Cultural Resources**

### **1) Impacts to archaeological resources.**

**Threshold of Significance:** *Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.2?*

**Description of Significant Effect:** Appendix E to the EIR indicates there is low sensitivity of identifying intact subsurface cultural resources deposits during project implementation. The SCIC records search and pedestrian survey did not identify any cultural resources within the project site.

The review of the historic aerials reveals that all native topsoil that would have had the potential to contain cultural deposits have been removed from the project site. The project site has been entirely disturbed by ground-disturbing activities related to the development of a reservoir, earthen dam, and

the grading and development of a public elementary school. The geotechnical report prepared for the project indicates that artificial fill is located to depths ranging between 2 to 25.5 feet below existing grade (EIR Appendix F). No prehistoric- or historic-age resources will be present within the fill sediment.

Despite no significant archaeological resources being identified within the project site, in the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities, impacts could be potentially significant and mitigation is required.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment (MM-CUL-1).

**Mitigation Measures:**

**MM-CUL-1** In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities, all construction work occurring within 100 feet of the find shall immediately stop until a qualified archaeologist meeting the Secretary of the Interior’s Professional Qualification Standards can evaluate the significance of the find. Construction activities may continue in other areas but should be redirected a safe distance from the find. If the new discovery is evaluated and found to be significant under the California Environmental Quality Act (CEQA) and avoidance is not feasible, additional work, such as data recovery, may be warranted. In such an event, a data recovery plan should be developed by the qualified archaeologist in consultation with the City of Oceanside (City) and Native American representatives, if applicable. Ground-disturbing work can continue in the area of the find only after impacts to the resources have been mitigated and with City approval.

**2) Impacts to Human Remains**

**Threshold of Significance:** *Would the project disturb any human remains, including those interred outside of formal cemeteries?*

**Description of Significant Effect:** The project site is not used as a cemetery and is not otherwise known to contain human remains. Additionally, no evidence of human remains was discovered within the project site during the field surveys. However, this does not preclude finding human remains during project excavation and grading activities. As a standard construction practice, and in accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the County Coroner shall be immediately notified of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are, or are believed to be, Native American, he or she shall notify the NAHC in Sacramento within 24 hours. In accordance with California Public Resources Code

Section 5097.98, the NAHC must immediately notify the person or persons it believes to be the Most Likely Descendant from the deceased Native American. The Most Likely Descendant shall complete inspection within 48 hours of being granted access to the site and make recommendations for the treatment and disposition, in consultation with the property owner, of the human remains.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment (MM-CUL-2).

**Mitigation Measures:**

**MM-CUL-2** 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 person responsible for the excavation, or their authorized representative, shall immediately notify the San Diego County Office of the Medical Examiner by telephone. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Medical Examiner has made the necessary findings as to origin and disposition pursuant to California Public Resources Code, Section 5097.98. If such a discovery occurs, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected and so consultation and treatment could occur as prescribed by law. If suspected Native American remains are discovered, the remains shall be kept in situ, or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur on site in the presence of a Luiseño Native American monitor. By law, the Medical Examiner will determine within 2 working days of being notified if the remains are subject to their authority. If the Medical Examiner identifies the remains to be of Native American ancestry, they shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall make a determination as to the Most Likely Descendant.

**Rationale:** Implementation of MM-CUL-1 will reduce the potential for the project to cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5 and thereby reduce potential project impacts to less than significant. No known human remains are located on the site; however, implementation of MM-CUL-2, would ensure potential impacts related to the unexpected discovery of human remains would be less than significant.

## **D. Geology and Soils**

### **1) Impacts to Paleontological Resources**

**Threshold of Significance:** *Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

**Description of Significant Effect:** Direct impacts to paleontological resources occur when earthwork activities, such as mass grading operations, cut into the geological deposits (formations) within which fossils are buried. These direct impacts are in the form of physical destruction of fossil remains. Impacts to paleontological resources are typically rated from high to zero depending upon the resource sensitivity of impacted formations.

Based on the soils and geological conditions on the project site, as indicated by the paleontological records search results (SDNHM 2023), the geotechnical report (Appendix F), and geological mapping at a 1:100,000 scale (Kennedy et al. Tan 2007), it was determined that the Artificial fill materials (map unit Af) has no paleontological resource sensitivity rating; the Quaternary (Holocene) alluvium (map unit Qya) has low paleontological sensitivity, but the sensitivity increases with depth, and the sensitivity can become moderate if Pleistocene-age deposits are encountered; and the Tertiary (middle Eocene) Santiago Formation (map unit Tsa) has high paleontological resource sensitivity.

Development of the proposed project would require excavations for building foundations and utilities, and any excavations into the potentially fossil-bearing strata within the Santiago Formation and/or Pleistocene-age deposits could result in potentially significant impacts to paleontological resources.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment (MM-GEO-1 through MM-GEO-6).

#### **Mitigation Measures:**

**MM-GEO-1** A qualified paleontologist shall attend the pre-construction meeting to consult with the grading and excavation contractors concerning excavation schedules, paleontological field techniques, and safety issues (a qualified paleontologist is defined as an individual with an MS or PhD in paleontology or geology who is familiar with paleontological procedures and techniques, who is knowledgeable in the geology and paleontology of San Diego County, and who has worked as a paleontological mitigation project supervisor in the County for at least 1 year).

**MM-GEO-2** A paleontological monitor should be on site on a full-time basis during the original cutting of previously undisturbed deposits of high paleontological resource potential (Pleistocene-age deposits and the Santiago Formation) to inspect exposures for contained fossils. (A paleontological monitor is defined as an individual who has experience in the collection and salvage of fossil materials. The

paleontological monitor shall work under the direction of a qualified paleontologist.)

- MM-GEO-3** If fossils are discovered, the paleontologist (or paleontological monitor) shall recover them. In most cases, fossil salvage can be completed in a short period of time. However, some fossil specimens (such as a complete large mammal skeleton) may require an extended salvage period. In these instances, the paleontologist (or paleontological monitor) shall be allowed to temporarily direct, divert, or halt grading to allow recovery of fossil remains in a timely manner. Because of the potential for the recovering of small fossil remains, such as isolated mammal teeth, it may be necessary to set up a screen-washing operation on the site.
- MM-GEO-4** Fossil remains collected during monitoring and salvage shall be cleaned, repaired, sorted, and cataloged as part of the mitigation program.
- MM-GEO-5** Prepared fossils, along with copies of all pertinent field notes, photos, and maps, shall be deposited (as a donation) in a scientific institution with permanent paleontological collections such as the San Diego Natural History Museum. Donation of the fossils should be accompanied by financial support for initial specimen storage. Fossil lab and/or curation costs (if necessary due to fossil recovery) are the responsibility of the project proponent.
- MM-GEO-6** A final summary report shall be completed that outlines the results of the mitigation program. This report shall include discussions of the methods used, stratigraphic section(s) exposed, fossils collected, and significance of recovered fossils.

**Rationale:** With implementation of MM-GEO-1 through MM-GEO-6, potential impacts related to paleontological resources would be less than significant, considering any fossils discovered would be properly excavated and the associated paleontological research information would be preserved to the extent feasible. No other mitigation related to geology and soils would be required.

## **E. Tribal Cultural Resources**

### **1) Potentially exceed construction noise limits on occasion at residential receivers.**

**Threshold of Significance:** *Would the project 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:*

*A Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or*

*B 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.*

**Description of Significant Effect:** Under California's AB 52, tribal cultural resources (TCRs) are defined as archaeological resources that are eligible for or listed in the CRHR, or resources that the lead agency determines to be a TCR with a substantial burden of evidence. To date, no TCRs have been identified that would be impacted by project implementation. Tribal consultation with the City is ongoing; however, to date, the City received one letter from the Rincon Band of Luiseño Indians on March 9, 2023, recommending tribal monitoring for all ground-disturbing activities.

As described above, outreach letters were mailed on November 28, 2022, to all Native American group representatives included on the NAHC contact list (Appendix E). The purpose of these letters is to solicit additional information relating to Native American resources that may be impacted by the project. Native American representatives were requested to define a general area where known resources intersect the project site. The Rincon Band of Luiseño Indians responded on December 12, 2022, recommending the presence of a Rincon tribal monitor during the pedestrian survey and a copy of the cultural resources study. The Viejas Band of Kumeyaay Indians responded on December 28, 2022, and requested a Kumeyaay Cultural monitor to be on site during ground-disturbing activity and would like to be informed of any new developments such as inadvertent discovery of cultural artifacts, cremation sites, or human remains.

The NAHC correspondence and tribal letters have been forwarded to the City and are included in Appendix B to Appendix E. In compliance with AB 52, the City, as lead agency, is responsible for conducting government to government consultation with tribal entities. No other communications between Dudek and the tribes has occurred since then.

As described in Section 4.4 of this EIR, there is low sensitivity of identifying intact subsurface cultural resources deposits during project implementation. While considered unlikely based on the SCIC records search and correspondence with the tribes, there remains the potential for the project to encounter previously unknown and unanticipated TCRs during construction of the proposed project. Therefore, as recommended in the Negative Cultural Resources Inventory Report (Appendix E), in the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the project, potential impacts could occur, and mitigation would be required.

Additionally, although no evidence of human remains was discovered within the project site during the field surveys, and the project site is not used as a cemetery nor otherwise known to contain human remains, this does not preclude finding human remains during project excavation and grading activities. As a standard construction practice, and in accordance with California Health and Safety Code Section 7050.5, if human remains are found, the County Coroner shall be immediately notified of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are, or are believed to be, Native American, he or she shall notify the NAHC in Sacramento within 24 hours. In accordance with California Public Resources Code Section 5097.98, the NAHC must immediately notify the person or persons it believes to be the Most Likely Descendant from the deceased Native American. The Most Likely Descendant shall complete inspection within 48 hours of being granted access to the site and make recommendations for the treatment and disposition, in consultation with the property owner, of the human remains.

Prior to implementation of mitigation measures, impacts to TCRs would be potentially significant.

**Finding:** Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment (MM-CUL-1, MM-CUL-2, and MM-TCR-1 through MM-TCR-8).

**Mitigation Measures:**

**MM-CUL-1** and **MM-CUL-2** (see details above)

**MM-TCR-1** Prior to the issuance of a Grading Permit, the Applicant/Owner shall enter into a pre-excavation agreement, otherwise known as a Tribal Cultural Resources Treatment and Tribal Monitoring Agreement with the “Traditionally and Culturally Affiliated (TCA) Native American Monitor associated with a TCA Luiseño Tribe.” A copy of the agreement shall be included in the Grading Plan Submittals for the Grading Permit. The purpose of this agreement shall be to formalize protocols and procedures between the Applicant/Owner and the “Traditionally and Culturally Affiliated (TCA) Native American Monitor associated with a TCA Luiseño Tribe” for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, cultural and religious landscapes, ceremonial

items, traditional gathering areas and tribal cultural resources, located and/or discovered through a monitoring program in conjunction with the construction of the proposed project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground disturbing activities. At the discretion of the Luiseño Native American Monitor, artifacts may be made available for 3D scanning/printing, with scanned/printed materials to be curated at a local repository meeting the federal standards of 36CFR79.

- MM-TCR-2** Prior to the issuance of a Grading Permit, the Applicant/Owner or Grading Contractor shall provide a written and signed letter to the City of Oceanside Planning Division stating that a Qualified Archaeologist and Luiseño Native American Monitor have been retained at the Applicant/Owner or Grading Contractor's expense to implement the monitoring program, as described in the pre-excavation agreement.
- MM-TCR-3** The Qualified Archaeologist shall maintain ongoing collaborative consultation with the Luiseño Native American monitor during all ground disturbing activities. The requirement for the monitoring program shall be noted on all applicable construction documents, including demolition plans, grading plans, etc. The Applicant/Owner or Grading Contractor shall notify the City of Oceanside Planning Division of the start and end of all ground disturbing activities.
- MM-TCR-4** The Qualified Archaeologist and Luiseño Native American Monitor shall attend all applicable pre-construction meetings with the General Contractor and/or associated Subcontractors to present the archaeological monitoring program. The Qualified Archaeologist and Luiseño Native American Monitor shall be present on-site full-time during grubbing, grading and/or other ground altering activities, including the placement of imported fill materials or fill used from other areas of the project site, to identify any evidence of potential archaeological or tribal cultural resources. All fill materials shall be absent of any and all tribal cultural resources.
- MM-TCR-5** In order for potentially significant archaeological artifact deposits and/or cultural resources to be readily detected during mitigation monitoring, a written "Controlled Grade Procedure" shall be prepared by a Qualified Archaeologist, in consultation with the Luiseño Native American monitor, other TCA Luiseño Tribes that have participated in the state-prescribed process for this project, and the Applicant/Owner, subject to the approval of City representatives. The Controlled Grade Procedure shall establish requirements for any ground disturbing work with machinery occurring in and around areas the Qualified Archaeologist and Luiseño Native American monitor determine to be sensitive through the cultural resource mitigation monitoring process. The Controlled Grade Procedure shall include, but not be limited to, appropriate operating pace, increments of removal, weight and

other characteristics of the earth disturbing equipment. A copy of the Controlled Grade Procedure shall be included in the Grading Plan Submittals for the Grading Permit.

**MM-TCR-6** The Qualified Archaeologist or the Luiseño Native American monitor may halt ground disturbing activities if unknown tribal cultural resources, archaeological artifact deposits or cultural features are discovered. Ground disturbing activities shall be directed away from these deposits to allow a determination of potential importance. Isolates and clearly non-significant deposits will be minimally documented in the field, and before grading proceeds these items shall be secured until they can be repatriated. If items cannot be securely stored on the project site, they may be stored in off-site facilities located in San Diego County.

If the Qualified Archaeologist and Luiseño Native American monitor determine that the unearthed tribal cultural resource, artifact deposits or cultural features are considered potentially significant TCA Luiseño Tribes that have participated in the state-prescribed consultation process for this project shall be notified and consulted regarding the respectful and dignified treatment of those resources. The avoidance and protection of the significant tribal cultural resource and/or unique archaeological resource is the preferable mitigation. If, however, it is determined by the City that avoidance of the resource is infeasible, and it is determined that a data recovery plan is necessary by the City as the Lead Agency under CEQA, TCA Luiseño Tribes that have participated in the state-prescribed consultation process for this project shall be notified and consulted regarding the drafting and finalization of any such recovery plan. For significant tribal cultural resources, artifact deposits or cultural features that are part of a data recovery plan, an adequate artifact sample to address research avenues previously identified for sites in the area will be collected using professional archaeological collection methods. The data recovery plan shall also incorporate and reflect the tribal values of the TCA Luiseño Tribes that have participated in the state-prescribed consultation process for this project. If the Qualified Archaeologist collects such resources, the Luiseño Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the Qualified Archaeologist does not collect the tribal cultural resources that are unearthed during the ground disturbing activities, the Luiseño Native American monitor, may at their discretion, collect said resources and provide them to the appropriate TCA Luiseño Tribe, as determined through the appropriate process, for respectful and dignified treatment in accordance with the Tribe's cultural and spiritual traditions. Ground disturbing activities shall not resume until the Qualified Archaeologist, in consultation with the Luiseño Native American Monitor, deems the cultural resource or feature has been appropriately documented and/or protected.

**MM-TCR-7** The landowner shall relinquish ownership of all tribal cultural resources unearthed during the cultural resource mitigation monitoring conducted during all ground disturbing activities, and from any previous archaeological studies or excavations on the project site to the appropriate TCA Luiseño Tribe, as determined through the appropriate process, for respectful and dignified treatment and disposition, including reburial at a protected location on-site, in accordance with the Tribe's cultural and spiritual traditions. All cultural materials that are associated with burial and/or funerary goods will be repatriated to the Most Likely Descendant as determined by the Native American Heritage Commission per California Public Resources Code Section 5097.98. No tribal cultural resources shall be subject to curation.

**MM-TCR-8** Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, which describes the results, analysis and conclusions of the archaeological monitoring program (e.g., data recovery plan) shall be submitted by the Qualified Archaeologist, along with the Luiseño Native American monitor's notes and comments, to the City of Oceanside Planning Division for approval.

**Rationale:** Project implementation of the recommendations in the Negative Cultural Resources Inventory Report (EIR Appendix E) and implementation of mitigation measures MM-CUL-1, MM-CUL-2, and MM-TCR-1 through MM-TCR-8, would ensure that potential impacts to TCRs, including human remains, would remain less than significant.

#### **IV. POTENTIALLY SIGNIFICANT IMPACTS THAT CANNOT FEASIBLY BE MITIGATED BELOW A LEVEL OF SIGNIFICANCE (CEQA GUIDELINES § 15091(A)(3))**

CEQA Guidelines Section 15126.2(b) requires that an EIR describe any significant impacts that cannot be avoided, including those impacts that can be mitigated but not reduced to a less-than-significant level. Chapter 4, Environmental Analysis, of the EIR describes the potential environmental impacts of the proposed project, and recommends mitigation measures to reduce impacts, where feasible. As discussed in this EIR, implementation of the proposed project would result in potentially significant impacts to air quality, biological resources, cultural resources, geology and soils, and tribal cultural resources before mitigation. All of these impacts would be reduced to below a level of significance through mitigation. Implementation of the proposed project would not result in any significant and unavoidable impacts.

#### **V. FINDINGS REGARDING ALTERNATIVES**

Section 15126.6(a) of the CEQA Guidelines requires the discussion of “a reasonable range of alternatives to a project, or the location of a project, which will feasibly attain most of the basic

objectives of the project but will avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”

Two alternatives, including the No Project (No Build) Alternative, were analyzed in the Final EIR, Chapter 7, Alternatives:

**Alternative 1:** No Project (No Build) Alternative

**Alternative 2:** Reduced Footprint Alternative

These alternatives are evaluated for their ability to avoid or substantially lessen the impacts of the project identified in the EIR, as well as consideration of their ability to meet the basic objectives of the project as described in the EIR Chapter 3, Section 3.1 Project Objectives, and above in Section I.B.

For the reasons set forth below, and in light of the analysis presented in the EIR Chapter 7, Alternatives, the environmentally superior alternative is Alternative 2, the Reduced Footprint Alternative would be considered the environmentally superior alternative because it would potentially provide a reduced level of impact in some environmental analysis areas, albeit minimal, including air quality, cultural resources, and TCRs. However, under this alternative, it is still assumed that impacts would occur and mitigation would be required. Specifically, impacts to air quality, biological resources, cultural resources, geology and soils, and TCRs would remain less than significant with mitigation incorporated, similar to the proposed project. However, impacts associated with visual effects and neighborhood character would be increased compared to the proposed project.

The Reduced Footprint Alternative would meet all proposed project objectives with the exception of meeting Objective 4.

Nevertheless, because this alternative would slightly reduce potentially significant impacts in comparison to the project, this alternative is considered the environmentally superior alternative.

### **Alternatives Considered but Rejected**

The EIR considered three additional alternatives that were not carried forward for detailed analysis, and were deemed considered but rejected:

#### **1) Alternative Location:**

In accordance with CEQA Guidelines Section 15126.6(f)(2), an EIR may consider an alternative location for the proposed project but is only required to do so if significant project effects would be avoided or substantially lessened by moving the project to another site. As the project impacts are all site specific, an alternative location was considered. The intent would be to locate an alternative site within an urban area of the City that would avoid or substantially lessen one or more of the following impacts: air quality, biological resources, cultural resources, geology and soils, transportation, and TCRs. This alternative

is assumed to include the same components as the project and would require a site similar to the project's 14.55-acre site.

There may be sites within the City of an approximately equivalent size to the project site that could be redeveloped with a multifamily development project; however, the project applicant does not own another site within the City of comparable land area that is available for development of the project. One of the factors for feasibility of an alternative is "whether the proponent can reasonably acquire, control or otherwise have access to the alternative site." It is unlikely and speculative to assume the feasibility of assembling another site similar to the proposed project that meets most of the project objectives and avoids or substantially lessens the project's potential significant impacts. The Alternate Location Alternative was considered but rejected due to infeasibility.

## **2) Acquisition and Conservation Alternative**

Under the Acquisition and Conservation Alternative, the project site would be purchased by the City or conservation group and preserved as open space. If this alternative were to become a reality, a potential purchaser would need to acquire the site, prepare a plan for establishing quality habitat, and have funding for long-term maintenance and monitoring. Open space on the project site would reduce all impacts when compared to the proposed project. This alternative would reduce impacts to air quality, biological resources, cultural resources, geology and soils, transportation, and TCRs.

It should be noted that the City does not have any intention of purchasing the project site, and there are no available funding sources to do so. Similarly, no conservation groups have expressed interest in purchasing the site and restoring it into open space. The site does not contain high-quality biological habitat, and no special-status species occur on the site. As discussed in Section 4.3, Biological Resources, of this EIR, there are no potentially significant impacts to special-status species, and the only mitigation required is in regard to the protection of nesting birds.

Due to the fact that there has been no interest by the City, or any conservation group, to purchase the site and restore it to open space, the feasibility of this alternative is unreasonable. The site is surrounded by single-family residential, with the exception of open space to the southwest associated with Libby Lake Park, and there is no quality habitat to restore or protect on site. For these reasons, this alternative was considered but rejected.

## **3) Existing General Plan and Zoning Alternative**

Under the Existing General Plan and Zoning Alternative, the project site would remain designated as Civic Institutional (CI) and zoned Public/Semipublic (PS). Based on the City's development code, the CI and PS designations would allow for greater development intensity compared to the proposed project. Allowed land uses under this alternative could

be a hospital (100 beds and 125 employees), a government office (250 employees), or a high school (1,000 students and 91 employees).

A hospital or a high school would result in an increase in vehicle trips, vehicle miles traveled (VMT), noise, and air pollutant and GHG emissions. Hospital uses have additional noise sources associated with sirens and increased air pollutant emissions associated with generators and backup generators. A hospital would also result in a higher water demand, increase in wastewater generated, and additional demand on energy and natural gas services. A high school would result in substantially more vehicle trips during the beginning and ending of school hours. Noise associated with a high school would also be increased due to bells, intercoms, and outdoor activities. A government office with 250 employees may not necessarily result in increased impacts, but impacts would not be reduced compared to the proposed project. An office use would have different operational noise impacts compared to a residential development, and there is often a noise conflict found at the interface between commercial developments and residential uses. There would also be more parking spaces required, which could increase the amount of needed nighttime safety lighting throughout the property.

The proposed project would overall be a less intensive use than development currently allowed under the existing CI and PS designations. For these reasons, this alternative was considered, but rejected from further analysis.

CEQA Guidelines Section 15126.6(a) only requires that an EIR “describe a range of reasonable alternatives to the proposed project, or to the location of the project, that would feasibly attain most of the basic objectives but would avoid or substantially lessen any of the significant environmental effects of the project, and evaluate the comparative merits of the alternatives.” Section 15126.6(a) also provides that an EIR need not consider every conceivable alternative to a project; rather, an EIR must consider a reasonable range of potentially feasible alternatives that would foster informed decision-making and public participation. Accordingly, the Draft EIR presented two alternatives listed below, and considered and rejected two potential alternatives outlined above.

## **B. EIR Alternative 1: No Project Alternative**

### **1) Description**

Under the No Project Alternative, the proposed project and associated improvements would not be implemented, and the project site would remain undeveloped. The City’s Zoning Ordinance designates the project site PS – Public/Semipublic. Article 16 of the Zoning Ordinance states that the PS zone is intended to “allow consideration of a large public or semipublic use separately from regulations for an underlying base zoning that may or may not be appropriate in combination with the public or semipublic use.” Although nothing would be developed under this alternative, it does

not preclude future development on site, as uses allowed under the PS zone would still be allowed under the current land use designation for the site. For purposes of this analysis, no development would occur under this alternative.

## **2) Finding**

Since the No Project Alternative would not provide any development, overall impacts would be reduced compared to the proposed project. However, certain benefits would not be realized under this alternative, including the provision of housing units within proximity to transit. Furthermore, as the No Project Alternative would not develop the site or allow for housing, this alternative would not fulfill any of the proposed project objectives.

## **3) Facts in Support of Finding**

In relation to the project, the No Project Alternative would reduce or avoid all significant impacts. However, this Alternative would not achieve the basic project objectives. More specifically, this alternative would not meet project objectives considering new housing opportunities within proximity to transit or promote infill development to reduce urban sprawl. For these reasons and others detailed in the record before the City, the City rejects the No Project Alternative as both undesirable and infeasible.

### **C. EIR Alternative 2: Reduced Footprint Alternative**

#### **1) Description of Alternative**

A site plan has not been generated for the Reduced Footprint Alternative; however, it is assumed that the design would be reconfigured to reduce the overall square footage of the building footprint and increase the height of the buildings. Under the Reduced Footprint Alternative, the project would be developed with the same number of units (164 units), but instead of three-story buildings (38 feet tall), there would be four-story buildings (48 feet tall), thereby reducing the overall footprint of the project. The project site is set down relative to the surrounding single-family homes, and 20- to 30-foot slopes buffer the proposed development footprint from existing residences. However, surrounding land uses may be less amenable to increased building heights in the vicinity of existing single-family homes, and impacts to visual effects and neighborhood character may be increased in comparison to the proposed project.

The Reduced Footprint Alternative would increase the amount of open space and buffer area in relation to surrounding single-family residences and site access would remain the same as the proposed project. Overall, environmental impacts associated with the Reduced Footprint Alternative would remain relatively the same; however, the increase in open space and recreational area would provide additional conveniences to future residences and surrounding land uses.

The same discretionary actions as required for the project would also be required for this alternative, including a General Plan Amendment, Rezone, Tentative Map, and Planned Development Plan.

## **2) Finding**

The Reduced Footprint Alternative would meet all proposed project objectives with the exception of meeting Objective 4 (design the community using compatible architectural styles to the existing neighborhood with a scale and treatment that improve on the visual image of the surrounding area).

## **3) Facts in Support of Finding**

The development of four-story buildings compared to three-story buildings would increase the severity of aesthetic and visual impacts to the surrounding community. Instead of the buildings being 38 feet in height, they would be 48 feet in height. This increase in height would not create a community with a scale that would improve the visual image of the surrounding area.

Lastly, although the Reduced Footprint Alternative would meet most of the project objectives and potentially reduce the severity of impacts related to air quality, cultural resources, and TCRs in comparison to the proposed project due to the reduced development footprint, such impacts to air quality, biological resources, cultural resources, geology and soils, and TCRs under this alternative would remain as less than significant with mitigation incorporated, similar to the proposed project.

# **VI. OTHER CEQA CONSIDERATIONS**

## **A. Growth-Inducing Impacts**

Section 15126.2(e) of the California Environmental Quality Act (CEQA) Guidelines mandates that the growth-inducing nature of the proposed Pacifica Project (project or proposed project) be discussed. This CEQA Guideline states the growth-inducing analysis is intended to address the potential for a project to “foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.” Further, the CEQA Appendix G Checklist (Population and Housing) also mandates that a CEQA document speak to a proposed project’s likelihood to induce substantial population growth in an area, either directly (e.g., by proposing new homes or businesses) or indirectly (e.g., through extension of roads or other infrastructure).

A project may be distinguished as either facilitating planned growth or inducing unplanned growth. Facilitating growth is relating to the establishment of direct employment, population, or housing growth that would occur within a project site. Inducing growth is related to lowering or removing barriers to growth or by creating an amenity or facility that attracts new population/economic activity. This section contains a discussion of the growth-inducing factors related to the proposed

project as defined under CEQA Guidelines Section 15126.2(e). A project is defined as growth inducing when it directly or indirectly does any of the following:

1. Fosters population growth
2. Fosters economic growth
3. Includes the construction of additional housing in the surrounding environment
4. Removes obstacles to population growth
5. Taxes existing community service facilities, requiring construction of new facilities that could cause significant environmental effects
6. Encourages or facilitates other activities that could significantly affect the environments, either individually or cumulatively

Pursuant to CEQA Guidelines Section 15126.2(e), it must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

As discussed in Section 4.12, Population and Housing, the proposed project would directly facilitate growth through development of 164 residential units, which would introduce new residents or relocate residents within the area. The project's service population is based on the City of Oceanside (City) Housing Element, which estimates an average household size of 2.86 persons per dwelling unit (City of Oceanside 2021). The project's service population, defined as the number of residents, is approximately 469 people. Construction of the proposed project would generate an economic stimulus from activities such as the use of building materials, employment of construction workers, and the introduction of new or relocated consumer demand in the area. The proposed project would not introduce a population beyond what is planned for the City and the region.

The most recent Regional Housing Needs Assessment from the San Diego Association of Governments (SANDAG) stated that the City needs to build 5,443 units from 2021 through 2029 (SANDAG 2020). The City has a projected deficit of 1,268 very-low income units, 718 low-income units, 883 moderate income units, and 2,574 above-moderate income units (SANDAG 2020). The project is expected to bring 164 units to market in 2024/2026, all of which would be within SANDAG's growth projection for housing during the 6th Cycle planning horizon (i.e., April 2021–April 2029). Therefore, the project would not conflict with SANDAG's regional growth forecast for the City. Although the project would directly lead to additional growth within the City, and the increase in population growth at the project site was not accounted for in the City's Housing Element or General Plan, the increase in units would be within SANDAG's growth projection and would not conflict with the regional growth forecast for the City.

The project would not lead to indirect growth, as the project would not provide for additional infrastructure improvements that would allow for additional unplanned growth in the area. The project does not remove obstacles to growth by extending infrastructure to new areas, nor would it result in significant adverse environmental impacts beyond those analyzed in this EIR due to the

expansion of infrastructure such as water supply facilities, wastewater treatment plants, roads, or freeways. The project would include utility improvements; however, these upgrades would only be to the proposed project connection points and would only be upgraded to serve the project. Refer to Section 4.12 of the EIR for a full discussion of potential growth-inducing impacts.

### **B. Significant Irreversible Effects**

CEQA Guidelines Section 15126.2(d) requires that an EIR identify any significant irreversible environmental changes associated with a proposed project. That section describes irreversible effects as:

Uses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also irreversible damage can result from environmental accidents associated with the project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified. (See Public Resources Code section 21100.1 and Title 14, California Code of Regulations, section 15127 for limitations to applicability of this requirement.)

Per Section 15127, irreversible changes are only required to be addressed in EIRs when connected with the adoption or amendment of a local plan, policy, or ordinance; adoption by a local agency formation commission of a resolution making determinations; or when the project is subject to National Environmental Policy Act and requires an environmental impact statement. This project does not involve any of those activities, and as such this analysis is not required and is appropriately not provided herein.

## **VII. OTHER CEQA FINDINGS**

### **A. Mitigation Monitoring and Reporting Program**

#### **1) General Finding**

Pursuant to Section 21081.6 of the Public Resources Code, the City, in adopting these Findings, also adopts the MMRP for the Pacifica Development Project. The MMRP is designed to ensure that, during project implementation, the City and other responsible parties will comply with the mitigation measures adopted in these Findings. The City hereby binds itself to cause the various feasible mitigation measures described in the MMRP to be implemented in accordance with the Final EIR and MMRP. The mitigation measures constitute a binding set of obligations upon the City's certification and approvals identified herein.

The City hereby finds that the MMRP, which is incorporated into the project conditions of approval, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of project conditions intended to mitigate potentially significant environmental effects of the project.

## **2) Regulatory Compliance**

Federal, state, regional, and local laws contain certain regulatory compliance measures that must be adhered to in implementing the project. The Final EIR describes the regulatory setting within each chapter, which includes the details of regulatory compliance measures. Where regulatory compliance measures are required by law, the City has not separately proposed or adopted mitigation requiring regulatory compliance (as it would be declaratory of existing law). Nonetheless, the City finds that the project must comply with all applicable regulatory compliance measures.

### **B. CEQA Guidelines Sections 15091 And 15092 Findings**

Based on these findings and the information contained in the administrative record, the City has made one or more of the following findings with respect to each of the significant effects of the project:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
2. 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 Final EIR.

Based on these findings and the information contained in the administrative record, and as conditioned by the foregoing:

1. All significant effects on the environment due to the project have been eliminated or substantially lessened where feasible.
2. Any remaining significant effects that have been found to be unavoidable are acceptable due to the overriding considerations set forth in Section VIII of this document.

### **C. Nature of Findings**

Any finding made by the City shall be deemed made, regardless of where it appears in this document. All of the language included in this document constitutes findings by the City, whether or not any particular sentence or clause includes a statement to that effect. The City intends that these findings be considered as an integrated whole and, whether or not any part of these findings fail to cross-reference or incorporate by reference any other part of these findings, that any finding required or committed to be made by the City with respect to any particular subject matter of the Final EIR, shall be deemed to be made if it appears in any portion of these findings.

#### **D. Reliance on Record**

Each and all of the findings and determinations contained herein are based on substantial evidence, both oral and written, contained in the administrative record relating to the project. In accordance with Public Resources Code Section 21167.6(e), the record of proceedings (i.e., administrative record) for the City Council's decision on the project is comprised of the following documents:

- The Final EIR (September 2023) for the project, including appendices;
- The Draft EIR (July 2023) for the project, including appendices;
- Notice of Preparation (NOP) (November 1, 2022) for the project;
- Any appendices, studies or documents cited, referenced, or relied on in the NOP, Draft EIR, Final EIR, or any document prepared for the project's EIR and either made available to the public during a public review period or included in the City's non-privileged, retained files on the project;
- Reports and technical reports, studies, and memoranda included or referenced in the NOP, Draft EIR, Final EIR, or City's responses to comments on the project;
- The project application materials;
- All public notices issued by the City in conjunction with the project, including notices issued by the City to comply with CEQA, the CEQA Guidelines, or any other law governing the processing and approval of the project;
- Scoping Meeting notices and comments received at Scoping Meeting;
- The Notice of Availability and Notice of Completion of the Draft EIR;
- Comments received on the NOP;
- All reports, studies, memoranda, maps, or other planning or environmental documents relating to the project or its compliance with CEQA and prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the project that were either made available to the public during a public review period or included in the City's non-privileged, retained files on the project;
- All written comments and attachments on the project received from agencies, organizations, or members of the public during the Draft EIR comment period or prior to the close of the public hearing before the City Council;
- All City responses to comments received from agencies, organizations, or members of the public, or otherwise transferred from the City in connection with the project or its compliance with CEQA;
- Any supplemental documents submitted to the City prior to public hearings on the project;

- Staff reports prepared by the City for any information sessions, public meetings, and public hearings relating to the project, and any exhibits or attachments thereto;
- Minutes and/or transcripts of all public information sessions, public meetings, and public hearings relating to the project;
- Any documentary or other evidence submitted to the City at such information sessions, public meetings, and public hearings;
- Any proposed decisions or findings submitted to the City Council and made available to the public during any public review period;
- All findings, resolutions, and ordinances adopted by this City Council in connection with the project, and all documents cited or referred to therein;
- Project permit conditions;
- The Mitigation Monitoring and Reporting Program (MMRP) for the project;
- Any documents expressly cited in these findings and any documents incorporated by reference;
- The City of Oceanside General Plan and all pertinent environmental documents prepared in connection with its adoption;
- The full written record actually before the City Council;
- The project's approval documents;
- All City website materials relating to the EIR or project;
- Any other written materials included in the City's retained files for the EIR or project that are relevant to the City's compliance with CEQA or its decision on the merits of the project, and that were released for public review or relied upon in the environmental documents prepared for the project; and
- The Notice of Determination.

The City Council intends that only those documents relating to the project and its compliance with CEQA and prepared, owned, used, or retained by the City and listed above shall comprise the administrative record for the project. Only that evidence presented to, considered by, and ultimately before the City Council prior to reviewing and reaching its decision on the EIR and project shall comprise the administrative record. The City Council does not intend that any drafts of any study, findings, or environmental document (or portions thereof), that were not released for public review or otherwise made available to the public be included in the administrative record.

#### **E. Custodian of Records**

The custodian of the documents or other material that constitute the record of proceedings upon which the City's decision is based is identified as follows:

Planning Division  
300 North Coast Highway  
Oceanside, California 92054

#### **F. Responses to Late Comments Not Required**

CEQA Guidelines Section 15105 requires that the City provide a 45-day public review and comment period on the Draft EIR. Based on the NOA issued, public comment period for the Draft EIR began on July 19, 2023, and ended September 1, 2023.

To date the City has not received any comments on the Draft EIR after the close of the public comment period. The City is not required to provide a written response to any late letters received. (Pub. Resources Code, § 21091(d); CEQA Guidelines, § 15088(a).)

#### **G. Recirculation Not Required**

CEQA Guidelines Section 15088.5 provides the criteria that a lead agency is to consider when deciding whether it is required to recirculate an EIR. Recirculation is required when “significant new information” is added to the EIR after public notice of the availability of the Draft EIR is given, but before certification. (CEQA Guidelines, §15088.5(a).) “Significant new information,” as defined in CEQA Guidelines Section 15088.5(a), means information added to an EIR that changes the EIR so as to deprive the public of a meaningful opportunity to comment on a “substantial adverse environmental effect” or a “feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement.”

An example of significant new information provided by the CEQA Guidelines is a disclosure showing that a “new significant environmental impact will result from the project or from a new mitigation measure proposed to be implemented;” that a “substantial increase in the severity of an environmental impact will result unless mitigation measures are adopted to reduce the impact to a level of insignificance;” or that a “feasible project alternative or mitigation measure considerably different from others previously analyzed will clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it.” (CEQA Guidelines, §15088.5(a)(1)-(3).)

Recirculation is not required where “the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.” (CEQA Guidelines, §15088.5(b).) Recirculation also is not required simply because new information is added to the EIR — indeed, new information is oftentimes added given CEQA’s public/agency comment and response process and CEQA’s post-Draft EIR circulation requirement of proposed responses to comments submitted by public agencies. In short, recirculation is “intended to be an exception rather than the general rule.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1132.)

In this legal context, the City finds that recirculation of the Draft EIR prior to certification is not required. In addition to providing responses to comments, the Final EIR includes revisions to expand upon information presented in the Draft EIR; explain or enhance the evidentiary basis for the Draft EIR's findings; update information; and to make clarifications, amplifications, updates, or helpful revisions to the Draft EIR. The Final EIR's revisions, clarifications and/or updates do not result in any new significant impacts or increase the severity of a previously identified significant impact.

In sum, the Final EIR demonstrates that the project will not result in any new significant impacts or increase the severity of a significant impact, as compared to the analysis presented in the Draft EIR. The changes reflected in the Final EIR also do not indicate that meaningful public review of the Draft EIR was precluded in the first instance. Accordingly, recirculation of the EIR is not required as revisions to the EIR are not significant as defined in Section 15088.5 of the CEQA Guidelines.

#### **H. CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT, CEQA GUIDELINES § 15090**

The City Council certifies that the Final EIR, dated September 2023, on file with the Development Services Department (SCH # 2022110021), has been completed in compliance with CEQA and the State CEQA Guidelines, that the Final EIR was presented to the Planning Commission, and that the Planning Commission reviewed and considered the information contained therein before recommending approval of the project to the City Council, and that the Final EIR reflects the independent judgment and analysis of the City Council. (State CEQA Guidelines § 15090.)

INTENTIONALLY LEFT BLANK