

**CEQA FINDINGS OF FACT  
FOR THE  
LAGUNA NIGUEL CITY CENTER MIXED-USE PROJECT  
FINAL ENVIRONMENTAL IMPACT REPORT  
City of Laguna Niguel**

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**STATE CLEARINGHOUSE NO. 2019110083**

**I. INTRODUCTION**

The California Environmental Quality Act (“CEQA”) requires that a number of written findings be made by the lead agency in connection with certification of an environmental impact report (“EIR”) prior to approval of the project pursuant to Sections 15091 and 15093 of the CEQA Guidelines and Section 21081 of the Public Resources Code. The State CEQA Guidelines Section 15091 provides:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
  - 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
  - 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can or should be adopted by such other agency.
  - 3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

Public Resources Code Section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” CEQA Guidelines section 15364 adds another factor: “legal” considerations. (See *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565 (*Goleta II*).)

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001 [“an alternative ‘may be found infeasible on the ground it is inconsistent with the project objectives as long as the finding is supported by substantial evidence in the record’”].) An alternative may also be rejected because it “would not ‘entirely fulfill’ [a] project objective.” (*Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 314-315.) “[F]easibility” under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) “Broader considerations of policy thus come into play when the decisionmaking body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives.” (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1000.)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project's “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The California Supreme Court has stated, “[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Goleta II, supra*, 52 Cal.3d at p. 576.)

When adopting Statements of Overriding Considerations, State CEQA Guidelines Section 15093 further provides:

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

Having received, independently reviewed, and considered the Draft Environmental Impact Report (“DEIR”) and the Final Environmental Impact Report (“Final EIR”) for the Laguna Niguel City Center Mixed-Use Project, SCH No. 2019110083 (collectively, the “EIR”), as well as all other information in the record of proceedings on this matter, the following Findings of Facts (“Findings”) are hereby adopted by the City of Laguna Niguel (“City”) in its capacity as the CEQA Lead Agency.

These Findings set forth the environmental basis for the discretionary actions to be undertaken by the City for adoption and implementation of the Laguna Niguel City Center Mixed-Use Project (“Proposed Project”). This action includes the certification of the following:

- Laguna Niguel City Center Mixed-Use Project Environmental Impact Report, SCH No. 2019110083

#### **A. DOCUMENT FORMAT**

These Findings have been organized into the following sections:

- 1) Section I provides an introduction.
- 2) Section II provides a summary of the project, overview of the discretionary actions required for approval of the project, and a statement of the project’s objectives.
- 3) Section III provides a summary of the environmental review process related to the project , and a summary of public participation in the environmental review for the project.

- 4) Section IV sets forth findings regarding the environmental impacts that were determined to result in no impact or a less than significant impact given the nature and location of the proposed project.
- 5) Section V sets forth findings regarding significant or potentially significant environmental impacts identified in the FEIR that the City has determined are either not significant or can feasibly be mitigated to a less than significant level through the imposition of mitigation measures. In order to ensure compliance and implementation, all of these measures are included in the Mitigation Monitoring and Reporting Program (“MMRP”) for the project and adopted as conditions of the project by the Lead Agency. Where potentially significant impacts can be reduced to less than significant levels through adherence to mitigation measures, these findings specify how those impacts were reduced to an acceptable level. Section V also includes findings regarding those significant or potentially significant environmental impacts identified in the DEIR/FEIR that will or may result from the project and which the City has determined cannot feasibly be mitigated to a less than significant level.
- 6) Section VI sets forth findings regarding alternatives to the proposed project.
- 7) Section VII sets forth the statement of overriding considerations for the proposed project.
- 8) Section VIII sets forth the finding regarding certification of the EIR.
- 9) Section IX sets forth the finding adopting a mitigation and monitoring plan for the proposed project.
- 10) Section X sets forth the finding regarding custodian of records for the proposed project.

## **B. RECORD OF PROCEEDINGS**

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

- The NOP and all other public notices issued by the City in conjunction with the proposed project
- The DEIR for the proposed project
- The FEIR for the proposed project
- All written comments submitted by agencies or members of the public during the public review comment period on the DEIR
- All responses to written comments submitted by agencies or members of the public during the public review comment period on the DEIR

- All written and verbal public testimony presented during a noticed public hearing for the proposed project
- The Mitigation Monitoring and Reporting Program
- The reports and technical memoranda included or referenced in the Response to Comments
- All documents, studies, EIRs, or other materials incorporated by reference in the DEIR and Final EIR
- The Resolutions adopted by the City of Laguna Niguel in connection with the proposed project, and all documents incorporated by reference therein, including comments received after the close of the comment period and responses thereto
- Matters of common knowledge to the City of Laguna Niguel, including but not limited to federal, state, and local laws and regulations
- Any documents expressly cited in these Findings
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e)

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

### **C. CUSTODIAN AND LOCATION OF RECORDS**

The documents and other materials that constitute the administrative record for the City's actions related to the project are at the City of Laguna Niguel Planning Division, 30111 Crown Valley Parkway, Laguna Niguel, CA 92677. The City's Planning Division is the custodian of the administrative record for the project. Copies of these documents, which constitute the record of proceedings, are and at all relevant times have been and will be available upon request at the offices of the Planning Division Counter. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and 14 California Code Regulations Section 15091(e).

## **II. PROJECT SUMMARY**

### **A. PROJECT LOCATION**

The City of Laguna Niguel (City) is in southern Orange County, southern California. It is bordered by Laguna Hills and Aliso Viejo to the north, San Juan Capistrano and Mission Viejo to the east, Dana Point to the south, and Laguna Beach and unincorporated Orange County (Aliso and Wood Canyons Wilderness Park) to the west.

East of Laguna Niguel, Interstate 5 (I-5) runs north-south, connecting the City to the majority of southern California. State Route 73 (SR-73) (San Joaquin Hills Transportation Corridor) runs along the northern City limits and connects with I-5 in the northeastern portion of Laguna Niguel. Highway 1, also known as East/West Coast Highway, runs near the southern boundary of Laguna Niguel.

The project site (Assessor's Parcel Number 656-242-18) is approximately 25 acres, is owned by the County of Orange and leased to Laguna Niguel Town Center Partners LLC to develop the proposed mixed-use project. The property consists of South County Justice Center (closed in 2008), the Orange County Library, a county maintenance yard, Orange County Fire Station No. 5, and undeveloped land. The site is immediately adjacent to City Hall. The site is generally bounded by Pacific Island Drive to the north, Alicia Parkway to the east, Crown Valley Parkway to the south, and multifamily residential communities to the west (e.g., Niguel Summit Apartments) and south (El Niguel Terrace townhomes, and Charter Terrace single-family homes).

### **B. PROJECT DESCRIPTION**

The proposed project would include specialty retail, restaurants, office, a new community library, community-oriented event/programmable space, integrated residential apartment homes, and extensive walkable open spaces, paseos, and plazas. The proposed project would include the development of approximately 175,000 square feet of commercial and civic uses and 275 multifamily residential units. The commercial component would include a wide range of uses, such as restaurants, retail shops, health/wellness focused retail medical office, and creative office space. The civic space consists of an approximately 16,290 square foot county library, which would replace the existing library. The residential component of the proposed is comprised of two apartment buildings—one 200-unit apartment building and one 75-unit apartment building. On-site parking accommodations for the proposed project would include a combination of surface and structured parking for the commercial/civic uses and a mixture of surface parking; private garage; and on-grade, multilevel garage for the residential component. The development vision includes a focus on creating a landmark project for the City with an architectural design blending traditional styles with modern elements. The project applicant will pursue Leadership in Energy and Environmental Design (LEED) certification for the commercial and residential component of the project.

## C. DISCRETIONARY ACTIONS AND APPROVALS

Project development requires the following discretionary actions and approvals from the City:

- **General Plan Amendment GPA 19-01.** The subject property is in Community Profile 14, Sub-profile Area C (Town Center Expansion) of the Laguna Niguel General Plan. The Land Use Element designates the majority of the property as “Community Commercial” “Professional Office,” and “Public/Institutional,” which allows a wide range of nonresidential uses, such as retail, restaurant, office, personal service, hotel and public/institutional. The portion of the project site that includes the library and OCFA Fire Station No. 5 are designated “Public/Institutional,” which allows a wide range of public, quasi-public, and special-purpose private facilities that provide government or social services to the community. The General Plan Amendment proposes to modify the land use designation for the entire property (excluding OCFA Fire Station No. 5) to “Community Commercial, Professional Office, Public/Institutional, and Residential Attached” (see Figure 3-5, for *Existing Land Use Designations* and *Proposed Land Use Designations*). To accommodate this development program, the General Plan Amendment also includes amending the statistical summary for Sub-profile Area C to account for the proposed project, including residential dwelling units and other modest narrative updates to reflect existing conditions, which have changed since the original adoption of the General Plan in 1992.

The General Plan Amendment also amends the description for Sub-profile Area C (Town Center Expansion, to be retitled Town Center 3) as follows (strikeout: deleted text, underline: new text):

~~This area is designated Community Commercial, Professional Public/Institutional. The area currently includes the County of Orange Civic which encompasses 46,860 sq. ft. If the County Civic Center vacates this area, a maximum of 130,680 sq. ft. of Community Commercial and a maximum of 217,800 sq. ft. of Professional Office uses are envisioned for the site. Future development of the site may also include City Hall facilities. The existing Crown Valley Branch Library and Fire Station #5 will also remain within the sub area.~~

Anticipated development of the County-owned property includes up to 159,000 sq. ft. of Community Commercial/Professional Office and a new library (approximately 16,3000 square feet in area), which would replace the existing library. Future redevelopment that achieves the projected sub profile area commercial growth may also include development of additive residential dwelling units at a maximum ratio of one (1) unit per 10,000 sq. ft. of commercial development. Bonus additive residential uses up to a total of 275 dwelling units may be developed provided that specific findings are achieved, as described below:

1. The proposed development substantially advances the General Plan’s intent, policies, and actions for Town Center;
2. The proposed development results in substantial public benefit, beyond that required for projects not requesting bonus additive residential uses (e.g., community-serving facilities,

public outdoor gathering and event spaces, non-project infrastructure improvements, affordable housing, etc.); and

3. The proposed development results in significant improvements over existing site and building conditions by creating exceptionally high-quality mixed-use development in terms of site planning, architecture, circulation, landscaping, pedestrian amenities, land uses, and other design elements.

Additionally, the proposed General Plan Amendment includes the following policy revisions under Land Use Element Goal 9, “Enhancement of the Town Center” (underline: new text):

- **Policy 9.2.** Enhance pedestrian circulation through the construction of pedestrian walkways and paths. Projects that feature pedestrian activity through street character, plazas, and other outdoor amenities that enhance Town Center’s viability are encouraged.
- **Policy 9.3.** Encourage the development of new land uses that provide both daytime and evening activities. This may include mixed-use developments comprised of a variety of integrated commercial and additive residential uses that have well planned public spaces that bring people together and provide opportunities for interaction and active living featuring a range of shopping, restaurant, service, employment, civic, and entertainment and leisure activities and uses.
- **Policy 9.4.** Ensure high quality urban design in the Town Center area with structures of varying scale and function that are visually distinct and complement the City’s identity. A focus is also ensuring the appearance of arterials and surrounding streets are significantly enhanced with street trees and other landscaping to improve the visual and spatial experience of drivers and pedestrians.
- **Zone Change ZC 19-01.** The majority of the project site is zoned “Community Commercial” (CC) District, which allows for a variety of retail, restaurant, office, personal service, hotel, and other nonresidential uses. The portion of the project site that includes the library and OCFA Fire Station No. 5 are zoned “Public/Institutional,” which allows a wide range of public, semi-public, and special-purpose private facilities to provide a variety of government and social services. The applicant is proposing a change in the property’s zoning designation to “Mixed-Use Town Center” (MU-TC) district (see Figure 3-6, *Existing Zoning Districts and Proposed Zoning Districts*), excluding OCFA Fire Station No. 5.
- **Zoning Code Amendment ZCA 19-01.** Accompanying Zone Change ZC 19-01, a zoning code amendment is proposed to establish the mix of permissible land uses and development standards for the new MU-TC district.
- **Vesting Tentative Tract Map VTTM 19024.** The applicant is proposing a vesting tentative tract map to subdivide the property into a total of 21 lots, including 17 numbered lots and 4 lettered lots.



- **Site Development Permit SDP 19-03.** A site development permit is required for all projects that involve construction of any structure, except in certain limited circumstances. The project involves construction of multiple structures. The applicant is therefore proposing a site development permit for the project. A site development permit is also proposed because the project includes over 5,000 cubic yards of earth work and to allow alternative development standards for a reduction in the minimum depth of boundary landscaping at the base of an ascending slope for a property line segment along proposed Lot 15.
- **Use Permit UP 19-22.** A use permit request to allow multifamily apartment homes on the project site per the new MU-TC District.

Certification of the Environmental Impact Report and Adoption of Findings of Fact and a Mitigation Monitoring and Reporting Program. An EIR is required by CEQA, and the City must certify the EIR and adopt Findings of Fact and a Mitigation Monitoring and Reporting Program before approving the above-listed project entitlements.

The development program, which is described in greater detail in the EIR, is organized based on the five main development areas and includes general categories of uses to allow a broad range of future tenants, as further described by the project applicant below:

- **Daily Needs Retail.** The Crown Valley entrance would include approximately 19,920 square feet of daily needs retail and convenient surface parking for uses such as a gourmet market, specialty foods, culinary supplies, and restaurants. All buildings would be single story.
- **Retail Village Core.** The Crown Valley and Alicia Parkway entrances would converge at the main retail village. The overall village comprises approximately 43,390 square feet of single-story retail built around a central open space plaza area (Town Green), all linked by landscaped paseos that would feature shade trees, outdoor lighting, soft seating areas, gardens, and water features. The buildings are designed as single story with patios that open onto the Town Green area. The Town Green would be open to all residents of Laguna Niguel and be improved with outdoor performance/event spaces and other spaces to be programmed by the applicant and others for open air farmers markets, art shows, live music, food and wine festivals, yoga in the park, outdoor movie nights, and more. Potential tenant uses in the Retail Village Core include restaurants; markets; wine stores; breweries; cooking schools; independent-chef-driven food concepts and restaurants; hand-crafted coffee house; specialty markets such as wine, cheese stores, and butchery; retail shops; small artisanal food purveyors; kiosks; educational space; and performance/event space. The buildings would be architecturally distinctive and designed with a natural material such as wood, stone, and plaster siding; crafted storefronts featuring wood and steel windows with fabric awnings and distinctive handcrafted signage; and gabled roofs with standing-seam metal and cedar-shake roofs. Many of the restaurants would feature exposed beamed ceilings, open kitchens, and exterior patio seating areas with landscaped gardens, herb gardens, wood and steel trellis, canvas awnings or umbrellas, fire pits, water features, and wall-mounted fountains.

- **Health/Wellness-Focused Retail and Medical Office.** Directly adjacent to the retail village would be a two-story building totaling 34,654 square feet dedicated to health and wellness that provides for uses such as spin classes, yoga, Pilates, cross-training, stretch/meditation classes, medical office, physical therapy, health food cafes, and active lifestyle shops.
- **Creative Office Space.** Directly adjacent to the retail village would be two creative office buildings totaling 60,597 square feet in two- and three-story structures. The buildings would feature creative spaces with high loft ceilings, skylights, exposed plenum mechanical systems, operable windows, and overhead vertical-lift exterior doors that open to outdoor patios offering soft seating areas with indoor-outdoor collaborative workspaces and recreation areas. The office spaces would support daytime workspace that would benefit from walkability to retail, restaurant, and civic spaces as well as residential housing to complete a fully integrated live-work-play project. The two- and three-story office component is a critical driver in providing an active daytime population to support the proposed commercial uses. The buildings are designed with modern, open floor plans, allowing employees to take a break from their daily work to recharge among open space, shops, and dining options.
- **Library.** The existing Laguna Niguel branch of the Orange County Library system would be replaced with a larger, architecturally significant and modern new library. The existing library is approximately 14,400 gross square feet while the project's proposed library would be approximately 16,290 gross square feet. The total usable square footage would be increased from about 11,100 square feet in the current library to about 13,100 square feet in the new library and would also include approximately 2,600 square feet of outdoor programmable space, expanding the useable area.

The proposed library would be located in the heart of the proposed project's commercial experience. This would provide several benefits to both library patrons and the new commercial uses. By relocating the library, the commercial center would have important drive-by exposure and frontage along Crown Valley Parkway, which is imperative to attracting and maintaining the types of commercial tenants envisioned for the proposed project. Relocating the library within the boundaries of the commercial core would also allow library patrons easier access to the restaurants, retail shops, and community gathering areas, and would enhance library experience and accessibility to community event spaces. Finally, the new library would provide a better designed and more functional library space equipped with modern technologies and improved space planning to support the needs of the broader library community and allow for more programming during the year.

- **Residential Village.** The residential component of the proposed project would have 275 apartment units in two separate locations on the property along Alicia Parkway and Pacific Island Drive, with significant pedestrian and architectural connections to the project's commercial, office, and library components. Each residential building would be offered on a for-rent basis at market rates and offer a variety of unit floor plans, including one to three bedrooms in flats and townhome configurations, with surface, structured, and direct-access garages to appeal to a broad segment of the renter market. The buildings would be

architecturally distinct and provide modern finishes and features with best-in-class amenities and enhanced pedestrian connections to the commercial core of the project.

- **Residential 1.** Residential 1 would be at the southwest corner of Alicia Parkway and Pacific Island Drive between the Laguna Niguel City Hall and the OCFA fire station. It would house 200 -, two-, and three-bedroom apartment units in a three- and four-story building that terraces down the existing slope and entirely wraps a four-story, five-level parking garage. Both the residential and garage structures would be on grade, with the parking entirely screened from view. Building height would not exceed 50 feet above the nearest finished grade. Resident amenities would include a leasing office, clubhouse, co-work area, state-of-the-art fitness center with outdoor workout space, outdoor dining, resort pool and spa, cabanas, bike repair shop, and pet spa. Ground-level units facing the commercial portion of the project would have expanded patios and direct entry to the sidewalk. The gross residential building area would be approximately 290,000 square feet, and the garage would be approximately 160,000 gross square feet. The building would have a contemporary design one vernacular and include a mixture of materials such as plaster, metal, and tile.
  - **Residential 2.** Residential 2 would be at the northwest corner of the site along Pacific Island Drive just west of the OCFA fire station. It would consist of two 3- and 4-story buildings surrounding a surface parking lot and house 75 apartment units consisting of one-, two-, and three-bedroom flats and two-story townhome-style units, some with private rooftop decks. Building height would not exceed 50 feet above nearest finished grade. Building amenities would include a private lounge adjacent to a resort-style pool and spa area that includes outdoor dining, cabanas, and a fire pit. Residents in Residential 2 would also have access to amenities in Residential 1. A number of the ground-floor units facing the south and east would have direct entry at the street level through private, gated patios. The gross residential building area would be approximately 120,000 square feet. Individual private garage space would occupy approximately 15,000 square feet. The project will include a 1.5 kilowatt/unit solar system on carports in the surface parking lot. The buildings would have a modern take on traditional residential design that complement the commercial buildings and would include a mixture of materials such as plaster, metal, stone, tile, and siding.
  - **OCFA Station No.5.** The proposed improvements at the OCFA Station No. 5 would include reconstruction and repaving of the drive aprons and parking lot within the southern portion of the Fire Station property
- Certification of EIR
  - Adoption of Findings of Fact and Statement of Overriding Considerations
  - Adoption of the Mitigation Monitoring Program

#### **D. STATEMENT OF PROJECT OBJECTIVES**

Objectives for the Laguna Niguel City Center Mixed Use Project (proposed project) will aid decision makers in their review of the project and associated environmental impacts:

1. Create a dynamic mix of commercial uses, including retail, restaurant, creative office, health/wellness, and civic uses, that will be unique and distinct from other commercial projects in the City and will be complemented by highly amenitized residential apartment buildings, culminating in a vibrant city center in the heart of Laguna Niguel.
2. Create a financially feasible project that promotes the City's economic well-being with (i) a commercial core that generates local tax revenue and provides new jobs; and (ii) a residential component that creates housing options for existing and new residents to support local businesses, including dining, shopping, office, and entertainment venues.
3. Replace the existing Laguna Niguel library with a larger, innovative, and architecturally significant library with modern programming and technologies to better serve the residents of Laguna Niguel for decades to come. The new library will be an integral part of the project and designed to facilitate connections to and integration with surrounding retail, office, and residential uses.
4. Incorporate a pedestrian-oriented outdoor town green and gathering place for the community, connected by an integrated walkable network of passive and active pedestrian-oriented paseos and open spaces weaving through the retail and commercial core.
5. Provide investment and redevelopment of underutilized property in the Town Center Opportunity Area by replacing the vacant South County Justice Center and undeveloped county land with a project that would generate new sources of property and sales tax revenue for the City and County.
6. Create a visually impactful, architecturally distinct design and a retailing experience that will attract differentiated retail, restaurant, and commercial tenants to the City of Laguna Niguel and provide unique live, work, and play opportunities for residents of Laguna Niguel and surrounding communities.
7. Improve and enhance the City's profile and amenities for residents by providing a unique mixed-use environment not seen elsewhere in South Orange County that will attract differentiated retail and commercial tenants and a unique, high-quality, pedestrian-oriented commercial center including a state-of-the-art library that the community can enjoy.

### III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION PROCESS

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

- The City of Laguna Niguel concluded that a EIR should be prepared, and the Notice of Preparation (NOP) was released for a 30-day public review period from November 4, 2019, through December 4, 2019. The NOP was posted at the Orange County Clerk’s Office on November 4, 2019. The notice was published in the *Orange County Register*, a newspaper of general circulation. Under CEQA, a lead agency may proceed directly with preparation of a EIR without preparation of an Initial Study if it is clear that a EIR will be required (State CEQA Guidelines § 15060[d]). The City of Laguna Niguel made such a determination for this project and did not prepare an Initial Study.
- Completion of a scoping process, in which the public was invited by the City of Laguna Niguel to participate. The scoping meeting for the EIR was held on November 13, 2019, at 6:00 p.m. at the City Council Chambers at 30111 Crown Valley Parkway in Laguna Niguel. The notice of a public scoping meeting was included in the NOP distributed on November 4, 2019.
- Preparation of a DEIR by the City of Laguna Niguel, which was made available for a 45- day public review period (March 15, 2022 through April 29, 2022). The Notice of Availability (NOA) for the DEIR was sent to all persons, agencies, and organizations on the list interested persons, sent to the State Clearinghouse in Sacramento for distribution to public agencies, and published in the *Orange County Register*. The NOA was posted at the Orange County Clerk’s Office on March 14, 2022. Copies of the DEIR were made available for public review at the City of Laguna Niguel, Planning Division Counter at 30111 Crown Valley Parkway, Laguna Niguel, CA 92677, and the County Library – Laguna Niguel Branch at 30341 Crown Valley Parkway, Laguna Niguel, CA 92677. The DEIR was also available for review and download on City website: <https://www.cityoflagunaniguel.org/CityCenterDEIR>.
- The Final EIR contains comments on the DEIR, responses to those comments, revisions to the DEIR, if any, and appended documents. The Final EIR was released for a 10-day agency review period prior to certification of the Final EIR.
- After considering the EIR and in conjunction with making these findings, the City of Laguna Niguel hereby finds that, pursuant to Section 15092 of the CEQA Guidelines, approval of the project will result in significant effects on the environment; however, the significant effects will be eliminated or substantially lessened where feasible, and the City has determined that remaining significant effects are acceptable under Section 15093.
- The Mitigation Monitoring and Reporting Program is hereby adopted to ensure implementation of feasible mitigation measures identified in the EIR. The City of Laguna Niguel finds that these mitigation measures are fully enforceable conditions on the project and shall be binding upon the City and affected parties.

- The City of Laguna Niguel finds that the project is in the public interest and is necessary for the public health, safety, and welfare.
- The City of Laguna Niguel hereby certifies the Final EIR in accordance with the requirements of CEQA.
- Pursuant to CEQA Guidelines Section 15095, staff is directed as follows: a) copy of the Final EIR and CEQA Findings of Fact shall be retained in the project files; b) copy of the Final EIR and CEQA Findings of Fact shall be provided to the project applicant who is responsible for providing copy of same to all CEQA "responsible" agencies.

#### **IV. ENVIRONMENTAL ISSUES THAT WERE DETERMINED NOT TO BE POTENTIALLY AFFECTED BY THE PROPOSED PROJECT**

##### **A. IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT DURING THE SCOPING PROCESS**

Based on the public scoping process (including review of NOP responses and input at the public scoping meeting), in addition to analysis prepared for the DEIR, the City determined, based upon the threshold criteria for significance, that the project would have no impact or a less than significant impact on the following potential environmental issues (see DEIR, Chapter 8, Impacts Found Not to Be Significant). It was determined, therefore, that these potential environmental issues would be precluded from detailed discussion in Chapter 5, *Environmental Analysis*, of the DEIR. Based upon the environmental analysis presented in the DEIR, and the comments received by the public on the DEIR, no substantial evidence was submitted to or identified by the City which indicated that the project would have an impact on the following environmental areas:

- (a) **Agriculture and Forestry Resources:** There are no existing agricultural uses on the project site and there are no lands within all of Laguna Niguel under Williamson Act contracts. The project site is not zoned for forest land, timberland, or timberland production and would have no impact on important farmlands or convert any farmland to nonagricultural use or result in the loss of any forest land.
- (b) **Mineral Resources:** The project site is mapped as Mineral Resources Zone 1 which indicates that there is adequate information that no significant mineral deposits are present, or it is judged that little likelihood exists for their presence. The project site is also not available as a mining site.

All other topical areas of evaluation included in the Environmental Checklist were determined to require further assessment in the DEIR.

##### **B. IMPACTS DETERMINED TO EITHER RESULT IN NO IMPACT OR BE LESS THAN SIGNIFICANT IN THE DEIR**

This section identifies impacts of the proposed project determined to be less than significant without implementation of project-specific mitigation measures. This determination assumes compliance with existing regulations, as detailed in each respective topical section of Chapter 5 in the DEIR.

- (a) **Aesthetics:** No views of the Pacific Ocean exist from the project site because of obstruction by trees, buildings, rooflines, and existing topography. No mountains, forests, or urban skylines can be seen from the project area either. While there are vantage points west of the project site along Pacific Island Drive, the proposed project does not obstruct these views. No state scenic highways exist onsite nor is the project site visible from any officially or eligible state scenic highways. Additionally, the project site would alter the existing visual character of the project site, however, there are no significant visual resources on or near the project site. The visual character and quality of the site and its surrounding would not be

adversely impacted, and the project would not conflict with applicable zoning standards. Despite new sources of light, development is not expected to generate a substantial increase and the proposed project would be required to comply with Sections 9-1-35.15, 9-1-45.14, and 9-1-71.5 of the Laguna Niguel Zoning Code.

- (b) **Air Quality:** The proposed project's population and employment growth would be within SCAG's forecast growth projections and the long-term emissions generated by the proposed project would not produce criteria air pollutants that exceed the South Coast AQMD significance thresholds for operations. The potential overlap of construction and operation for a limited 12-month period in the latter phases of construction would not exceed the South Coast AQMD construction or operation thresholds. Buildout of the proposed project would generate an increase in criteria air pollutant emissions from transportation (i.e., vehicle trips), area sources (e.g., landscaping equipment, architectural coating), and energy (i.e., natural gas used for heating and cooking). Operation of the proposed project would not generate substantial quantities of emissions from onsite stationary sources; net localized air quality impacts from project-related operations would be less than significant. The proposed project would not generate enough trips needed to generate a significant CO impact because the project does not approach the single-intersection volume increase that would be necessary to result in a significant impact. The proposed project would develop retail and residential uses which do not produce foul odors that constitute a public nuisance. Construction odors would be produce odors, but these would be temporary.
- (c) **Biological Resources:** No sensitive natural communities, riparian habitat, or jurisdiction waters were identified onsite. The project site is within the boundaries of the Orange County Central and Coastal NCCP/HCP. However, the City is not a participant or permittee to this NCCP/HCP. There are no significant trees present on the project site.
- (d) **Cultural Resources:** There is no indication that the project area has been used for human burial purposes. If human remains are discovered during project construction activities, compliance with California Health and Safety Code Section 70505.5, CEQA Section 15064.5, and PRC Section 5097.98 would be required.
- (e) **Energy:** Construction of the proposed project would create temporary increased demands for electricity and vehicle fuels which would result in short-term, transportation-related energy use. The construction of the project is not wasteful or unnecessary because the project responds to existing demands for commercial, residential, and civic uses. Locating these uses together on an urban infill site allows for efficiencies of scale and reduces construction waste. The proposed project would result in an increase in energy use under the operational phase of the project. However, the electricity demand generated by the proposed project would be less than 0.03 percent of the SCE's yearly electricity consumption and gas demands would be less than 0.001 percent of SoCalGas' yearly natural gas supplies. Furthermore, in accordance with Title 24, Part 6, the proposed project would include a 1.5 kilowatt/unit residential photovoltaic (PV) system on carports in the surface parking lot, which would further add to the project's energy efficiency. The PV system would reduce energy



requirements of the project by 45 MTCO<sub>2</sub>e/year. In addition, the new proposed buildings would be more energy efficient than the existing buildings on-site.

- (f) **Geology and Soils:** The Newport-Inglewood Fault is four miles from the project site, and as such, would not cause adverse impacts from potential rupture. The project site is not within a liquefaction zone, and therefore, lateral spread is unlikely. The proposed project would include the construction of retaining structures on the project site to support the off-site western and southwestern slopes where they extend onto the site and establish adequate offsets between the base of the slopes and the proposed site structures. Collapse of soil at the project site is considered very low and there appears to be little or no potential for ground subsidence due to withdrawal of fluids or gases at the site. Highly expansive soils were encountered up to depths of 30 feet in recent and previous explorations; the project design would implement appropriate controls to minimize the impact of expansive soil such as in-place chemical treatment. Prior to issuance of any future grading permit for project development, a final Geotechnical Design Report in accordance with the Laguna Niguel Building Code (i.e., proper earthquake design and engineering) would be required. The final Geotechnical Design Report would supplement the preliminary Geotechnical Evaluation Report for CEQA Purposes and would incorporate recommendations from the preliminary report and provide more detailed analyses and geotechnical recommendations for design and construction. The report would include requirements pertaining to structural design and construction recommendations for earthwork, grading, slopes, foundations, pavements, and other necessary geologic and seismic considerations. The proposed project would not use septic tanks as it has sewer connections maintained by the Moulton Niguel Water District. Neither soil erosion or loss of topsoil would be significant. Since the project would disturb more than one acre of land, future development of the proposed project would require compliance with the statewide Construction General Permit, which requires the preparation and implementation of a SWPPP. A SWPPP estimates sediment risk to receiving waters from construction activities and specifies BMPs that would be used by the project to minimize pollution of stormwater. Operationally, the project is required to prepare and implement a Water Quality Management Plan and low impact development and hydromodification BMPs to control runoff at the project site.
- (g) **Hazards and Hazardous Materials:** The project site is not within an airport land use plan; the closest public airport is the John Wayne Airport approximately 13.6 miles northwest of the site. The proposed project would be required to provide adequate access for emergency vehicles per the California Fire Code. Construction material and equipment would be staged or stored onsite and would not interfere with emergency access to or evacuation from surrounding properties. Development of the proposed project would be required to incorporate all applicable design and safety requirements from the most current adopted fire codes, building codes, and nationally recognized fire and life safety standards. The City would coordinate with the OCFA and OCSD during building plan check. Pacific Island Drive, Crown Valley Parkway, and Alicia Parkway would still be available as major evacuation routes during project operation. The project site is adjacent to a local responsibility area for Very High Fire Hazard Severity Zone (VHFHSZ). The proposed project would provide site-

specific on- and off-site access and circulation for emergency vehicles and services during the proposed project's construction and operational phases. During project operation, Pacific Island Drive, Crown Valley Parkway, and Alicia Parkway would still be available as major evacuation routes. No policy or procedural changes to an existing risk management plan, emergency response plan, or evacuation plan would be required due to project implementation. The proposed project would comply with the California Building Code, California Fire Code, and OCFA Fire Prevention Guidelines.

- (h) **Hydrology and Water Quality:** As the project would disturb more than one acre of land, future development of the proposed project would require compliance with the statewide Construction General Permit, which requires the preparation of a SWPPP. The SWPPP would include construction BMPs, including erosion controls, sediment controls, wind erosion controls, tracking controls, among others, which would control runoff during construction and reduce impacts to less than significant. Operational BMPs would be implemented as detailed in the project-specific WQMP to ensure adequate capacity to treat all design stormwater flows. Low Impact Development and Hydromodification BMPs would be implemented, including the installation of modular wetlands. The Moulton Niguel Water District provides water to the project site and relies on imported water from the Municipal Water District of Orange County and local recycled water. Groundwater resources are not significantly used, therefore, the proposed project would not substantially deplete groundwater supplies. Groundwater at the project site was encountered; the contractor would anticipate the potential for groundwater seepage when planning cuts below the existing grades and groundwater seepage would be considered for below-grade structures such as retaining walls and basement walls. The site is not a managed aquifer recharge site and site soils have low infiltration rates. Erosion control BMPs would minimize erosion or siltation on- or off-site during the operational phase of the proposed project. Prior to the issuance of grading permits, a final hydrology report would be submitted to the City for review and approval which would include calculations for catch basin, drainage pipe sizing, and detention basin sizing to ensure the proposed project does not increase the flow and velocity of runoff compared to the pre-development condition. The project site is not within a 100-year flood hazard area, an inundation area, and there are no inland bodies of water near the project site that could pose a seiche hazard. The project site is approximately 2.3 miles inland from the Pacific Ocean and is outside of the tsunami zone. Implementation of the SWPPP and WQMP, along with BMPs and LID would ensure the proposed project would not obstruct the San Diego Basin Plan or obstruct sustainable groundwater management.
- (i) **Land Use Planning:** The proposed project would not divide any established communities; neighborhoods to the west of the project site are physically separated by a downhill slope. With adoption of the proposed General Plan Amendment, the proposed project would be consistent with the Laguna Niguel General Plan because, as outlined in the EIR, considering all of the project's aspects, it will further the objectives and policies of the General Plan and not obstruct their attainment. The project is also consistent with MU-TC zone, and SCAG 2020-2045 RTP/SCS Goals, as analyzed in the EIR. The project site is within the boundaries of the Orange County Central and Coastal Natural Community Conservation Plan/Habitat

Conservation Plan, however, the City is not a participant or permittee to this Plan and are not subject to its requirements.

- (j) **Noise:** Project operations would generate noise from HVAC/mechanical equipment, daily retail uses and special events, deliveries, and parking, among other sources. However, operational noise impacts would not exceed any applicable LNMC standards. Special events, although exempt from the LNMC's exterior noise standards, could generate noise that could impact surrounding communities. Condition of Approval (COA) N-1 requires a temporary permit from the City and a demonstration that special event noise will not exceed 65 dBA  $L_{eq}$  at off-site residential property lines. Moreover, to ensure noise associated with trash compaction remains below applicable standards, COA N-2 limits the hours of operation of the trash compactor. Noise associated with project traffic would also not exceed applicable thresholds. Noise at the proposed residential uses would not exceed applicable standards, though compliance with applicable CBC and City requirements. Construction activities, including construction traffic and equipment operation, would not exceed the City's construction noise thresholds. Construction activities would generate groundborne vibration or groundborne noise which would be within the City's standards. The project site is not within two miles of an airport or private airstrip.
  
- (k) **Population and Housing:** The proposed project would develop 275 dwelling units and generate 704 new residents, which is within SCAG's RTP/SCS's projected growth for Laguna Niguel and Orange County. The proposed project would develop 174,851 square feet of commercial/office/medical uses which would generate 412 employees. The proposed project's addition of 275 units and 412 jobs would be expected to nominally, but beneficially, affect the City's jobs-housing balance. The project would contribute toward the attainment of regional goals and policies to encourage mixed-use development and walkable communities. The project site is not currently developed with dwelling units and no residents occupy the site. No displacement would occur.
  
- (l) **Public Services:** The proposed project would increase residents and employees onsite. The project would increase the population of the City by approximately 1 percent. OCFA indicates that there are no existing deficiencies in the level of fire protection currently provided to the site. OCFA finds that existing OCFA equipment and personnel are adequate to maintain a sufficient level of service for the project area after project completion. OCSD's existing resources adequately serve the City without any deficiencies. OCSD indicated that the proposed project may require policing that relies more heavily on foot and bicycle patrols which may result in the need to hire more personnel and/or equipment. However, OCSD does not anticipate requiring new or physically altered police facilities in order to maintain acceptable levels of service. The proposed project is estimated to generate approximately 75 students; the project applicant would be required to pay development impact fees to CUSD per SB 50. Upon project completion, the remaining capacities at the schools serving the proposed project would be 438 seats. The proposed project would increase the use of library services, but the proposed project would replace the existing Laguna Niguel Library with a larger and more modernized building.

- (m) **Recreation:** The proposed project would comply with the City's Local Park Code and MU-TC District requirement, which requires the proposed project to provide public and private recreation facilities. While the increase in population associated with the project would likely use existing recreation facilities, by providing substantial active and passive recreation facilities on the project site, the new residents would not solely need to rely on existing recreation facilities. Extensive landscaping and common gathering areas would be developed throughout the project site. The Town Green at the main entrance to the Retail Village Core would have a central open space plaza area that would be linked by landscaped paseos, which would feature mature shade trees, outdoor lighting, soft seating areas, gardens and water features, event/performance space, and other programmable space. The City is currently meeting its parkland standard of three acres per 1,000 residents and would continue to meet this parkland standard with the additional residents associated with the proposed project.
- (n) **Transportation:** For the project's VMT analysis, the proposed project could not be screened out as a locally serving land use project because it is not in a low MT area or a transit priority area, is neither an affordable housing project or classified as a redevelopment, does not fall under the locally serving land uses in the Transportation Assessment Guidelines, and exceeds the screening threshold of 50,000 square feet. However, conducting a VMT analysis, the proposed project's residential and nonresidential components were estimated to generate a lower rate of VMT than the Citywide average under Baseline Year 2016 and Cumulative Year 2045 conditions. The project site is served by OCTA Routes 85 and 87, and the proposed project would include enhancements to bicycle lanes and pedestrian crosswalks within the project site's vicinity. As the project is a locally-serving mixed-use project, it would provide more options to live and work locally that can reduce VMT and GHG emissions. The proposed project includes roadway improvements which would minimize potential transportation-related hazards and would ensure consistency with the City's LOS standards. The proposed project has been designed to address potentially hazardous conditions (pedestrian access, queuing, etc.) through strategic design of traffic signals, sight distances at driveways, access points, and queuing. Development of the proposed project would be required to incorporate all applicable design and safety requirements from the most current adopted fire codes, building codes, and nationally recognized fire and life safety standards, such as those outlined in Section 11-3 of the City's Municipal Code, which incorporates by reference the California Fire Code. The proposed project would also be required to provide adequate access for emergency vehicles per the California Fire Code. The proposed project would be reviewed by OCFA and OCSD during building plan check, construction activities would occur within the project boundaries and not on major arterials, and Pacific Island Drive, Crown Valley Parkway, and Alicia Parkway would remain available as major evacuation routes during operations.
- (o) **Utilities and Service Systems:** The estimated net wastewater generation at project buildout would be 96,997 gallons per day (gpd). The SOCWA Regional Treatment Plant has a residual capacity of 3.5 million gallons per day (mgd) and would therefore have sufficient residual capacity for project-generated wastewater. MNWD has no deficiencies in the sewer system

with regularly planned capital improvement projects. Furthermore, MNWD has enough capacity to serve the proposed project. The proposed project would generate a water demand of approximately 158.3 acre-feet/year (afy), the potable water demand is estimated at 146.3 afy, and the recycled water demand is 12 afy. The proposed project's water demand was incorporated in MNWD's 2020 UWMP. The UWMP has adequate water supplies to meet the demand within its service area including the proposed project. MNWD forecasts that it will have sufficient water supplies to meet demands in its service area over the 2025 to 2045 period, in normal, single-dry, and multiple-dry year conditions. Catch basins, drainage pipe sizing, and final sizing for detention basin would be calculated in the final hydrology and hydraulics report to be submitted and approved by the City's Community Development Department prior to issuance of the construction permit. The proposed project is estimated to generate approximately 11,604 pounds of solid waste per day. Sufficient landfill capacity is available in the region for estimated solid waste generation by the proposed project. The proposed project would comply with AB 939, AB 1327, AB 341, and AB 1826.

- (p) **Wildfire:** The project site is adjacent to but outside of an LRA for VHFHSZ. Construction activities associated with the proposed project would occur within the project boundaries and not on any major arterials or highways that could be used during potential emergency situations. The proposed project would provide site-specific on- and off-site access and circulation for emergency vehicles and services during the operational phase. The proposed project would be required to comply with California Building Code and California Fire Code. Pacific Island Drive, Crown Valley Parkway, and Alicia Parkway would be available as major evacuation routes during operations. The project site contains approximately 65.1 percent pervious surfaces which is covered by grasses and other vegetation. The proposed project would remove the undeveloped land from the project site and increase impervious surfaces, most of which are nonflammable. The project would also place electrical lines underground which avoids risk of fire caused by downed electrical lines. The project site is not directly adjacent to wildlands that would require fuel breaks. The proposed project would not expose people or structure to significant risks due to postfire slope instability or drainage changes.

## V. FINDINGS REGARDING POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS

### A. IMPACTS MITIGATED TO LESS THAN SIGNIFICANT

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

#### 1. Air Quality

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**Impact 5.2-2: Construction activities associated with the proposed project would generate short-term emissions in exceedance of South Coast AQMD's threshold criteria. [Thresholds AQ-2 and AQ-3]**

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Construction activities produce combustion emissions from various sources. Construction of the proposed project would generate criteria air pollutants associated with construction equipment exhaust and fugitive dust from site abatement, demolition, site preparation, grading and trenching, building construction, architectural coating, pavement of asphalt and other surfaces, and finishing and landscaping of the site. Table 5.2-9, *Maximum Daily Regional Construction Emissions*, shows an estimate of maximum daily construction emissions for the proposed project. The construction-related NO<sub>x</sub> emissions generated from construction phases that overlap with site preparation and rough grading as well as soil import and export, would exceed the South Coast AQMD regional significance threshold. To reduce the impact, Mitigation Measure AQ-1 would require use of EPA's Tier 4 (Final) emissions standards for construction activities. Mitigation Measure AQ-2 would prohibit the overlap of demolition activities and cap the maximum miles per day for hauling of soil from rough grading at 3,626 miles per day. As shown in Table 5.1-13, *Maximum Daily Regional Construction Emissions with Mitigation Incorporated*, with the implementation of Mitigation Measures AQ-1 and AQ-2, construction-related NO<sub>x</sub> emissions would be reduced to below the South Coast AQMD threshold for NO<sub>x</sub>. Impacts would be less than significant with the implementation of mitigation measures.

#### Mitigation Measures

- AQ-1 The construction contractor(s) shall, at minimum, use equipment that meets the United States Environmental Protection Agency's (EPA) Tier 4 (Final) emissions standards for off-road diesel-powered construction equipment with more than 50 horsepower for site preparation and rough grading/earthwork, utilities trenching, and building construction activities that overlap with site preparation and rough grading activities. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by Tier 4 Final emissions standards for a similarly sized engine, as defined by the California Air Resources Board's regulations. Prior to construction, the project engineer shall ensure that all plans clearly show the requirement for EPA Tier 4 Final emissions standards for construction equipment over 50 horsepower for the specific activities stated above. During construction, the construction contractor shall maintain a list of all operating

equipment associated with these phases in use on the site for verification by the City. The construction equipment list shall state the makes, models, and numbers of construction equipment on-site. Equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations.

AQ-2 The construction contractor(s) shall implement the following measures to reduce construction exhaust emissions during demolition and soil hauling activities associated with demolition and rough grading:

- Demolition activities shall be prohibited from overlapping with grading activities. Ground-disturbing activities shall commence following the demolition of the existing structures on-site.
- Hauling of soil generated from rough grading activities shall be limited to a maximum of 3,626 miles per day. Air quality modeling was based on the assumption that the 3,626 miles per day would consist of 98 one-way haul trips per day with 14 cubic-yard trucks and a one-way haul distance of approximately 37 miles. All plans shall identify the disposal site for exported material, the distance to the disposal site, and the number of permitted truck trips to the disposal site to remain under the miles per day limit.

These requirements shall be noted on all construction management plans prior to issuance of any construction permits and verified by the City of Laguna Niguel during the demolition and soil-disturbing phases.

## Finding

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

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**Impact 5.2-4: Construction activities associated with the proposed project would expose sensitive receptors substantial pollutant concentrations. [Threshold AQ-3]**

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## Construction-Phase LSTs

Screening-level LSTs (pounds per day) are the amount of project-related mass emissions at which localized concentrations (ppm or  $\mu\text{g}/\text{m}^3$ ) could exceed the AAQS for criteria air pollutants for which the SoCAB is designated nonattainment. Table 5.2-12, *Construction Emissions Compared to the Screening-Level LSTs*, shows the maximum daily construction emissions (pounds per day) generated during on-site construction activities at the project site compared with the South Coast AQMD's screening-level LSTs thresholds. As shown in Table 5.2-12,  $\text{PM}_{10}$  and  $\text{PM}_{2.5}$  would exceed their respective South Coast AQMD screening-level LSTs for all construction phases that include site preparation and rough grading. In addition to Mitigation Measures AQ-1

and AQ-2, Mitigation Measure AQ-3 would require the preparation of a dust control plan which would reduce PM<sub>2.5</sub> and PM<sub>10</sub> emissions. As shown in Table 5.2-14, *Construction Emissions Compared to the Screening-Level LSTs with Mitigation Incorporated*, with the implementation of Mitigation Measures AQ-1, AQ-2, and AQ-3, construction-related PM<sub>10</sub> and PM<sub>2.5</sub> emissions would be reduced to below the South Coast AQMD screening-level LST

### **Construction Health Risk**

South Coast AQMD currently does not require the evaluation of long-term excess cancer risk or chronic health impacts for a short-term project. Emissions from construction equipment primarily consist of DPM. The project is anticipated to be developed in approximately 36 months, which would limit the exposure of on- and off-site receptors. Based on guidance from South Coast AQMD, construction risk is extrapolated based on the LST analysis. Because all construction phases that include site preparation and rough grading exceeded their respective PM<sub>2.5</sub> and PM<sub>10</sub> LSTs, project-related construction health impacts would be potentially significant. Mitigation Measure AQ-3 would require the preparation of a dust control plan which would reduce PM<sub>2.5</sub> and PM<sub>10</sub> emissions, and therefore, impacts would be less than significant.

### **Mitigation Measures**

AQ-3 The construction contractor shall prepare a dust control plan and implement the following measures during ground-disturbing activities—in addition to the existing requirements for fugitive dust control under South Coast Air Quality Management District (AQMD) Rule 403—to further reduce PM<sub>10</sub> and PM<sub>2.5</sub> emissions:

- Following all grading activities, the construction contractor shall prevent dust and wind-born erosion by either planting ground cover or applying a binder/gel tackifier.
- During all construction activities, the construction contractor shall sweep streets with South Coast AQMD Rule 1186–compliant, PM<sub>10</sub>-efficient vacuum units on a daily basis if silt is carried over to adjacent public thoroughfares or occurs as a result of hauling.
- During all construction activities, the construction contractor shall maintain a minimum 24-inch freeboard on trucks hauling dirt, sand, soil, or other loose materials and shall tarp materials with a fabric cover or other cover that achieves the same amount of protection.
- During all construction activities, the construction contractor shall water exposed ground surfaces and disturbed areas a minimum of every three hours on the construction site and a minimum of three times per day.
- During all construction activities, the construction contractor shall limit on-site vehicle speeds on unpaved roads to no more than 15 miles per hour.
- During all ground-disturbing activities, the construction contractor shall apply nontoxic soil stabilizers to minimize fugitive dust.



Prior to construction activities, the construction contractor shall ensure that all construction plans submitted to the City clearly show the watering and soil stabilizer requirement to control fugitive dust. During construction activities, the City of Laguna Niguel shall verify that these measures have been implemented during normal construction site inspections.

## Finding

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

## 2. Biological Resources

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### **Impact 5.3-1: Development of the proposed project could impact the Cooper's hawk, a California Department of Fish and Wildlife Watch List species when nesting, and white-tailed kite, a Sensitive Species. [Threshold B-1]**

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No sensitive plant species or sensitive habitat were documented on site during the 2016 and 2019 field surveys. Additionally, the project site is not with USFWS critical habitat for federally threatened and endangered species. The Cooper's hawk (*Accipiter cooperii*), a CDFW Watch List species when nesting, was observed during the August 2019 field survey. There is foraging and nesting potential onsite for other avian species, including sensitive species such as the white-tailed kite (*Elanus leucurus*), which is California Fully Protected. Construction of the proposed project could disturb raptor or songbird nests on the project site and such impact would be potentially significant. Potential impacts to nesting birds, including sensitive raptor species such as Cooper's hawk and white-tailed kite, would be mitigated to less than significant through the implementation of Mitigation Measure BIO-1 which requires all vegetation removal activities to be scheduled outside of the nesting season (February 15 to September 15 for songbirds and January 15 to September 15 for raptors) or, if vegetation removal cannot be avoided during the nesting season, engagement of a qualified biologist to survey potential nesting locations and taking action to avoid any potential nesting impacts.

## Mitigation Measures

BIO-1 Prior to removal of potentially suitable nesting habitat for raptors or songbirds, the project applicant shall demonstrate to the satisfaction of the City of Laguna Niguel that the following has been or will be accomplished:

The project applicant and construction contractor shall schedule all vegetation removal activities outside the nesting season to avoid potential impacts to nesting birds, including sensitive raptor species such as Cooper's hawk and white-tailed kite. The

nesting season is February 15 to September 15 for songbirds and January 15 to September 15 for raptors.

If vegetation removal cannot be avoided during the nesting season—January 15 through September 15—the project applicant shall have a qualified biologist survey all potential nesting vegetation within the property for nesting birds prior to commencing vegetation removal. If no nesting activities are observed, work activities may begin. If an active bird nest is located, the nest site should be avoided, and a buffer should be marked/flagged at an appropriate distance in all directions. The buffer distance is dependent on the nesting bird species, typically 500 feet for endangered, threatened, and candidate species and all raptors, and 100 to 300 feet for other species, as determined appropriate by the qualified biologist. No work shall occur within the buffer area until after the nest becomes inactive, or unless a qualified biologist monitors the nest during construction activities within the buffer and does not observe any signs of stress or erratic behavior that indicate a negative effect on nesting. The biologist shall inform construction personnel of the location of active nest(s) and required avoidance measures. The survey results shall be submitted to the City of Laguna Niguel Planning Division for review and approval.

## **Finding**

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

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**Impact 5.3-4: The proposed project would not interfere with wildlife movement or a wildlife corridor; however, the proposed project could interfere with a native wildlife nursery site. [Threshold B-4]**

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The site is not in any contiguous native habitat corridors and is unlikely to provide any significant function as a wildlife corridor or wildlife movement area due to the proximity of major roads and residential development. Therefore, development of the proposed project would not interfere with an established wildlife corridor.

The 2016 field survey determined that the project site contains suitable breeding, nesting, and/or roosting habitat for breeding bird species. The 2019 field survey observed one sensitive animal species, the Cooper's hawk (a CDFW Watch List species when nesting). Therefore, development of the proposed project would result in a potentially significant impact with regard to impeding the use of native wildlife nursery sites. Potential impacts to nesting birds, including sensitive raptor species such as Cooper's hawk and white-tailed kite, would be mitigated to less than significant through the implementation of Mitigation Measure BIO-1.

## Mitigation Measures

Refer to Mitigation Measure BIO-1 above.

## Finding

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

## 3. Cultural Resources

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### **Impact 5.4-1: Development of the project would not impact an identified historic resource pursuant to Section 15064.5. [Threshold C-1]**

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The records search conducted for the project site identified two previously recorded cultural resources within the project site—CA-ORA-33 and CA-ORA-131. The pedestrian survey and cultural resources study conducted for the project site determined that CA-ORA-33 and CA-ORA-131 are no longer extant and are completely covered by urban built environment. No built historical resources are recorded at the project site.

Although it was determined that the known subsurface resources identified within the project site no longer exist, unknown subsurface resources that qualify as historical resources could still exist within the project site. The presence of previously recorded prehistoric archaeological sites in the vicinity of the project suggests the potential for buried unknown archaeological resources within the project site which could be uncovered during ground-disturbing activities. Mitigation Measure CUL-1 would require archaeological monitoring during construction in native soils, and appropriate treatment of unearthed historical resources during construction. Potential impacts to unknown historical resources would be mitigated to less than significant through the implementation of Mitigation Measure CUL-1.

## Mitigation Measures

CUL-1 Prior to the issuance of grading permits, and for any subsequent permit involving excavation to increased depths, the project applicant shall provide a letter to the City of Laguna Niguel from a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards. The letters shall state that the applicant has retained this individual, and that the consultant will monitor all grading and other significant ground-disturbing activities in native soil. Prior to the initiation of grading, the project applicant shall meet with the Juaneño Band of Mission Indians, Acjachemen Nation Cultural Resource Director to coordinate monitoring by a Native American monitor. During all ground-disturbing activities/earthwork, a professional Native American monitor, procured by the Juaneño Band of Mission Indians, Acjachemen Nation, shall be present to monitor grading activities. During initial

monitoring, if the qualified archaeologist and/or designated Native American representative can demonstrate that the level of monitoring should be reduced or discontinued, or if the qualified archaeologist and/or designated Native American representative can demonstrate a need for continuing monitoring, the qualified archaeologist and Native American representative, in consultation with the Laguna Niguel Planning Division, may adjust the level of monitoring to circumstances as warranted. In the event archaeological resources are discovered during ground-disturbing activities, the archeological monitor and designated Native American monitor shall have the authority to halt any activities that may adversely impact potentially significant cultural resources until they can be formally evaluated. Suspension of ground disturbances in the vicinity of the discoveries shall not be lifted until the archaeological and/or designated Native American monitor has evaluated discoveries to assess whether they are classified as significant cultural resources, pursuant to the California Environmental Quality Act (CEQA) and determined construction activities can resume without damaging resources.

If archaeological resources are discovered, the archeologist and designated Native American monitor shall assess the most appropriate treatment for the resources, prioritizing preservation in place. When data recovery through excavation is the only feasible treatment method, the archeologist, in consultation with the designated Native American monitor, shall prepare a data recovery plan with provisions for adequately recovering the scientifically consequential information from and about the historical resource and shall deposit studies with the California Historical Resources Regional Information Center. Recovered archeological resources shall be offered to a repository with a retrievable collection system and an educational and research interest in the materials, such as the John D. Cooper Center or California State University, Fullerton, or a responsible public or private institution with a suitable repository willing to and capable of accepting and housing the resource. If no museum or repository willing to accept the resource is found, the resource shall be considered the property of the City and may be stored, disposed of, transferred, exchanged, or otherwise handled by the City at its discretion.

If significant Native American cultural resources are discovered for which a treatment plan must be prepared the project applicant or the archaeologist on call shall contact the applicable Native American tribal contact(s). If requested by the Native American tribe(s), the project applicant or archaeologist on call shall, in good faith, consult on the discovery and its disposition (e.g., avoidance, preservation, reburial, return of artifacts to tribe).

## **Finding**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure(s) above. The City of Laguna Niguel hereby

finds that implementation of the mitigation measure(s) is feasible, and the measure(s) is therefore adopted.

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**Impact 5.4-2: Development of the project could impact archaeological resources.  
[Threshold C-2]**

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The Cultural Resources Summary identifies four records within one mile of the project site (refer to Table 5.4-1, Previously Recorded Resources Within a One-Mile Radius of the Project Area). Of the four records, two recorded cultural resources are on the project site—CA-ORA-33 and CA-ORA-131.

Resource CA-ORA-33 was recorded in 1960 as a prehistoric shell midden site with manos, metate fragments, a stone pendant, scrapers, and choppers, part of a seasonal camp. Site surveys in 2008 yielded no trace of the site and noted that the site is in the terraced parking lots leading upslope to the courthouse facility. Given the grading activities needed to build the existing parking lots, it is unlikely that any portion of the Resource CA-ORA-33 site has been preserved.

Resource CA-ORA-131 was recorded in 1963 as a prehistoric site; however, the site was destroyed in 1976. Site surveys in 2008 found that significant grading and filling took place in this area to fill and relocate the creek and to level the land for the current library and other development, which makes it improbable that any part of the Resource CA-ORA-131 site was preserved. Overall, the two resources previously present in the project site no longer exist, and those sites are completely developed.

Nevertheless, portions of the project site have not been excavated or graded. Construction of the proposed project would require earthwork activities that could unearth archeological resources. Therefore, development of the proposed project has the potential to result in a significant impact on unique archeological resources. Potential impacts to unknown unique archaeological resources would be mitigated to less than significant through the implementation of Mitigation Measure CUL-1.

**Mitigation Measures**

Refer to Mitigation Measure CUL-1 above.

**Finding**

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

#### 4. Geology and Soils

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**Impact 5.6-5: The project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. [Threshold G-6]**

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No paleontological resources are known to exist within the project area. The Capistrano Formation underlies the project area. The closest vertebrate fossil locality identified by the NHMLA is LACM 4166 in the Capistrano Formation, found approximately 0.4-mile south of the project site along Crown Valley Parkway and north of the intersection with Paseo del Niguel. LACM 4166 included fossil specimens of bonito shark (*Isurus*), bull shark (*Carcharhinus*), undetermined bony fish (*Osteichthyes*), sea lion (*Otariidae*), and porpoise (*Phocoenidae*).

Although no resources were found on-site, the majority of the site has not been excavated or graded and could have undiscovered paleontological resources. Therefore, development of the proposed project has the potential to result in a significant impact. Potential impacts to unknown paleontological resources would be mitigated to less than significant through the implementation of Mitigation Measures GEO-1.

#### Mitigation Measures

GEO-1 Prior to the issuance of grading permits, and for any subsequent permit involving excavation to increased depths, the project applicant shall provide a letter to the City of Laguna Niguel from a qualified paleontologist and paleontological monitor who meet the Secretary of the Interior's Professional Qualifications Standards. The letters shall state that the applicant has retained these individuals, and that the consultant(s) will monitor all grading and significant ground-disturbing activities in areas identified as likely to contain paleontological resources during project construction. These areas are defined as all excavations of previously undisturbed sediments in areas mapped as the Capistrano Formation and in areas of Quaternary alluvium where excavations would exceed depths of five feet.

The qualified paleontologist and/or paleontological monitor shall attend all pre-grade meetings to ensure all construction personnel that would conduct grading and significant ground-disturbing activities receive training to recognize fossil materials in the event any are uncovered during earthwork.

The qualified paleontological monitor shall be equipped to salvage fossils and samples of sediments as they are unearthed to avoid construction delays and shall be empowered to temporarily halt or divert grading activities in order to recover the fossil specimens. The paleontological monitor may establish a protected buffer around a discovery for the duration of recovery of the discovery.

If previously undiscovered paleontological resources are discovered on-site, suspension of ground disturbances in the vicinity of the discoveries shall not be lifted until the paleontological monitor has evaluated discoveries to assess whether they are

classified as unique paleontological resources pursuant to the California Environmental Quality Act (CEQA) and authorized the resumption of construction activities. Recovered specimens shall be prepared to a point of identification and permanent preservation, including washing of sediments to recover small invertebrates and vertebrates. Found specimens shall then be curated into the John D. Cooper Center in Santa Ana or a responsible public or private institution with a suitable repository willing to and capable of accepting and housing the resource. If no museum or repository is willing to accept the resource, it shall be considered the property of the City and may be stored, disposed of, transferred, exchanged, or otherwise handled by the City at its discretion to avoid a significant impact.

Upon completion of construction activities, the qualified paleontological monitor shall prepare a report of paleontological resource findings within 30 days of construction completion. The report shall append itemized inventory of recovered resources, documentation of each locality, and interpretation of recovered fossils. The report and inventory, when submitted and approved by the City, will signify completion of the program to mitigate impacts to paleontological resources.

## **Finding**

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

## **5. Hazards and Hazardous Materials**

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### **Impact 5.8-1: Project construction and operations would involve the transport, use, and/or disposal of hazardous materials. [Thresholds H-1, H-2, and H-3]**

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#### **Construction**

Project-related construction activities would involve the use of larger amounts of hazardous materials than would project operation. The use of hazardous materials would not be in such quantities or stored in a manner that would pose a significant safety hazard. These activities would cease upon completion of the proposed project's construction phase. Compliance with applicable laws and regulations would ensure that all potentially hazardous materials are used and handled in an appropriate manner and would minimize the potential for safety impacts.

#### **Grading Activities**

Grading activities required to develop the project would involve the disturbance of on-site soils. The Phase II Investigation showed PCE and trimethylbenzene concentrations at the vehicle VMF that exceed the DTSC's residential screening level. Soil sample analyses found volatile organic

compound impacts at the same location. Residential 1 (apartments) is proposed for this area. The handling and transport of contaminated soils found at the Vehicle Maintenance Facility (VMF) could expose workers and the surrounding environment to hazardous materials, and impacts could be potentially significant. Mitigation Measure HAZ-1 requires, prior to issuance of grading permits, the project applicant to prepare and implement a soils management plan (SMP) for the vehicle maintenance facility and the former fire station. The plan shall be approved by the appropriate oversight agency, among other things (as identified below).

### **Demolition**

Demolition of buildings and equipment onsite has the potential to expose and disturb ACM found in existing buildings onsite. Destructive sampling for ACM was conducted on all buildings except the library. These materials must be removed by a licensed Cal/OSHA-registered asbestos abatement contractor prior to any demolition or renovation activity. Demolition and ACM removal activities would be conducted in accordance with the South Coast Air Quality Management District's Rule 1403, California OSHA regulations, 40 CFR Parts 61 and 763, and 29 CFR Part 1926. Mitigation Measure HAZ-3 requires, prior to issuance of a demolition for any structure on the property, a comprehensive survey for asbestos-containing materials to identify the locations and quantities in above-ground structures. Compliance with law during demolition and removal, and implementation of HAZ-3, would reduce impacts to a less than significant level.

### **Operation**

Operation of the proposed project would involve the use of small amounts of hazardous materials. The use, storage, transport, and disposal of hazardous materials would be governed by existing regulations of several agencies, including the EPA, US Department of Transportation, California Division of Occupational Safety and Health, and the OC EHD. Compliance with applicable laws and regulations governing the use, storage, transportation, and disposal of hazardous materials would ensure that all potentially hazardous materials are used and handled in an appropriate manner and would minimize the potential for safety impacts. Mandatory compliance with laws and regulations would ensure that operational impacts would be less than significant.

However, the presence of tetrachloroethylene (PCE) and trimethylbenzene concentrations at the VMF exceed the DTSC's residential screening level and could pose a significant impact due to indoor vapor intrusion. Mitigation measures HAZ-1 and HAZ-2 require the preparation of a soil management plan, which will assist in the identification and safe removal of petroleum and VOC-impacted soil and a post-grading soil vapor survey to verify hazards are fully remediated.

Schools within one-quarter mile of the project site include the Laguna Niguel Kinder Care, immediately north of the OCFA fire station across Pacific Island Drive, and Ocean View School, approximately 0.2 mile east of the project site. The proposed project would not include industrial land uses that could routinely emit toxic air contaminants in concentrations that could be hazardous to persons at schools within one-quarter mile of the site. As stated above, the proposed development of residential and commercial uses would use relatively small amounts of hazardous materials and would be required to comply with state and local hazardous materials regulations.



Impacts related to the transport, use, and/or disposal of hazardous materials would be mitigated to less than significant with the implementation of mitigation measures HAZ-1 through HAZ-3.

### **Mitigation Measures**

- HAZ-1 Prior to issuance of grading permits, the project applicant shall prepare and implement a soils management plan (SMP) for the vehicle maintenance facility and the former fire station to address removal of contaminated soil prior to grading of the area. The SMP shall be approved by the City and the appropriate oversight agency, such as Orange County Environmental Health Department or Department of Toxic Substances Control. Prior to grading, proper identification and removal of petroleum (>100 mg/kg) and VOC-impacted soil shall occur in order to comply with applicable limits for the proposed land uses. The SMP will ensure that safe and appropriate handling, transportation, off-site disposal, reporting, oversight, and protocols are used during removal of the contaminated soil. The SMP shall establish methodology and procedures to perform additional testing during grading if unknown hazardous materials are encountered. If, during grading activities, additional contamination is discovered, grading within that area shall be temporarily halted and redirected around the area until the appropriate evaluation and follow-up remedial measures are implemented in accordance with the SMP to render the area suitable to resume grading activities. Soil remediation and/or export of hazardous materials must be performed in accordance with the appropriate agency's requirements (Regional Water Quality Control Board, Orange County Environmental Health Department, Department of Toxic Substances Control, and/or South Coast Air Quality Management District).
- HAZ-2 After grading is complete, the project applicant shall perform a post-grading soil vapor survey within the footprint of future structures in the areas of the vehicle maintenance facility and former fire station. The survey results shall be approved by the City and the appropriate oversight agency (OC EHD or DTSC) and document soil vapor levels less than applicable limits for the proposed land uses prior to sign-off of the grading permit.
- HAZ-3 Prior to the issuance of a demolition permit for any structure on the property, the project applicant shall conduct a comprehensive survey for asbestos-containing materials to identify the locations and quantities of asbestos-containing materials in above-ground structures. The project applicant shall retain a licensed or certified asbestos consultant to inspect buildings and structures on-site. If asbestos is discovered, the project applicant shall retain a licensed or certified contractor to remove and dispose of all asbestos containing materials in accordance with the appropriate South Coast AQMD asbestos-containing material removal practices and procedures.

### **Finding**

Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form of the mitigation measure(s) above. The City of Laguna Niguel hereby

finds that implementation of the mitigation measure(s) is feasible, and the measure(s) is therefore adopted.

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**Impact 5.8-2: The project site is on a list of hazardous materials sites and, as a result, could create a hazard to the public or the environment. [Threshold H-4]**

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The project site was identified on the Cortese List due to the USTs removed from the VMF and former fire station. As noted in Impact 5.8-1, there is the potential for the discovery of contamination during grading activities, and impacts are potentially significant. With the implementation of Mitigation Measures HAZ-1 through HAZ-2, impacts would be less than significant.

**Mitigation Measures**

Refer to Mitigation Measures HAZ-1 through HAZ-2, above.

**Finding**

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

**6. Tribal Cultural Resources**

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**Impact 5.16-1: The proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource that is:**

**i) 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). [Threshold TCR-1.i]**

**ii) determined by the lead agency to be significant pursuant to criteria in Public Resources Code Section 5024.1(c). [Threshold TCR-1.ii]**

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A Sacred Land Files request was submitted to the NAHC to inquire about the presence/absence of sacred or religious sites in the vicinity of the project area for the AGORA project. On January 28, 2016, the NAHC responded that there are no sacred lands within the project area or a half-mile radius. On October 8, 2019, the NAHC sent an updated consultation list of tribes with traditional lands or cultural places within the boundaries of Orange County. In accordance with AB 52 and SB 18 requirements, on October 25, 2019, the City sent certified letters to 24 Native American contacts listed by the NAHC notifying them of the proposed project and requesting comments or concerns for the project area. The City received letter responses from the Pala Band of Mission Indians and Agua Caliente Band of Cahuilla Indians. Follow-up calls were conducted

by the City for all other Native American contacts. In total, two tribes responded—the Pala Band of Mission Indians and the Agua Caliente Band of Cahuilla Indians.

There are two recorded cultural resources in the project site—CA-ORA-33 and CA-ORA-131. However, these two sites previously present on the project site no longer exist, but are completely covered by the urban built environment.

Although the known subsurface resources identified within the project site were determined to no longer exist, there is potential for unknown subsurface resources that qualify as tribal cultural resources in the project site. The presence of previously recorded prehistoric archaeological sites in the vicinity suggests the potential for undiscovered archaeological resources within the project site. If buried significant tribal cultural resources are encountered during project construction, significant impacts could occur. Implementation of Mitigation Measure CUL-1 would reduce impacts to less than significant.

### **Mitigation Measures**

Refer to Mitigation Measure CUL-1, above.

### **Finding**

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

## **B. SIGNIFICANT UNAVOIDABLE ADVERSE IMPACTS**

The following summary describes the unavoidable adverse impact of the proposed project, where mitigation measures were found to be either infeasible or would not lessen impacts to less than significant. The following impacts would remain significant and unavoidable.

### **1. Greenhouse Gas Emissions**

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**Impact 5.7-1: Implementation of the proposed project would generate a net increase in GHG emissions, either directly or indirectly, that would have a significant impact on the environment. [Threshold GHG-1]**

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Support for this environmental impact conclusion is fully discussed in Section 5.7, Greenhouse Gas Emissions, starting on page 5.7-22 of the DEIR.

Implementation of the proposed project would result in additional office buildings, shops, restaurants, and residential housing. From these additional land uses, the proposed project would generate a net increase of 9,461 weekday vehicle trips and 8,817 Saturday vehicle trips. Operation of the proposed project would result in an increase in water demand, wastewater, and solid waste generation, area sources, and energy usage. The proposed project would include a

photovoltaic (PV) system on carports in the surface parking lot which would reduce energy requirements of the project by 45 MTCO<sub>2</sub>e/year (see Table 5.7-5, *Project GHG Emissions Inventory*). Additionally, as shown in this Table, the GHG emissions from the proposed project would exceed South Coast AQMD Working Group's bright-line significance threshold as well as the City's 3,000 MTCO<sub>2</sub>e significance threshold. Therefore, impacts would be potentially significant. The following feasible mitigation measures are required to be implemented.

### Mitigation Measures

- GHG-1 All installed/provided major appliances shall be "Energy Star" appliances. Prior to issuance of building permits for residential and nonresidential buildings, the property owner/applicant shall identify on the building plans that all major appliances (dishwashers, refrigerators, clothes washers, and dryers) to be provided/installed are "Energy Star" appliances. Proper installation of these features shall be verified by the City of Laguna Niguel prior to issuance of a Certificate of Occupancy.
- GHG-2 Prior to issuance of building permits for residential and nonresidential development buildings, the project applicant shall indicate on the building plans that the following features shall be incorporated into the design of the building(s). Proper installation of these features shall be verified by the City prior to issuance of a Certificate of Occupancy.
- For residential and nonresidential buildings, electric vehicle charging shall be provided as specified in Section A4.106.8.2 (Residential Voluntary Measures) and A5.106.5.3 (Nonresidential Voluntary Measures) of the 2019 CALGreen Code as applicable.
  - Bicycle parking shall be provided as specified in Section A4.106.9 (Residential Voluntary Measures) and A5.106.5.4 (Nonresidential Voluntary Measures) of the 2019 CALGreen Code and reproduced below.
    - *Short-term bicycle parking.* Permanently anchored bicycle racks shall be provided within 100 feet of the visitor's entrance to the residential building, readily visible to passers-by, for 5 percent of visitor motorized vehicle parking capacity for the multifamily units, with a minimum of one 2-bike capacity rack.
    - *Long-term bicycle parking for multifamily buildings.* Provide on-site bicycle parking for at least one bicycle for every two dwelling units. Acceptable bike parking facilities shall be conveniently reached from the street.
- GHG-3 Prior to issuance of building permits for nonresidential development buildings, the project applicant shall indicate on the building plans that the following features have been incorporated into the design of the building(s). Proper installation of these features shall be verified by the City prior to issuance of a Certificate of Occupancy.
- Preferential parking for low-emitting, fuel-efficient, and carpool/van vehicles shall be provided as specified in Section A5.106.5.1 (Nonresidential Voluntary

Measures) of the 2019 CALGreen Code. Facilities shall be installed to support future electric vehicle charging at each nonresidential building with 30 or more parking spaces. Installation shall be consistent with Section A5.106.5.3 (Nonresidential Voluntary Measures) of the 2019 CALGreen Code.

## **Finding**

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

Implementation of Mitigation Measure GHG-1 through GHG-3 would reduce GHG emissions to the extent feasible. However, mobile emissions are the primary contributor to GHG emissions. The proposed project incorporates the design features to facilitate multi-modal transportation such as improvements to internal circulation by creating pedestrian and multiuse walkways as well as alternative transportation features to encourage public transit and bicycling. Furthermore, as seen in Section 5.15, Transportation, the proposed project is expected to generate lower VMT than the established VMT significance thresholds under Baseline Year 2016 conditions and Cumulative Year 2045 conditions for both the residential and nonresidential components. In addition, the project will comply with Municipal Code section 9-1-102 et seq., which is designed to reduce vehicle travel and associated GHG emissions. However, the project has no control over state and regional solutions to reduce mobile emissions and the use of mass transit, alternative modes of transportation, and electric vehicles cannot be estimated with certainty. The project would result in a substantial increase in GHG emissions, and Impact 5.7-1 would remain significant and unavoidable.

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

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**Impact 5.7-2: Implementation of the proposed project could potentially conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing emissions of GHGs. [Threshold GHG-2]**

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Support for this environmental impact conclusion is fully discussed in Section 5.7, Greenhouse Gas Emissions, starting on page 5.7-23 of the DEIR.

## **CARB Scoping Plan**

New buildings are required to comply with the latest applicable Building Energy Efficiency Standards and CALGreen. While measures in the Scoping Plan apply to state agencies and not the proposed project, the proposed project's GHG emissions would be reduced by statewide compliance with measures that have been adopted since AB 32 and SB 32 were adopted. However, as described in Impact 5.7-1, the proposed project would result in a significant increase in GHG emissions. Because GHG emissions are considered to be substantial, and therefore, significant under Impact 5.7-1, it is conservatively considered to result in a significant impact with respect to consistency with the Scoping Plan. Therefore, the proposed project could obstruct implementation of the CARB Scoping Plan, and impacts would be potentially significant.

## **SCAG's Regional Transportation Plan/Sustainable Communities Strategy**

Connect SoCal's transportation projects help more efficiently distribute population, housing, and employment growth, and forecast development is generally consistent with regional-level general plan data to promote active transportation and reduce GHG emissions. The projected regional development, when integrated with the proposed regional transportation network in Connect SoCal, would reduce per-capita GHG emissions related to vehicular travel and achieve the GHG reduction per capita targets for the SCAG region.

The Connect SoCal Plan does not require that local general plans, specific plans, or zoning be consistent with the SCS, but provides incentives for consistency for governments and developers. The proposed project is a mixed-use project that would result in multi-family (medium- high-density) residential development on the project site proximate to commercial uses, which would contribute to reducing the vehicle miles traveled between residential and service needs. Furthermore, as seen in Section 5.15, *Transportation*, the proposed project is expected to generate lower VMT than the established VMT significance thresholds under Baseline Year 2016 conditions and Cumulative Year 2045 conditions for both the residential and nonresidential components. The proposed project is also locally serving in that it provides more options for residents to live and work locally and encourages diverse housing and transportation options that reduce VMT. Additionally, the proposed project has multimodal amenities that enhance mobility and regional connectivity with multimodal connections that extend local access to regional networks for alternative modes of travel. Consequently, the project is consistent with the overall objectives of the Connect SoCal Plan and would not interfere with SCAG's ability to implement the regional strategies outlines in the Connect SoCal. Impacts would be less than significant.

## **Mitigation Measures**

Refer to Mitigation Measures GHG-1 through GHG-3, above.

## **Finding**

Changes or alterations have been required in, or incorporated into, the project that lessen the significant environmental effect as identified in the DEIR. These changes are identified in the form

of the mitigation measures above. The City of Laguna Niguel hereby finds that implementation of the mitigation measures is feasible, and the measures are therefore adopted.

The proposed project would potentially conflict with the Scoping Plan. Implementation of Mitigation Measure GHG-1 through GHG-3 would reduce GHG emissions to the extent feasible. However, the project would result in a significant increase in GHG emissions; and therefore, it is conservatively considered to potentially conflict with the Scoping Plan. Impact 5.7-2 would remain significant and unavoidable.

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

## **VI. FINDINGS REGARDING ALTERNATIVES**

CEQA requires that an EIR include a discussion of reasonable project alternatives that would “feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any significant effects of the project, and evaluate the comparative merits of the alternatives” (CEQA Guidelines § 15126.6[a]).

As discussed above, the DEIR identified significant impacts in a number of categories. The following impacts could be mitigated below a level of significance: air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, and tribal cultural resources impacts. The following impacts cannot be mitigated below a level of significance: greenhouse gas (GHG) emissions impacts.

The DEIR analyzed four alternatives to the proposed project that could reduce some, if not all, of the impacts, as shown in Section VI.B.

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

“Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts” (CEQA Guidelines § 15126.6[c]).

#### **No Residential Development Alternative**

Comments received during the public scoping meeting expressed concern about developing additional multifamily residential units in Laguna Niguel, particularly given the recent residential development approved in the Gateway Specific Plan area near Interstate 5. Under this Alternative, the project site would be developed as proposed, minus the 275 residential units.

The project site would be developed under a lease arrangement with the County of Orange, which owns the property. The project applicant has indicated that the residential component of the project is required for economic feasibility. The multifamily residential component provides economic support for the commercial development, which enables the development of an extensive network of open plaza and public gathering spaces. A No Residential Development Alternative (with the exception of the Existing General Plan alternative) was not considered because it was determined to be economically infeasible by the County (owner of the property) and would not be pursued by the County if the commercial project did not have a significant residential component. Moreover, as discussed in the Project Description and the General Plan Amendment, the project’s residential uses would support the objectives by creating a dynamic civic center that includes a diversity of uses. The residential uses of the proposed project would support the proposed commercial and civic uses, and facilitate the creation of a sense of a civic center by establishing residences in proximity to such uses. Inclusion of the residential uses would improve and enhance the Town Center by creating a high-quality, pedestrian-oriented commercial center with increased residential density in the immediate vicinity, which will facilitate use of the commercial and pedestrian center. A No Residential Development Alternative would also not



respond to existing housing supply demands, as recognized by the California State Legislature, which has passed significant legislation in furtherance of increased development of housing stock in the State.

### **Alternative Development Areas**

CEQA requires that the discussion of alternatives focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effects of the project. The key question and first step in the analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR (Guidelines Section 15126[5][B][1]). In general, any development of the size and type proposed by the EIR would have substantially the same impacts on air quality, greenhouse gas emissions, hydrology/water quality, land use/planning, noise, population/housing, public services, recreation, transportation/traffic, and utilities/service systems. Without a site-specific analysis, impacts on aesthetics, biological resources, cultural resources, geology/soils, hazards and hazardous materials, and mineral resources cannot be evaluated.

An alternative development area would be required to have adequate acreage for all components—residential and nonresidential uses—of the Laguna Niguel City Center project. Table B-4 and Figure B-5 of the City of Laguna Niguel Housing Element 2021-2029 detail and illustrate an inventory of vacant and underutilized sites suitable for residential development in the City. The underutilized sites are within the Gateway Specific Plan area and are already entitled for residential development. All other available vacant sites are either too small to accommodate the development footprint of the proposed project or are designated “Residential Detached” in the Land Use Element of the Laguna Niguel General Plan and would not allow development of the nonresidential component of the proposed project. Also, these vacant parcels are adjacent to existing single-family residential subdivisions and would not be an optimal location for a mixed-use “downtown” development. Relocating the proposed project within the City would not avoid or substantially lessen the significant and unavoidable GHG impacts of the proposed project. Therefore, only the project site in the City’s town center would accommodate the proposed project.

Additionally, the approximately 25-acre project site is owned by the County of Orange, and Laguna Center Partners LLC has an option to lease the project site and to develop the proposed project. Therefore, it would be economically difficult for the project applicant to purchase or lease another suitable site in Laguna Niguel that can accommodate the proposed development. Given the preceding factors, an alternative development location was rejected from further analysis.

### **County Reuse**

An alternative that results in the County Reuse of the project site was considered for analysis. County reuse could include an expanded maintenance yard, County administrative offices, wellness facilities, supportive housing, and emergency shelters. In 2018, County of Orange staff

was directed to develop operational plans for emergency shelters (limiting capacity to 100 individuals). The project site was identified and reviewed for emergency homeless housing and ultimately rejected as a potential site for this use by the County due to substantial public opposition. This alternative was rejected from further review because this project alternative does not meet any of the project objectives.

## **B. ALTERNATIVES SELECTED FOR FURTHER ANALYSIS**

Given the significant, unavoidable impacts identified for the proposed project, project alternatives with the potential to reduce development were identified for further review. Significant impacts to GHG emissions directly relate to the level of development that would occur at the project site. The following development alternatives to the proposed project were chosen for further analysis.

### **No Project / No Development Alternative**

The No Project/No Development Alternative would keep the project site as is, and no development would occur. Therefore, buildout of this alternative would preserve existing uses onsite, including the 9,100-square-foot County maintenance yard and 14,400-square-foot Laguna Niguel Library. The vacant 33,300-square-foot courthouse is not included because it is not in operation. The County maintenance yard currently employs 7 workers, and the library employs approximately 11 employees.

**Finding.** The City Council rejects the No Project/No Development Alternative on the basis of policy and economic factors as explained herein. (See Pub. Resources Code, § 21061.1; CEQA Guidelines, § 15364; see also *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417; *California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001; *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible this project alternative identified in the Final EIR.

#### *Ability to Reduce Environmental Impacts*

The No Project/No Development Alternative would reduce the project's less than significant impacts to aesthetics, air quality, biological resources, cultural resources, GHG emissions, land use and planning, noise, population and housing, public services, recreation, transportation, tribal cultural resources, and utilities and service systems.

Hydrology and water quality, land use and planning, and wildfire impacts would be greater than the proposed project. This alternative would also eliminate significant and unavoidable impacts of the project on GHG emissions.

#### *Ability to Achieve Project Objectives*

The No Project/No Development Alternative would not achieve any of the project objectives. It would not create a new city center; attract land uses and businesses tailored to the local culture

and identity of Laguna Niguel; create a landmark project featuring pedestrian-oriented outdoor plazas and event space that will create a true ‘gathering place’ for the community; connect with existing civic uses; or provide highly amenitized housing opportunities (Objectives Nos. 1, 4, 6 and 7). The No Project/No development Alternative would not provide a new larger, innovative, library with modern programming and technologies to better serve the residents of Laguna Niguel (Objective No. 3). Since no development would occur, this alternative would not replace the vacated South County Justice Center and undeveloped land with new sources of revenue; create a mixed-use development that contributes property and sales tax revenue to the City and County; or develop an environmentally sustainable project (Objective Nos. 2, 5, and 7).

### *Other Considerations*

The No Project/No Development Alternative would also not result in the significant public benefits provided by the project. The project includes substantial public benefits, including through the incorporation of a town green area, which would be improved with mature trees, water features, soft seating areas, outdoor performance/event spaces, and other programmable space for open air farmers markets, art shows, live music, food and wine festivals, yoga in the park, outdoor movie nights, etc. The proposed project includes walking paths and landscaping throughout the site, which will help transform the project site into community center for residents and visitors of Laguna Niguel. The project would also replace the approximately 14,400-square-foot public library with an approximately 16,290-square-foot public library on-site and place it in the center of the site in the retail village core. A focus was also on creating a more open floor plan design compared to the existing library to accommodate greater library programming adaptability, both now and in the future. The project also includes roadway improvements that ensure adequate, orderly public access.

The project’s compilation of varying uses and businesses would generate temporary construction jobs and is intended to create the opportunity for new Laguna Niguel revenue generating businesses. These jobs would also positively add to this City’s workforce and daytime population. The No Project/No Development Alternative would not result in these positive additions to the City.

Finally, the proposed residential component expands the City’s needed housing stock and would be first the new rentable multifamily residential development outside of the City’s Gateway Specific Plan area since prior to City incorporation in 1989. The No Project/No Development Alternative would not respond to existing housing supply demands, as recognized by the California State Legislature.

### **Development Under Existing General Plan Land Use and Zoning Designation Alternative**

Under this alternative, the site would be developed based on the current Laguna Niguel General Plan land use designation of “Community Commercial,” “Professional Office,” and “Public/Institutional” and on the property’s current zoning of “Community Commercial” (CC) (see Figure 4-1, Existing General Plan Land Use Designations). The potential range and combinations of development and land uses allowable are extensive, including: regional commercial centers

and shopping complexes; professional offices, corporate headquarters, research and development, and administrative offices; or a range of public, quasi-public, and special purpose private facilities aimed at providing governmental or social services to the community. This alternative assumes development in accordance with the anticipated land use mix in the current General Plan (Community Profile Area 14). The development of the site would include a maximum of 130,680 square feet of commercial/retail space and a maximum of 217,800 square feet of office space. As with the proposed project, it is assumed that a new library within the commercial portion of the development would replace the existing library. It is unlikely that this Alternative would include a publicly accessible town green because of space limitations given the amount of commercial development.

**Finding.** The City Council rejects the Development Under Existing General Plan Land Use and Zoning Designation Alternative on the basis of policy and economic factors as explained herein. (See Pub. Resources Code, § 21061.1; CEQA Guidelines, § 15364; see also *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417; *California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001; *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible this project alternative identified in the Final EIR.

#### *Ability to Reduce Environmental Impacts*

The No Project: Development Under Existing General Plan Land Use and Zoning Designation alternative would reduce impacts to energy, geology and soils, land use and planning, noise, population and housing, public services, recreation, and utilities and service systems. Impacts to aesthetics, biological resources, cultural resources, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, tribal cultural resources, and wildfire would be similar. Impacts to air quality, and transportation would be greater than the proposed project.

#### *Ability to Achieve Project Objectives*

The No Project/Development Under Existing General Plan Land Use and Zoning Designation Alternative would only achieve some of the project objectives. The alternative would provide a mix of office and commercial uses with new commercial tenants to the City of Laguna Niguel and redevelop the project site with a project that would generate new sources of sales tax (Objectives 1 and 2 partially, as this alternative would not include residential uses, 3, and 5).

This alternative would not provide a unique mixed-use environment (Objective 1) because residential uses would not be included. This alternative would not provide a pedestrian-oriented town green as the focal point of the commercial experience and gathering place for the community (Objective 4). To that extent, this alternative would not provide public benefits, including the town center and greenspaces programmed for public uses. The project includes substantial public benefits, including through the incorporation of a town green area, which would be improved with mature trees, water features, soft seating areas, outdoor performance/event spaces, and other programmable space for open air farmers markets, art shows, live music, food and wine festivals,

yoga in the park, outdoor movie nights, etc. The proposed project includes walking paths and landscaping throughout the site, which will help transform the project site into community center for residents and visitors of Laguna Niguel. The alternative would not include such spaces and would not achieve Objective 4.

### *Other Considerations*

The No Project/Development Under Existing General Plan Land Use and Zoning Designation Alternative would focus on civic, commercial, and office redevelopment and uses. It would not, as does not proposed project, facilitate residential development that would further meet the City's needed housing stock. The project would be first the new rentable multifamily residential development outside of the City's Gateway Specific Plan area since prior to City incorporation in 1989. The No Project/No Development Alternative would not respond to existing housing supply demands, as recognized by the California State Legislature. The City was assigned a total of 1,207 new housing units as part of the sixth planning cycle and Regional Housing Needs Assessment ("RHNA") projection period.

### **Residential Development Only Alternative**

Under the Residential Development Only Alternative, nonresidential development would be eliminated and the number of residences would increase to 400 residential units across the project site. The existing library and fire station would remain. This alternative would not include a parking structure. Resident and guest parking would be provided by surface parking and spread throughout the project site. The maximum number of 400 units was determined by the appropriate threshold with the potential to reduce the greenhouse gas emissions impact of the proposed project to less than significant. In addition, 400 units is a reasonable estimate of the number of units that could be developed on the site without also constructing structured parking. The Residential Development Only Alternative was designed to evaluate the potential to eliminate the significant and unavoidable impacts of the proposed project. This alternative would introduce approximately 1,024 residents and would likely not include a publicly accessible town green because the residences would be distributed throughout the site.

**Finding.** The City Council rejects the Residential Development Only Alternative on the basis of policy and economic factors as explained herein. (See Pub. Resources Code, § 21061.1; CEQA Guidelines, § 15364; see also *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417; *California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001; *Sequoiah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible this project alternative identified in the Final EIR.

### *Ability to Reduce Environmental Impacts*

The Residential Development Only Alternative would reduce impacts related to aesthetics, air quality, energy, geology and soils, greenhouse gas emissions, hydrology and water quality, noise,

public services, tribal cultural resources, and utilities and service systems. Impacts to biological resources, cultural resources, hazards and hazardous materials, and wildfire would be similar. Transportation. Land Use and Planning and Population impacts would be greater than the proposed project impacts.

The alternative would eliminate significant and unavoidable impacts to operational greenhouse gas emissions.

#### *Ability to Achieve Project Objectives*

This Alternative would not achieve many of the project objectives. This alternative would include a residential-only development across the project site that would provide new housing options for existing and new residents, and promote the City's economic well-being by generating new sources of property tax (Objectives 2 and 5).

This alternative would not create a dynamic mix of commercial uses, including retail, restaurant, creative office, health/wellness, and civic uses, that would be unique and distinct from other commercial projects in the City (Objective 1). It would not provide unique live, work, and play opportunities for residents of Laguna Niguel and surrounding communities (Objective 6) or provide increased sales taxes (Objectives 2 and 5). Under this alternative the nonresidential component and town green would be eliminated, and therefore it would not enhance the City's profile and amenities for residents by providing a unique mixed-use environment in South Orange County that would attract differentiated retail and commercial tenants and a unique, high-quality, pedestrian-oriented commercial center (Objectives 4 and 7).

#### *Other Considerations*

The project proposes a mix of uses that would facilitate the creation of a pedestrian-friendly, walkable, civic space, including programmable open spaces. The project is designed to facilitate pedestrian movement and interaction within the project site by incorporating significant public amenities, such as programmable open spaces and pedestrian pathways and paseos with a diverse commercial experience, such as restaurants, coffee shops, specialty retail, markets, and other uses that drive local patronage and pedestrian movement. The project includes a grand plaza/town green at the main entrance to the retail village core and will be improved with appropriate landscaping and is programmable for pedestrian-friendly uses (e.g., farmers markets, art shows, live music, outdoor movies, etc.). The grand plaza/town green is integrated as a component of the retail village core to work cooperatively to facilitate public uses and civic engagement. The Residential Development Only Alternative would not include commercial uses, which would not succeed in realizing the civic and pedestrian friendly core that is achieved by the project. The General Plan also notes that the Town Center is envisioned as a special focal point of the City. An alternative that includes only residential development would not achieve the special focus envisioned by the General Plan.

## **Reduced Commercial Development Alternative**

Under the Reduced Development Alternative—Reduced Commercial, the vision for the LNCC project would remain the same, but the buildout would consist of 275 residential units and 23,750 square feet of commercial uses (retail and restaurant uses). Commercial uses would be reduced by 137,000 square feet compared to the proposed project. The number of multifamily residential units would remain the same as the proposed projects. Units would not decrease because they are required to assist in financing the nonresidential portion of the project, including the community-oriented outdoor areas and event spaces.

This reduced development alternative was designed to evaluate the potential to eliminate the significant and unavoidable impacts of the proposed project while maintaining an economically viable project. This alternative would introduce approximately 704 residents and 62 employees.

**Finding.** The City Council rejects the Reduced Commercial Development Alternative on the basis of policy and economic factors as explained herein. (See Pub. Resources Code, § 21061.1; CEQA Guidelines, § 15364; see also *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417; *California Native Plant Soc. v. City of Santa Cruz* (2009) 177 Cal.App.4th 957, 1001; *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible this project alternative identified in the Final EIR.

### *Ability to Reduce Environmental Impacts*

The Reduced Commercial Development Alternative would reduce impacts to aesthetics, air quality, energy, geology and soils, greenhouse gas emissions, noise, public services, tribal cultural resources, and utilities and service systems. Impacts to biological resources, cultural resources, hazards and hazardous materials, hydrology and water quality, recreation, transportation, and wildfire would be similar. Land use and planning and population and housing impacts would be greater.

This alternative would eliminate significant and unavoidable impacts to operational greenhouse gas emissions.

### *Ability to Achieve Project Objectives*

This Alternative would not achieve many of the project objectives. The substantial reduction in office and commercial space under this alternative would preclude this option from effectively achieving the project's objectives. To be potentially viable, this alternative would need to locate the 23,500 SF retail use as daily-needs retail and to conveniently locate this use along Crown Valley Parkway. A dynamic, commercial retail and office use could not be created (Objective 1); the uses would not support an improved town green and the commercial uses would not attract people to a gathering place (Objective 4); and the limited non-residential use could not be designed as a visually impactful attraction for Laguna Niguel and surrounding residents

(Objectives 6 and 7). This alternative would not be expected to be able to finance a new, state-of-the-art library (Objectives 2 and 3). It would generate revenue to the City and County, but not at the levels anticipated for the proposed project (Objective 5).

#### *Other Considerations*

The project is designed to facilitate pedestrian movement and interaction within the project site by incorporating significant public amenities, such as programmable open spaces and pedestrian pathways and paseos with a diverse commercial experience, such as restaurants, coffee shops, specialty retail, markets, and other uses that drive local patronage and pedestrian movement. The project includes a grand plaza/town green at the main entrance to the retail village core and will be improved with appropriate landscaping and is programmable for pedestrian-friendly uses (e.g., farmers markets, art shows, live music, outdoor movies, etc.). The grand plaza/town green is integrated as a component of the retail village core to work cooperatively to facilitate public uses and civic engagement. The Reduced Commercial Development Alternative would include significantly less commercial space and a lesser diversity of uses, which would not interact as well to achieve the civic, pedestrian-oriented site sought by the project objectives or the existing General Plan, which envisions the Town Center as a focal point of the City.

### **C. ENVIRONMENTALLY SUPERIOR ALTERNATIVE**

CEQA requires a lead agency to identify the “environmentally superior alternative” and, in cases where the “No Project” Alternative is environmentally superior to the proposed project, the environmentally superior development alternative must be identified. One alternative has been identified as “environmentally superior” to the proposed project:

- The Reduced Commercial Development Alternative would reduce impacts to aesthetics, air quality, energy, geology and soils, greenhouse gas emissions, noise, public services, and utilities and service systems in comparison to the proposed project. This alternative would also eliminate significant and unavoidable impacts to operational greenhouse gas emissions.



## **VII. STATEMENT OF OVERRIDING CONSIDERATIONS**

### **A. INTRODUCTION**

The City of Laguna Niguel is the Lead Agency under CEQA for preparation, review and certification of the EIR for the proposed project. As the Lead Agency, the City is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant, and which can be mitigated through imposition of mitigation measures to avoid or minimize those impacts to a level of less than significant. CEQA then requires the Lead Agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed project. In making this determination the City is guided by CEQA Guidelines Section 15093, Statement of Overriding Considerations, which states:

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

In addition, Public Resources Code Section 21081(b) requires that where a public agency finds that 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 an EIR and thereby leave significant unavoidable effects, the public agency must also find that overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects of the project.

Pursuant to Public Resources Code Section 21081(b) and the State CEQA Guidelines Section 15093, the City has balanced the benefits of the proposed project against the unavoidable adverse impacts associated with the project and has adopted all feasible mitigation measures

with respect to these impacts. The City also has examined alternatives to the proposed project, none of which both meets the project objectives and is environmentally preferable to the proposed project, for the reasons discussed in the Findings and Facts in Support of Findings.

The City of Laguna Niguel, as the Lead Agency for this project, and having reviewed the EIR for the proposed project, and reviewed all written materials within the City's public record and heard all oral testimony presented at public hearings, adopts this Statement of Overriding Considerations, which has balanced the benefits of the project against its significant unavoidable adverse environmental impacts in reaching its decision to approve the project.

## **B. OVERRIDING CONSIDERATIONS**

The City, after balancing the specific economic, legal, social, technological, and other benefits of the project, has determined that the unavoidable adverse environmental impacts identified above may be considered acceptable due to the following specific considerations, which outweigh the unavoidable, adverse environmental impacts of the project, and each of which, standing alone, is sufficient to support approval of the project, in accordance with CEQA Section 21081(b) and CEQA Guidelines Section 15093. The specific economic, legal, social, technological, or other benefits of the project are as follows:

1. The proposed project would include a mix of uses including non-residential (retail, restaurant, office, health/wellness, civic uses) and residential uses with a variety of amenities. The non-residential uses would be unique and distinct from other commercial projects in the City, and would be complemented by the residential uses.
2. The proposed project would promote financial feasibility and promote economic development through the tax revenue and jobs that would be generated by the non-residential component, and through the residential component which would create additional housing options for existing and new residents to support local businesses.
3. The existing Laguna Niguel Library would be replaced with a larger and modernized facility that would better serve the residents of the City, and would be surrounded by commercial, office, and residential uses.
4. The proposed project would redevelop and underutilized site in the Town Center Opportunity Area thereby revitalizing the site and generating sales tax revenue for the City and County.
5. The proposed project would increase the number of housing units and jobs in the City. Currently, Laguna Niguel is housing-rich (0.73 jobs/housing unit). The proposed project would nominally, but beneficially, impact the City's jobs-housing balance.
6. The proposed project's residential and non-residential components are expected to generate lower VMT rates than the established VMT significance thresholds under Baseline Year 2016 and Cumulative Year 2045 conditions, as the proposed project is a mixed-use project and regionally connected. As the proposed project is locally serving, it provides more options for residents to live and work locally.

7. The project provides additional housing to support the regionally forecasted increase in economic activities and employment increases.
8. The project includes substantial public benefits, including through the incorporation of a town green area, which would be improved with mature trees, water features, soft seating areas, outdoor performance/event spaces, and other programmable space for open air farmers markets, art shows, live music, food and wine festivals, yoga in the park, outdoor movie nights, etc. The project includes walking paths and landscaping throughout the site, which will help transform the project site into community center for residents and visitors of Laguna Niguel.
9. The project includes numerous offsite improvements, including to the OCFA #5 station, such as adding a private truck entrance off Pacific Island, additional trees and landscape for safety/privacy, upgrading walls, fences and gates, providing a new fire riser, water meter, and double check detector assembly, and adding traffic signal OCFA control.

## VIII. FINDING REGARDING CERTIFICATION OF THE EIR

The City of Laguna Niguel finds that it has reviewed and considered the Final EIR in evaluating the proposed project, that the Final EIR is an accurate and objective statement that fully complies with CEQA and the State CEQA Guidelines, and that the Final EIR reflects the independent judgment of the City.

The City of Laguna Niguel declares that no new significant information, as defined by State CEQA Guidelines, section 15088.5, has been received by the City after circulation of the DEIR that would require recirculation.

The City of Laguna Niguel certifies the EIR based on the entirety of the record of proceedings, including but not limited to the following findings and conclusions:

**Findings:** The following significant environmental impacts have been identified in the EIR and will require mitigation as set forth in Section V of this Finding but cannot be mitigated to a level of insignificance: greenhouse gas emissions.

### Conclusions

1. Except the impacts relating to greenhouse gas, all significant environmental impacts from the implementation of the proposed project have been identified in the EIR and, with implementation of the mitigation measures identified, will be mitigated to a level of insignificance.
2. Other alternatives to the proposed project, which could potentially achieve the basic objectives of the proposed project, have been considered and rejected in favor of the proposed project.
3. Environmental, economic, social, and other considerations and benefits derived from the development of the proposed project override and make infeasible any alternatives to the proposed project or further mitigation measures beyond those incorporated into the proposed project.

**IX. FINDING ADOPTING A MITIGATION MONITORING AND REPORTING PLAN**

Pursuant to Public Resources Code section 21081.6, the City of Laguna Niguel hereby adopts the Mitigation Monitoring and Reporting Plan attached to this Finding as Exhibit A. In the event of any inconsistencies between the mitigation measures as set forth herein and the Mitigation Monitoring and Reporting Plan, the Mitigation Monitoring and Reporting Plan shall control.

## **X. FINDING REGARDING CONTENTS AND CUSTODIAN OF RECORDS**

The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Laguna Niguel Planning Division Counter. The custodian for these records is the City of Laguna Niguel. This information is provided in compliance with Public Resources Code section 21081.6.

The record of proceedings for the City's decision on the project consists of the following documents, at a minimum:

1. The NOP and all other public notices issued by the City in conjunction with the project.
2. All comments submitted by agencies or members of the public during the 45-day comment period on the DEIR.
3. The Final EIR for the proposed project, including comments received on the DEIR, responses to those comments, and technical appendices.
4. The Mitigation Monitoring and Reporting Plan for the project.
5. All findings, resolutions, and ordinances adopted by the City in connection with the proposed project, and all documents cited or referred to therein.
6. All reports, studies, memoranda, maps, staff reports, or other planning documents relating to the project prepared by the City, consultants to the City, or responsible or trustee agencies with respect to the City's compliance with the requirements of CEQA and with respect to the City's action on the proposed project.
7. All documents submitted to the City by other public agencies or members of the public in connection with the EIR up through project approval. Matters of common knowledge to the City, including, but not limited to federal, state, and local laws and regulations.
8. Any documents expressly cited or referenced in these findings, in addition to those cited above.
9. Any other materials required for the record of proceedings by Public Resources Code section 21167.6, subdivision (e).

The following location is where the record may be reviewed:

**City of Laguna Niguel, Planning Division Counter  
30111 Crown Valley Parkway,  
Laguna Niguel, CA 92677**