



AGENDA REPORT

CITY OF SAN CLEMENTE

City Council Meeting

910 Calle Negocio
2nd Floor
San Clemente, California
www.san-clemente.org

Meeting Date: 11/1/2022

Agenda Item: 8A

Department: Community Development

Prepared By: Jennifer Savage, Assistant to the City Manager

Subject:

654 CAMINO DE LOS MARES - MASTER PROJECT (MP) 22-089, GENERAL PLAN AMENDMENT (GPA) 22-097, ZONING AMENDMENT (ZA) 22-098, TENTATIVE PARCEL MAP (TPM) 22-099, CONDITIONAL USE PERMIT (CUP) 22-100, SITE PLAN PERMIT (SPP) 22-103, ARCHITECTURAL PERMIT (AP) 22-101, AND DEVELOPMENT AGREEMENT - SENIOR HOUSING AND MEDICAL OFFICE

Fiscal Impact:

None

Summary:

A request to demolish an existing medical building and surface parking lot; construct a mixed-use project with 250 for-rent senior residential units and a 7,500 square foot medical office; subdivide one lot into two lots; rezone the property from Regional Medical Facilities 1 (RMF1) to Community Commercial 4 (CC4); and change the General Plan designation from RMF to CC at 654 Camino de Los Mares. The project includes a Development Agreement and requests for concession/waiver(s) pursuant to State Density Bonus law.

Staff recommends that the City Council consider approving the proposed project by approving and adopting the Addendum to the San Clemente Housing and Safety Elements Update PEIR (State Clearinghouse No. 2021020256) that was adopted by the City Council on October 5, 2021 ("2021 EIR") pursuant to the California Environmental Quality Act ("CEQA"); adopting a resolution approving GPA22-097, ZA22-098, TPM22-099, CUP22-100, SPP22-103, and AP22-101; and introducing an ordinance approving GPA22-099, ZA22-098, and the Development Agreement.

Background:

This Background section provides information about the existing site, the proposed project, and previous review by the Design Review Subcommittee (DRSC), Planning Commission and City Council.

Existing Site

The 6.61-acre site is located at 654 Camino de Los Mares. The site is currently zoned Regional Medical Facilities (RMF1). The site is located east of Interstate 5 and west of Camino de Los Mares.

The site currently contains a vacant hospital building and surface parking. There is a shopping center to the north and an assisted living facility to the south. A commercial center and medical offices are located across Camino de Los Mares to the east.

The site is located in the Camino de Los Mares Focus Area and the Automobile-Oriented Commercial District of the City's Design Guidelines.

Proposed Project

The project consists of the demolition of the existing vacant hospital and surface parking, and the construction of two residential buildings and one medical office building. The project includes subdividing the existing single lot into two parcels - one will contain the residential buildings; the other will contain the medical office building. Project plans are provided as Attachment 12. See the Applicant's project narrative for additional information (Attachment 4).

The residential buildings are three and four stories, and are designed with a Spanish architectural style. The medical office building is two stories and is designed with a Spanish architectural style.

The project will retain two of the three existing driveways. The west driveway will remain signalized; the east entry will remain signalized. Parking will be provided on the project site and a portion of the guest spaces required for the residential portion will utilize shared parking with the medical office.

The project includes a development agreement, a General Plan amendment, and a zoning amendment. The applicant's proposal to change the General Plan designation and zoning to CC4 would allow the proposed senior housing with a Conditional Use Permit.

Design Review Subcommittee

The City's Design Review Subcommittee (DRSC) reviewed the project on May 25, 2022, July 27, 2022, and August 24, 2022 (minutes are available online; see footnotes). At each meeting, the DRSC provided recommendations to improve the project's consistency with the City's Design Guidelines. These recommendations related to various aspects of the projects design, most notably the project's massing, site design, height, and building/roof articulation. Although the project made good progress addressing most of the architectural recommendations, DRSC recognized that the project would not reduce the height or density and forwarded the project to the Planning Commission without a recommendation for approval.

Planning Commission

The Planning Commission held a joint Study Session with City Council on August 31, 2022. The subject project was reviewed by the Planning Commission at their meeting held October 5, 2022. The Planning Commission considered the Development Agreement on October 19, 2022.

On October 5, 2022, the Planning Commission recommended denial (4-0, 3 absent) of the entitlement applications with the following comments:

- Provide building step backs consistent with the City's Design Guidelines
- Address the parking
- Consider redesigning the project
- The site is not suitable for the development if an easement for shared parking is required
- There is a health and safety concern if people have to walk across the street
- If the project is approved, conditions of approval should allow review of parking in the future, and there should be no reserved parking spaces onsite
- There should only be low shrubs in the pedestrian paseo to allow views through the two residential buildings

- The affordable housing units should be a mix of unit floor plans and sizes
- The proposed medical offices should be required to be used as medical office
- The project should comply with the City's Design Guidelines for open space
- The term of affordability should be 55 years
- The applicant should identify the mix of floor plans for the affordable units

On October 19, 2022, the Planning Commission recommended denial (5-0, 2 absent) of the Development Agreement.

City Council

The Planning Commission held a Joint Study Session with City Council on August 31, 2022.

Discussion:

This Discussion section provides information on architecture, density bonus law, parking, and the development agreement.

Architecture

The site is located in the Camino de Los Mares Focus Area. Pursuant to the General Plan the design of projects in the Camino de Los Mares Focus Area shall have a Spanish architectural design, consistent with the Design Guidelines (Policy LU-7.06).

The project is located in the Automobile-Oriented Commercial District of the City's Design Guidelines (Figure 1 of the City's Design Guidelines). The Design Guidelines identify that all new development should build on the tradition of Spanish Colonial Revival architecture. The Guidelines also recognize that contemporary interpretation of Spanish Colonial Revival architecture may be acceptable if the project incorporates basic principles, and that the basic principles may not be appropriate for all locations throughout the city.

The principles identified in the Design Guidelines include:

- Buildings take advantage of topography, climate, and view, with exterior patios, arcades, courtyards, and balconies.
- Plantings define exterior living spaces.
- Building forms are one, two, and three stories.
- Building components are scaled to human size.
- Ornament and sculptural detail, such as entrance and tiled patio areas, are used.
- Whitewashed stucco walls are used.

While the Design Review Subcommittee (DRSC) considered the project too large, the DRSC did recognize that the applicant made significant progress towards high quality architecture. (It should be noted that the DRSC's purview does not include consideration of State-mandated variances in City development standards under State Density Bonus Law and, thus, DRSC did not consider the applicant's request for a concession of the City's building-height limit). The project is otherwise consistent with most City design principles because the project:

- Takes advantage of the site's topography by providing three stories along Camino de Los Mares and stepping down with the slope at the rear of the property to provide a four-story elevation towards the rear. In addition, the project uses exterior patios, courtyards, and

- balconies;
- Uses landscaping to define exterior living spaces including the pedestrian paseo, the public sidewalk, and the onsite courtyards;
- Uses design features to create a human scale project along Camino de Los Mares including but not limited to two story patio features, varied window scale and placement, varied wall planes, and sloping roofs;
- Uses tiles and other ornamental details at project entry points; and
- Uses whitewashed stucco walls.

Density Bonus

The applicant has requested (Attachments 5 and 6) and qualifies for exceptions to city development standards for the senior housing portion of the project. Approval of these exceptions is required under State Density Bonus Law. The applicant is requesting two types of exceptions:

- Concession, which is:
 - “A reduction in site development standards or a modification of zoning code requirements or architectural design requirements ... that results in identifiable and actual cost reductions ...” (Government Code 65915 (k)(1));
 - “Approval of mixed-use zoning in conjunction with housing...”(Government Code 65915 (k)(2));
 - “Other regulatory incentives or concessions ... that result in identifiable and actual cost reductions to provide ... for rents for the targeted units...” (Government Code 65915 (k)(3)).
- Waiver, which is:
 - A waiver or reduction “of development standards that will have the effect of physically precluding the construction of a development” with minimum affordable housing percentages identified in State law.

Based on the applicant’s proposed project with 8% of housing units for very low income households, the project qualifies for one concession and the waivers of development standards noted in Table 1 (Attachment 3), with or without construction of the density bonus units. The applicant provided additional explanation of concessions and waivers in Attachments 5 through 8. Table 1 (Attachment 3) identifies the development standard, the proposal, and how preemptive State law requires the approval of these requests.

Considerations for Concessions. State law requires the City to grant the applicant’s requested concession if it meets all requirements of Section 65915 of the Government Code.

The State’s Density Bonus Law requires City approval of development standard concessions depending on the percent of and level of affordability for the proposed affordable units. Specifically, the State law provides that:

- If an applicant for a density bonus provides a minimum percentage of affordable units, the applicant can request specific incentives or concessions. In this case, the project provides 8% very low income household units (20 units) and, therefore, can request one concession.
- The applicant must submit a letter requesting a concession for height/number of stories (Attachment 5).
- The applicant explains that the concession is required to provide enough rental income to

cover the cost of construction (hard and soft costs) and subsidize the fiscal impact of providing the affordable rental units (Attachment 6).

In accordance with state law, the City must grant the requested concessions unless the City makes a finding based on substantial evidence that:

- The concession does not result in identifiable and actual cost reductions to provide for the affordable housing;
- The concession would create a specific adverse impact to health, safety, the physical environment or historic resources for which there is no feasible mitigation; or
- The concession is contrary to federal or state law.

Grounds for denying the requested concessions do not exist because:

- The City has no information to refute the applicant's assertion that the requested concession doesn't result in the desired product-cost reductions necessary to effectuate the "writedown" on the very low income units. Denying the concession on this basis would require a study or some other data to refute the developer's economic assertions.
- The City is also lacking evidence at this stage to suggest the concession would create a specific, unmitigable adverse impact. The State Density Bonus Law defines a "specific, adverse impact" as a "significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." As discussed elsewhere in this report, and identified in the draft resolution (Attachment 1), the project would not create such an impact and complies with standards, policies, and conditions related to public health and safety. The Addendum to the 2021 EIR supports this conclusion.
- The request for a concession for height/number of stories is not contrary to State or federal law and, in fact, supports the State's policies and goals for housing.

Considerations for Waivers. In addition to the concession discussed above, the applicant has requested waivers of development standards under State Density Bonus Law. Pursuant to California Government Code Section 65915, an applicant for a qualifying project like this may also request a waiver or reduction of any development standard that would have the effect of physically precluding the construction of the project at the proposed densities or with the incentives permitted under the statute. In other words, a density bonus applicant may request a waiver of any development standard if that development standard prevents the construction of the project as proposed by the applicant with the affordability component. A request for a development standard waiver does not reduce the number of incentives or concessions to which the applicant is otherwise entitled.

The State's Density Bonus Law prohibits the city's application of a development standard that would physically preclude the project from using a concession granted through the Density Bonus Law. For a request for a waiver or waivers, the City would consider whether the applicant submitted a request for waivers; whether applying the development standard (without the waiver) would physically preclude construction of the project with the concession; whether the waiver would result in a specific, adverse impact; and whether the waiver would be contrary to state or federal law. In this case:

- The applicant submitted a request for waivers (Attachment 5). The applicant is requesting waivers of the elevator shaft height; floor area ratio; guest parking; and private open space.
- The applicant's request explains that the concession is required to provide enough rental

income to cover the cost of construction (hard and soft costs) and subsidize the fiscal impact of providing the affordable rental units (Attachment 6).

- Government Code defines a “specific, adverse impact” as a “significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” As discussed elsewhere in this report, and identified in the draft resolution (Attachment 1), the project would not create such an impact and complies with standards, policies, and conditions related to public health and safety.
- The waivers for elevator shaft height; floor area ratio; guest parking; and private open space are not contrary to state and federal law and, in fact, would support the State’s policies and goals to provide more housing.

The City is not permitted to apply any development standard which physically precludes the construction of the project at its permitted density and with the granted concessions/incentives. The City is bound to accept the developer’s assertions regarding the connection between the project configuration and project affordability objectives unless it can refute them with substantial, specific evidence to the contrary. The City is not required to waive or reduce development standards that would cause a public health or safety problem, cause an environmental problem, harm historical property, or would be contrary to law. As with the proposed concession, to deny these proposed waivers, the City would need to obtain independent proof that the proposed configuration of the project is unnecessary to meet its affordability goals or that it somehow creates public health and safety problems, environmental problems, harms a historical property, or would be otherwise contrary to law to avoid the issuance of the waivers.

Parking

The San Clemente Municipal Code (SCMC) requires one covered parking space per senior unit, plus two parking spaces per manager’s unit and one guest space per five housing units (Table 4, Attachment 3). SCMC requires one parking space for every 200 square feet of medical office. The State Density Bonus Law prohibits the City from requiring a development standard that would physically preclude the construction of the project with the concession to which the project is afforded. The subject project has requested a concession for height and, therefore, may request a waiver of the development standards for parking.

As shown in Table 4, Attachment 3, the project is proposing to provide more parking for the Senior Housing Project than required by the State Density Bonus Law. However, there are fewer parking spaces on the medical office parcel than what is required by the SCMC. The applicant is proposing a shared parking arrangement supported by a Parking Analysis (Attachment 9) and Supplemental Parking Letter (Attachment 10). Based on the Parking Analysis, the project would require:

- For the senior housing parcel, the use of 11 parking spaces on the medical office parcel during the following hours: 6:00 p.m. through 8:00 a.m., Monday through Friday; 11:00 a.m. through 8:00 a.m. (the following day) Saturdays and Sundays; and all day during holidays.
- For the medical office parcel, the use of 16 parking spaces on the senior housing parcel during the following hours: 8:00 a.m. through 6:00 p.m. Monday through Friday, and 8:00 a.m. through 11:00 a.m. Saturdays and Sundays.

Development Agreement

The application includes a development agreement (Exhibit A of Attachment 2). SCMC Section

17.16.230 allows pursuant to Government Code Section 65864. Development Agreements reduce uncertainty and provide assurance to an applicant that a project, if approved, can proceed according to existing regulations, not according to new regulations that adopted after project approval.

When considering a development agreement, the City must find that:

- Provisions of the agreement are consistent with the general plan and any applicable specific plan; and
- That the agreement provides that any tentative map prepared for the subdivision included with the development agreement will comply with Section 66473.7.

Staff recommends that the findings can be made as described in the draft resolution and ordinance (Attachments 1 and 2):

- The provisions of the agreement are consistent with the general plan and any applicable specific plan.
 - a. The provisions of the Development Agreement are consistent with the goals and policies of the General Plan, including but not limited to:
 - i. Land Use Plan Primary Goal: "...8) provide a diversity of land use areas that complement one another and are characterized by differing functional activities and intensities of use..." in that the project would add to the diversity of uses in the Camino de Los Mares focus area.
 - ii. Residential Land Use Goal: "Achieve a mix of residential neighborhoods and housing types that meets the diverse economic and physical needs of residents, that is compatible with existing neighborhoods and the surrounding environmental setting, and that reflects community expectations for high quality" in that the project would add to the variety of housing types available in the City, and provide a high quality architectural style.
 - iii. LU-1.01. General. We accommodate the development of a variety of housing types, styles, tenure and densities that are accessible to and meet preferences for different neighborhood types (e.g., mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Land Use Plan and Housing Element in that the project would add to the variety of housing available in the City, including a variety of income levels, as part of a horizontal mixed-use project.
 - iv. Goal: Maintain and improve the area as a community hub that provides diverse retail opportunities and commercial services for local residents and high quality medical services and related employment opportunities for San Clemente and surrounding communities in that the proposed use adds to the Camino de los Mares community hub with senior housing next to food, retail, and medical amenities, and the proposed use adds medical office uses.
 - b. The Development Agreement is consistent with the General Plan Housing Element in that the Housing Element identified the site as a potential housing opportunity site and the project would provide housing, including affordable housing to very low income households.
- The agreement provides that any tentative map will comply with Government Code Section 66473.7 in that the Development Agreement includes provisions that the tentative map will comply with Government Code Section 66473.7.

Environmental Review

The Planning Division prepared an Addendum (Attachment 11) to the San Clemente Housing and Safety Elements Update PEIR (State Clearinghouse No. 2021020256) that was adopted by the City Council on October 5, 2021 (“2021 EIR”). The Addendum analyzes the environmental effects of the proposed project in light of the 2021 EIR, which analyzed potential environmental impacts associated with the development of a number of housing sites, including housing and office development at 654 Camino de Los Mares. The Addendum has been prepared in accordance with relevant provisions of the California Environmental Quality Act (CEQA) of 1970 (as amended) and the State CEQA Guidelines.

According to Section 15164 of the State CEQA Guidelines, an addendum to a previously certified EIR or Negative Declaration is the appropriate environmental document in instances when “only minor technical changes or additions are necessary” and when none of the conditions described in State CEQA Guideline section 15162 calling for the preparation of a subsequent EIR have occurred. The analysis in the Addendum demonstrates that the proposed addendum involves only minor technical changes to the 2021 EIR, that none of the conditions described in State CEQA Guidelines section 15162 triggering the preparation of a subsequent EIR have occurred, and that the Project would not result in any new or increased severity significant environmental effects beyond those identified in the 2021 EIR. As such, an addendum is the appropriate environmental document under CEQA.

Plan and Policy Consistency:

The project is consistent with the General Plan as provided in the Resolution (Attachment 1) and Ordinance (Attachment 2), and as further detailed in the October 5, 2022 Planning Commission Staff Report.

Council Strategy:

Not applicable.

Recommended Actions:

Staff Recommendation

1. Adopt Resolution No. ____ entitled “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA APPROVING AND ADOPTING AN ADDENDUM TO THE SAN CLEMENTE HOUSING AND SAFETY ELEMENTS UPDATE PEIR UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, APPROVING MASTER PROJECT (MP) 22-089, ARCHITECTURAL PERMIT (AP) 22-101, CONDITIONAL USE PERMIT (CUP) 22-100, GENERAL PLAN AMENDMENT (GPA) 22-097, SITE PLAN PERMIT (SPP) 22-103, TENTATIVE PARCEL MAP (TPM) 22-099, ZONING AMENDMENT (ZA) 22-098, AND DEVELOPMENT AGREEMENT FOR A REQUEST TO DEVELOP A MIXED-USE PROJECT WITH 250 FOR-RENT SENIOR RESIDENTIAL UNITS AND A 7,500 SQUARE FOOT MEDICAL OFFICE; SUBDIVIDE ONE LOT INTO TWO LOTS; REZONE THE PROPERTY FROM REGIONAL MEDICAL FACILITIES 1 (RMF1) TO COMMUNITY COMMERCIAL 4 (CC4); AND CHANGE THE GENERAL PLAN DESIGNATION FROM RMF TO CC, LOCATED AT 654 CAMINO DE LOS MARES”,
2. Introduce Ordinance No. ____ entitled “AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA APPROVING AND ADOPTING AN ADDENDUM TO THE SAN CLEMENTE HOUSING AND SAFETY ELEMENTS UPDATE PEIR UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING GENERAL PLAN AMENDMENT (GPA) 22-097, ZONING AMENDMENT

(ZA) 22-098, AND DEVELOPMENT AGREEMENT FOR A MIXED-USE PROJECT WITH 250 FOR-RENT SENIOR RESIDENTIAL UNITS AND A 7,500 SQUARE FOOT MEDICAL OFFICE; TO SUBDIVIDE ONE LOT INTO TWO LOTS; TO REZONE THE PROPERTY FROM REGIONAL MEDICAL FACILITIES 1 (RMF1) TO COMMUNITY COMMERCIAL 4 (CC4); AND TO CHANGE THE GENERAL PLAN DESIGNATION FROM RMF TO CC, LOCATED AT 654 CAMINO DE LOS MARES.”

Attachment:

1. Resolution No. _____
Exhibit A - Conditions of Approval
2. Ordinance No. _____
Exhibit A - Development Agreement
3. Density Bonus, Development Standards, and Parking Summary Tables
4. Revised Applicant’s Project Narrative
5. Applicant’s Request for Concession and Waivers Pursuant to Density Bonus Law and Development Standards Matrix
6. Applicant’s Supplemental Request for a Concession and Waivers
7. Applicant’s Letter for Government Code and CEQA
8. Applicant’s Letter for Parking Pursuant to Density Bonus Law
9. Parking Analysis
10. Supplemental Parking Letter
11. Addendum to the San Clemente Housing and Safety Elements Update EIR
12. Project Plans

Notification:

Public notices were distributed and posted per City and State requirements.

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA APPROVING AND ADOPTING AN ADDENDUM TO THE SAN CLEMENTE HOUSING AND SAFETY ELEMENTS UPDATE PEIR UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, APPROVING MASTER PROJECT (MP) 22-089, ARCHITECTURAL PERMIT (AP) 22-101, CONDITIONAL USE PERMIT (CUP) 22-100, GENERAL PLAN AMENDMENT (GPA) 22-097, SITE PLAN PERMIT (SPP) 22-103, TENTATIVE PARCEL MAP (TPM) 22-099, ZONING AMENDMENT (ZA) 22-098, DEVELOPMENT AGREEMENT FOR A REQUEST TO DEVELOP A MIXED-USE PROJECT WITH 250 FOR-RENT SENIOR RESIDENTIAL UNITS AND A 7,500 SQUARE FOOT MEDICAL OFFICE; SUBDIVIDE ONE LOT INTO TWO LOTS; REZONE THE PROPERTY FROM REGIONAL MEDICAL FACILITIES 1 (RMF1) TO COMMUNITY COMMERCIAL 4 (CC4); AND CHANGE THE GENERAL PLAN DESIGNATION FROM RMF TO CC, LOCATED AT 654 CAMINO DE LOS MARES

WHEREAS, on March 21, 2022, an application was submitted by Hunsaker & Associates Irvine, Inc., 24451 Health Center Drive, Laguna Hills, CA, for Master Project (MP) 22-089, Architectural Permit (AP) 22-101, Conditional Use Permit (CUP) 22-100, General Plan Amendment (GPA) 22-097, Site Plan Permit (SPP) 22-103, Tentative Parcel Map (TPM) 22-099, Zoning Amendment (ZA) 22-098, and Development Agreement and deemed complete on September 29, 2022; to demolish an existing medical building and surface parking lot; construct a mixed-use project with 250 for-rent senior residential units and a 7,500 square foot medical office; subdivide one lot into two lots; rezone the property from Regional Medical Facilities 1 (RMF1) to Community Commercial 4 (CC4); and change the General Plan designation from RMF to CC at 654 Camino De Los Mares (collectively, the Project).

WHEREAS, the Planning Division prepared an Addendum to the San Clemente Housing and Safety Elements Update PEIR (State Clearinghouse No. 2021020256) that was adopted by the City Council on October 5, 2021 for the project in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15164 which allows an addendum to a previously certified EIR or Negative Declaration in instances when “only minor technical changes or additions are necessary” and when the new information does not involve new significant environmental effects beyond those identified in the previous EIR;

WHEREAS, the City's Development Management Team (DMT) reviewed the proposed project on three different occasions for compliance with the General Plan,

Zoning Ordinance, and other applicable City regulations, and the DMT recommends approval with conditions contained in Exhibit A;

WHEREAS, on May 25, 2022, July 27, 2022, and August 24, 2022, the City's Design Review Subcommittee (DRSC) reviewed the project's architecture and compliance with the Design Guidelines, and forwarded the project to the Planning Commission; and

WHEREAS, on August 31, 2022, the Planning Commission and City Council of the City of San Clemente held a study session on the subject applications, and information presented by the applicant, City staff, and other interested parties.

WHEREAS, on October 5 and October 19, 2022, the Planning Commission of the City of San Clemente held duly noticed public hearings on the subject applications, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

WHEREAS, on November 1, 2022, the City Council of the City of San Clemente held a duly noticed public hearing on the subject applications, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The City Council hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the City Council as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review and consideration of the entire record, including the Staff Report, the Program Environmental Impact Report (EIR) for the Housing and Safety Elements Update (State Clearinghouse No. 2021020256, adopted by the City Council on October 5, 2021, hereafter referred to as "2021 EIR"), the Addendum to the 2021 EIR ("Addendum"), any public comments or testimony presented to the City Council, and the facts outlined below, the City Council hereby finds and determines that an addendum is the appropriate environmental document under the California Environmental Quality Act (CEQA) and State CEQA Guidelines Section 15164. The Addendum to the 2021 EIR was prepared by the City of San Clemente Community Development Department to evaluate whether development of senior housing and medical office at 645 Camino de los Mares would result in any new significant impacts or increased severity of impacts beyond those identified in the 2021 EIR. As Lead Agency under CEQA, and based on the findings contained in the Addendum, the City has determined that the project would not

have any new or more severe impacts that were not previously identified in the 2021 EIR, and that none of the conditions described in State CEQA Guidelines section 15162 have occurred. The City also finds that the Addendum reflects the City's independent judgment.

Under CEQA Guidelines Section 15164 of the State CEQA Guidelines, an Addendum to a previously certified EIR or Negative Declaration is the appropriate environmental document in instances when "only minor technical changes or additions are necessary" and when the new information does not involve new significant environmental effects beyond those identified in the previous EIR. The analysis contained in the Addendum demonstrates that the proposed Addendum involves only minor technical changes to the 2021 EIR and the Project would not result in any new or increased severity significant environmental effects beyond those identified in the 2021 EIR. As such, an addendum is the appropriate environmental document under CEQA, and the City Council hereby approves and adopts the Addendum to the 2021 EIR.

Section 3. General Plan Amendment Findings

With respect to General Plan Amendment (GPA) 22-097, the City Council finds as follows:

- A. The proposed amendment is internally consistent with those portions of the General Plan which are not being amended.
 1. GPA 22-097 would amend the Land Use map (Figure LU-1A), changing the General Plan Land Use designation from Regional Medical Facilities to Community Commercial for the site located at 654 Camino de los Mares.
 2. The amendment would be internally consistent with the following Goal and Policies of the Camino de los Mares Focus Area in that the project would enhance a community hub, collaborates with health care providers based on changing needs, maintains landscaped edges, and provides a Spanish architectural design.
 - i. Goal: Maintain and improve the area as a community hub that provides diverse retail opportunities and commercial services for local residents and high quality medical services and related employment opportunities for San Clemente and surrounding communities.
 - ii. LU-7.03. Collaboration with Health Care Providers. We collaborate with local health care providers and facilities to understand their changing requirements and help meet the needs of our residents.
 - iii. LU-7.04. Entryways and Landscaped Corridors. We maintain entryways and an attractive, well-defined landscaped edge along Caminos Estrella and de los Mares to signify arrival to the City of San Clemente and the Camino de los Mares area.
 - iv. LU-7.06. Design Treatment. Within the Camino de los Mares Focus Area, development projects, including major remodels, shall have a Spanish architectural design, consistent with the Design Guidelines.

3. The amendment is consistent with the General Plan Housing Element in that the Housing Element identified the site as a potential housing opportunity site and the project would provide housing, including affordable housing to very low income households.
- B. The proposed amendment will not adversely affect the public health, safety, and welfare.
1. The proposed amendment would create a land use designation consistent with the Community Commercial land use designation adjacent to the west and east, and across the street to the north.
 2. An Addendum was prepared for the proposed project and concluded that potential impacts would be reduced to less than significant with the mitigation measures required as part of the project approval.
 3. Prior to construction, the project will be reviewed during the building permit process to ensure compliance with building, engineering, health, and safety codes. This includes but is not limited to regulations on emergency services, utility connections, easement access, and traffic design standards.

Section 4. Zoning Amendment Findings

With respect to Zoning Amendment (ZA) 22-098, the City Council finds as follows:

- A. The proposed amendment is consistent with the General Plan.
1. The Zoning Amendment would be consistent with the General Plan including but not limited to the following goals and policies:
 - i. Land Use Plan Primary Goal: "...8) provide a diversity of land use areas that complement one another and are characterized by differing functional activities and intensities of use..." in that the project would add to the diversity of uses in the Camino de los Mares focus area.
 - ii. Residential Land Use Goal: "Achieve a mix of residential neighborhoods and housing types that meets the diverse economic and physical needs of residents, that is compatible with existing neighborhoods and the surrounding environmental setting, and that reflects community expectations for high quality" in that the project would add to the variety of housing types available in the City, and provide a high quality architectural style.
 - iii. LU-1.01. General. We accommodate the development of a variety of housing types, styles, tenure and densities that are accessible to and meet preferences for different neighborhood types (e.g., mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Land Use Plan and Housing Element in that the project would add to the variety of housing available in the City, including a variety of income levels, as part of a horizontal mixed-use

project.

- iv. Goal: Maintain and improve the area as a community hub that provides diverse retail opportunities and commercial services for local residents and high quality medical services and related employment opportunities for San Clemente and surrounding communities in that the proposed use adds to the Camino de los Mares community hub with senior housing next to food, retail, and medical amenities, and the proposed use adds medical office uses.
- v. LU-7.03. Collaboration with Health Care Providers. We collaborate with local health care providers and facilities to understand their changing requirements and help meet the needs of our residents in that the project would support the needs of the health care property owner and add medical offices to help meet the needs of residents.
- vi. LU-7.04. Entryways and Landscaped Corridors. We maintain entryways and an attractive, well-defined landscaped edge along Caminos Estrella and de los Mares to signify arrival to the City of San Clemente and the Camino de los Mares area in that the project would provide an attractive and well-defined landscaped edge along Camino de los Mares with additional parkway trees, private landscaping along the sidewalk, and seating area at the pedestrian paseo entry.
- vii. LU-7.06. Design Treatment. Within the Camino de los Mares Focus Area, development projects, including major remodels, shall have a Spanish architectural design, consistent with the Design Guidelines in that the project's senior housing buildings and medical office building would provide Spanish architectural style.

B. The proposed amendment will not adversely affect the public health, safety and welfare.

1. The proposed amendment would be the same Community Commercial zoning as that zoning for the properties adjacent to the west and east, and across the street to the north.
2. An Addendum was prepared for the proposed project and concluded that potential impacts would be reduced to less than significant with the mitigation measures required as part of the project approval.
3. Prior to construction, the project will be reviewed during the building permit process to ensure compliance with building, engineering, health, and safety codes. This includes but is not limited to regulations on emergency services, utility connections, easement access, and traffic design standards.

Section 5. Tentative Parcel Map Findings

With respect to Tentative Parcel Map (TPM) 220-99, the City Council finds as follows:

A. The site is physically suitable for the type of development.

1. The 6.6-acre site complies with development standards and concessions and waivers granted the State's Density Bonus law. The site provides 6.16 acres for the senior housing component of the project and 0.47 acres for the medical office project. Both the senior housing building and the medical office building comply with setbacks, lot coverage, lot size, and lot width required by the Community Commercial General Plan and zoning designation. The senior housing component of the project complies with the height concession under the State Density Bonus, and the waivers of development standards for elevator shaft height, floor area ratio, guest parking, and open space requirements under the State Density Bonus. The medical office component complies with the floor area ratio and height permitted by the Community Commercial General Plan and zoning designation.
2. As shown in the development plans, background reports, and environmental review, the site can accommodate the senior housing and medical office project including, but not limited to, provide pedestrian connectivity to nearby food, commercial, and medical services; connection to bus transportation along Camino de los Mares; and tenant and emergency vehicle access in and around the proposed buildings.

B. The site is physically suitable for the proposed density of the development.

1. The site is 6.6 acres and the project proposes senior housing on 6.16 acres. Community Commercial allows senior housing projects at 45 dwelling units per acre, resulting in up to 277 senior units. The project includes 5% of very low income household units which, pursuant to the State's Density Bonus law, would allow 20% additional density, or 56 additional units, for a total of 333 units. The proposed 250 units is less than the 333-unit density allowed.
2. As shown in the development plans, background reports, and environmental review, the site can accommodate the senior housing and medical office project including, but not limited to, provide pedestrian connectivity to nearby food, commercial, and medical services; connection to bus transportation along Camino de los Mares; and tenant and emergency vehicle access in and around the proposed buildings.

C. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

1. An Addendum was prepared for the proposed project and concluded that impacts to the fish and wildlife would be less than significant. Mitigation measures for noise, air quality, and other environmental factors are required as part of the General Plan and Addendum, and would reduce potential environmental impacts as a result of the project.

- D. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.
1. An Addendum was prepared for the proposed project and concluded that potential health impacts would be reduced to less than significant levels with the mitigation measures required as part of the project approval.
 2. Prior to construction, the project will be reviewed during the building permit process to ensure compliance with building, engineering, health, and safety codes. This includes but is not limited to regulations on emergency services, utility connections, easement access, and traffic design standards.
- E. The subdivision, with its provisions for any design and improvements, is consistent with the General Plan and any applicable specific plan.
1. The subdivision is consistent with the General Plan in that the Community Commercial zoning, which allows senior housing and medical offices, is consistent with adjacent uses, and the project is consistent with the policies for the Camino de los Mares Focus Area and the Urban Design Element.
 2. The subdivision is consistent with the goals and policies of the General Plan including but not limited to:
 - i. Land Use Plan Primary Goal: "...8) provide a diversity of land use areas that complement one another and are characterized by differing functional activities and intensities of use..." in that the project would add to the diversity of uses in the Camino de los Mares focus area.
 - ii. Residential Land Use Goal: "Achieve a mix of residential neighborhoods and housing types that meets the diverse economic and physical needs of residents, that is compatible with existing neighborhoods and the surrounding environmental setting, and that reflects community expectations for high quality" in that the project would add to the variety of housing types available in the City, and provide a high quality architectural style.
 - iii. LU-1.01. General. We accommodate the development of a variety of housing types, styles, tenure and densities that are accessible to and meet preferences for different neighborhood types (e.g., mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Land Use Plan and Housing Element in that the project would add to the variety of housing available in the City, including a variety of income levels, as part of a horizontal mixed-use project.
 - iv. Goal: Maintain and improve the area as a community hub that provides diverse retail opportunities and commercial services for local residents and high quality medical services and related employment opportunities for San Clemente and surrounding

communities in that the proposed use adds to the Camino de los Mares community hub with senior housing next to food, retail, and medical amenities, and the proposed use adds medical office uses.

- F. If there is an easement, either of the following findings shall be made: (a) The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision. (b) Alternate easements for access or for use will be provided, substantially equivalent to ones previously acquired by the public, that are easements of record or easements established by judgment of a court of competent jurisdiction.
1. The design of the subdivision will not conflict with easements in that easements for the required sidewalk width and traffic signal facilities will be provided from the applicant to the City prior to recordation of the final map.

Section 6. Conditional Use Permit Findings

With respect to Conditional Use Permit (CUP) 22-100, the City Council finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan, and the purpose and intent of the zone in which the use is being proposed, in that:
1. The General Plan and Zoning designations of Community Commercial allow senior housing projects with a Conditional Use Permit, and allow medical offices. The Land Use Element describes Community Commercial as more intense development of local serving retail commercial; personal service; professional office; medical offices, congregate care, and related uses; lodging; cultural uses and eating and drinking uses. The Housing Element identifies the site as a potential housing opportunity, a senior assisted living facility is located adjacent to the southeast, and senior housing is permitted with a Conditional Use Permit on the adjacent Community Commercial zoned parcels.
 2. Land Use Element Goal for the Camino de los Mares Focus Area states: "Maintain and improve the Area as a community hub that provides diverse retail opportunities and commercial services for local residents and high quality medical services and related employment opportunities for San Clemente and surrounding communities." The proposed use adds to the Camino de los Mares community hub with senior housing next to food, retail, and medical amenities, and the proposed use adds medical office uses.
 3. Land Use Policy LU-7.03 states: "Collaboration with Health Care Providers. We collaborate with local health care providers and facilities to understand their changing requirements and help meet the needs of our residents." The project

would support the needs of the health care property owner and add medical offices to help meet the needs of residents.

4. Land Use Policy LU-7.04 states: "Entryways and Landscaped Corridors. We maintain entryways and an attractive, well-defined landscaped edge along Caminos Estrella and de Los Mares to signify arrival to the City of San Clemente and the Camino de Los Mares area." The project would provide an attractive and well-defined landscaped edge along Camino de los Mares with additional parkway trees, private landscaping along the sidewalk, and seating area at the pedestrian paseo entry.
5. Land Use Policy LU-7.06 states: "Design Treatment. Within the Camino de los Mares Focus Area, development projects, including major remodels, shall have a Spanish architectural design, consistent with the Design Guidelines." The project's senior housing buildings and medical office building would provide Spanish architectural style.

B. The site is suitable for the type and intensity of use that is proposed, in that:

1. The 6.6-acre site complies with development standards and concessions and waivers granted the State's Density Bonus law.
2. The site is 6.6 acres and the project proposes senior housing on 6.16 acres. Community Commercial allows senior housing projects at 45 dwelling units per acre, resulting in up to 277 senior units. The project includes 5% of very low income household units which, pursuant to the State's Density Bonus law, would allow 20% additional density, or 56 additional units, for a total of 333 units. The proposed 250 units is less than the 333-unit density allowed.
3. As shown in the development plans, background reports, and environmental review, the site can accommodate the senior housing and medical office project including, but not limited to, provide pedestrian connectivity to nearby food, commercial, and medical services; connection to bus transportation along Camino de los Mares; and tenant and emergency vehicle access in and around the proposed buildings.

C. The proposed use will not be detrimental to the public health and safety to properties and improvements in the vicinity, in that:

1. An Addendum was prepared for the proposed project and concluded that potential health impacts would be reduced to less than significant with the mitigation measures required as part of the project approval.
2. Prior to construction, the project will be reviewed during the building permit process to ensure compliance with building, engineering, health, and safety codes. This

includes but is not limited to regulations on emergency services, utility connections, easement access, and traffic design standards.

Section 7. Site Plan Permit Findings

With respect to Site Plan Permit (SPP) 22-103, the City Council finds as follows:

- A. The proposed development is permitted within the subject zone pursuant to the approval of a Site Plan Permit and complies with all the applicable provisions of this title, the goals, and objectives of the San Clemente General Plan, and the purpose and intent of the zone in which the development is being proposed, in that:
1. The 6.6-acre site complies with development standards and concessions and waivers granted the State's Density Bonus law. The site provides 6.16 acres for the senior housing component of the project and 0.47 acres for the medical office project. Both the senior housing building and the medical office building comply with setbacks, lot coverage, lot size, and lot width required by the Community Commercial General Plan and zoning designation. The senior housing component of the project complies with the height concession under the State Density Bonus, and the waivers of development standards for elevator shaft height, floor area ratio, guest parking, and open space requirements under the State Density Bonus. The medical office component complies with the floor area ratio and height permitted by the Community Commercial General Plan and zoning designation.
 2. The site is 6.6 acres and the project proposes senior housing on 6.16 acres. Community Commercial allows senior housing projects at 45 dwelling units per acre, resulting in up to 277 senior units. The project includes 5% of very low income household units which, pursuant to the State's Density Bonus law, would allow 20% additional density, or 56 additional units, for a total of 333 units. The proposed 250 units is less than the 333-unit density allowed.
 3. The medical office building is proposed on 0.47 acres and meets the development standards of the zone. In addition, the medical office building scale and architecture matches the scale and architecture of adjacent and surrounding buildings.
 4. The project complies with the goals and policies of the General Plan including but not limited to:
 - i. Land Use Plan Primary Goal: "...8) provide a diversity of land use areas that complement one another and are characterized by differing functional activities and intensities of use..." in that the project would add to the diversity of uses in the Camino de los Mares focus area.
 - ii. Residential Land Use Goal: "Achieve a mix of residential neighborhoods and housing types that meets the diverse economic and physical needs of residents, that is compatible with existing

neighborhoods and the surrounding environmental setting, and that reflects community expectations for high quality” in that the project would add to the variety of housing types available in the City, and provide a high quality architectural style.

- iii. LU-1.01. General. We accommodate the development of a variety of housing types, styles, tenure and densities that are accessible to and meet preferences for different neighborhood types (e.g., mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Land Use Plan and Housing Element in that the project would add to the variety of housing available in the City, including a variety of income levels, as part of a horizontal mixed-use project.
 - iv. Goal: Maintain and improve the area as a community hub that provides diverse retail opportunities and commercial services for local residents and high quality medical services and related employment opportunities for San Clemente and surrounding communities in that the proposed use adds to the Camino de los Mares community hub with senior housing next to food, retail, and medical amenities, and the proposed use adds medical office uses.
5. Growth Management Element Policy GM-3.01 states: “New in-City development shall pay its share of the costs of public facilities and services needed to serve the new residents, unless the community chooses to help pay the costs for a certain development to obtain community-wide benefits.” The project is subject to the Public Safety Mitigation Fee and payment to the Public Facilities Construction Fund and therefore consistent with GM-3.01 requiring new in-City development to pay it’s share of the cost of public facilities and services. Condition of Approval 7.17 requires that the business operator handle all back-to bed and back-to-feet issues for all residents and not rely on emergency services.

B. The site is suitable for the type and intensity of development that is proposed, in that:

1. The 6.6-acre site complies with development standards and concessions and waivers granted the State’s Density Bonus law. The site provides 6.16 acres for the senior housing component of the project and 0.47 acres for the medical office project. Both the senior housing building and the medical office building comply with setbacks, lot coverage, lot size, and lot width required by the Community Commercial General Plan and zoning designation. The senior housing component of the project complies with the height concession under the State Density Bonus, and the waivers of development standards for elevator shaft height, floor area ratio, guest parking, and open space requirements under the State Density Bonus. The medical office component complies with the floor area ratio and height permitted by the Community Commercial General Plan and zoning designation.
2. The site is 6.6 acres and the project proposes senior housing on 6.16 acres. Community Commercial allows senior housing projects at 45 dwelling units per

acre, resulting in up to 277 senior units. The project includes 5% of very low income household units which, pursuant to the State's Density Bonus law, would allow 20% additional density, or 56 additional units, for a total of 333 units. The proposed 250 units is less than the 333-unit density allowed.

3. The medical office building is proposed on 0.47 acres and meets the development standards of the zone. In addition, the medical office building scale and architecture matches the scale and architecture of adjacent and surrounding buildings.
 4. The proposed parcels meet the minimum lot requirements for the CC4 zone.
- C. The proposed development will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity, in that:
1. An Addendum was prepared for the proposed project and concluded that potential health impacts would be reduced to less than significant levels with the mitigation measures required as part of the project approval.
 2. Prior to construction, the project will be reviewed during the building permit process to ensure compliance with building, engineering, health, and safety codes. This includes but is not limited to regulations on emergency services, utility connections, easement access, and traffic design standards.
- D. The proposed development will not be unsightly or create disharmony with its locale and surroundings.
1. The project would provide an attractive and well-defined landscaped edge along Camino de los Mares with additional parkway trees, private landscaping along the sidewalk, and would locate parking to the rear and side of the medical office building.
 2. The project's medical office building would provide Spanish architectural style, consistent with the Camino de los Mares Focus Area and the City's Design Guidelines.
- E. The project will minimize or eliminate adverse physical or visual effects which might otherwise result from unplanned or inappropriate development, design, or location.
1. An Addendum was prepared for the proposed project and concluded that potential physical or visual impacts would be reduced to less than significant with the mitigation measures required as part of the project approval.
 2. The applicant used visual tools to illustrate potential visual impacts, which shows that the project minimizes visual impacts. The City does not protect private views. Nevertheless, the applicant created visual simulations from individual private

parcels using view simulation technology, including accounting for existing trees, topography, and buildings that may impede views of the ocean from private property. The view simulations illustrate that even accounting for existing view impediments, ocean views are only partially obstructed, if at all, by the proposed project.

Section 8. Architectural Permit Findings

With respect to Architectural Permit (AP) 22-101, the City Council finds as follows:

- A. The architectural treatment of the project complies with the San Clemente General Plan.
 1. Consistent with Policy LU-7.04, Entryways and Landscaped Corridors, which states: “We maintain entryways and an attractive, well-defined landscaped edge along Caminos Estrella and de Los Mares to signify arrival to the City of San Clemente and the Camino de Los Mares area.” The project would provide an attractive and well-defined landscaped edge along Camino de los Mares with additional parkway trees, private landscaping along the sidewalk, and a seating area at the pedestrian paseo entry.
 2. Consistent with Policy LU-7.06, Design Treatment, Within the Camino de los Mares Focus Area, development projects, including major remodels, shall have a Spanish architectural design, consistent with the Design Guidelines.” The project’s senior housing buildings and medical office building would provide Spanish architectural style, consistent with the Camino de los Mares Focus Area and the City’s Design Guidelines.
- B. The architectural treatment of the project complies with any applicable specific plan and this title in areas including, but not limited to, height, setback, color, etc.
 1. The 6.6-acre site complies with development standards and concessions and waivers granted by the State’s Density Bonus law. The project includes 5% of very low income household units which, pursuant to the State’s Density Bonus law, provides one concession in addition to waivers from development standards. The site provides 6.16 acres for the senior housing component of the project and 0.47 acres for the medical office project. Both the senior housing building and the medical office building comply with setbacks, lot coverage, lot size, and lot width required by the Community Commercial General Plan and zoning designation. The senior housing component of the project complies with the height concession under the State Density Bonus, and the waivers of development standards for elevator shaft height, floor area ratio, guest parking, and open space requirements under the State Density Bonus. The medical office component complies with the floor area ratio and height permitted by the Community Commercial General Plan and zoning designation.

- C. The architectural treatment of the project complies with the architectural guidelines in the City's Design Guidelines in that:
1. The project's senior housing buildings and medical office building would provide Spanish architectural style, consistent with the City's Design Guidelines.
- D. The general appearance of the proposal is in keeping with the character of the neighborhood in that:
1. The project's senior housing buildings and medical office building would provide Spanish architectural style, consistent with the City's Design Guidelines. The senior housing buildings are four stories towards the rear of the site consistent with scale of the four story elevation at the rear of the senior assisted living adjacent to the subject site. The two and three story elevations along Camino de los Mares are consistent with the variety of scale along Camino de los Mares.
- E. The proposal is not detrimental to the orderly and harmonious development of the City in that:
1. The project would provide an attractive and well-defined landscaped edge along Camino de los Mares with additional parkway trees, private landscaping along the sidewalk, and a seating area at the pedestrian paseo entry.
 2. The project's senior housing buildings and medical office building would provide Spanish architectural style, consistent with the City's Design Guidelines.
 3. The senior housing buildings are four stories towards the rear of the site consistent with scale of the four story elevation at the rear of the senior assisted living adjacent to the subject site. The two and three story elevations along Camino de los Mares are consistent with the variety of scale along Camino de los Mares.

Section 8. Development Agreement Findings.

With respect to the Development Agreement, the City Council finds as follows:

- A. The provisions of the agreement are consistent with the general plan and any applicable specific plan.
- a. The provisions of the Development Agreement are consistent with the goals and policies of the General Plan, including but not limited to:
 - i. Land Use Plan Primary Goal: "...8) provide a diversity of land use areas that complement one another and are characterized by differing functional activities and intensities of use..." in that the project would add to the diversity of uses in the Camino de los Mares focus area.
 - ii. Residential Land Use Goal: "Achieve a mix of residential neighborhoods and housing types that meets the diverse economic and physical needs of residents, that is compatible with existing

neighborhoods and the surrounding environmental setting, and that reflects community expectations for high quality” in that the project would add to the variety of housing types available in the City, and provide a high quality architectural style.

- iii. LU-1.01. General. We accommodate the development of a variety of housing types, styles, tenure and densities that are accessible to and meet preferences for different neighborhood types (e.g., mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Land Use Plan and Housing Element in that the project would add to the variety of housing available in the City, including a variety of income levels, as part of a horizontal mixed-use project.
- iv. Goal: Maintain and improve the area as a community hub that provides diverse retail opportunities and commercial services for local residents and high quality medical services and related employment opportunities for San Clemente and surrounding communities in that the proposed use adds to the Camino de los Mares community hub with senior housing next to food, retail, and medical amenities, and the proposed use adds medical office uses.

- b. The Development Agreement is consistent with the General Plan Housing Element in that the Housing Element identified the site as a potential housing opportunity site and the project would provide housing, including affordable housing to very low income households.

- B. The agreement provides that any tentative map will comply with Government Code Section 66473.7 in that the Development Agreement includes provisions that the tentative map will comply with Government Code Section 66473.7.

Section 9. The documents and materials associated with this Resolution that constitute the record of proceedings on which the City Council’s findings and determinations are based are located at San Clemente City Hall, 910 Calle Negocio, San Clemente, CA 92673.

Section 10. Planning Commission Recommendation.

Based on the foregoing recitals and findings, and the written and oral comments, facts, and evidence presented, the City of San Clemente City Council approves Master Project (MP) 22-089, Architectural Permit (AP) 22-101, Conditional Use Permit (CUP) 22-100, General Plan Amendment (GPA) 22-097, Site Plan Permit (SPP) 22-103, Tentative Parcel Map (TPM) 22-099, Zoning Amendment (ZA) 22-098, and Development Agreement for a request to develop a mixed-use project with 250 for-rent senior residential units and a 7,500 square foot medical office; subdivide one lot into two lots; rezone the property from Regional Medical Facilities 1 (RMF1) to Community Commercial 4 (CC4); and change the General Plan designation from RMF to CC, located at 654 Camino De Los Mares, subject to the Conditions of Approval set forth in Exhibit A.

APPROVED AND ADOPTED this _____ day of _____, _____.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) **ss.**
CITY OF SAN CLEMENTE)

I, **JOANNE BAADE**, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

 CITY CLERK of the City of
 San Clemente, California

APPROVED AS TO FORM:

 CITY ATTORNEY

CONDITIONS OF APPROVAL
SENIOR HOUSING AND MEDICAL OFFICE
 MASTER PROJECT (MP) 22-089, ARCHITECTURAL PERMIT (AP) 22-101,
 CONDITIONAL USE PERMIT (CUP) 22-100, GENERAL PLAN AMENDMENT (GPA)
 22-097, SITE PLAN PERMIT (SPP) 22-103, TENTATIVE PARCEL MAP (TPM) 22-099,
 ZONING AMENDMENT (ZA) 22-098, AND DEVELOPMENT AGREEMENT

1.0 GENERAL CONDITIONS OF APPROVAL

- | | | |
|-----|---|--------------|
| 1.1 | Within 30 days of receipt of the signed conditions of approval, the applicant shall submit to the City Planner a signed acknowledgement concurring with all conditions of approval on a form to be provided by the City, unless an extension is granted by the City Planner. | Planning |
| 1.2 | The applicant shall defend, indemnify, and hold harmless the City of San Clemente and its officers, employees, and agents from and against any claim, action, proceeding, fines, damages, expenses, and attorneys' fees, against the City, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City concerning this project, including but not limited to any approval or condition of approval of the City Council, Planning Commission, or City Planner. Applicant shall pay all costs. The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter. If the applicant fails to so defend the matter, the City shall have the right, at its own option, to do so and, if it does, the applicant shall promptly pay the City's full cost of the defense. | Planning |
| 1.3 | Use and development of this property shall be in substantial conformance with the approved plans, material boards and other applicable information submitted with this application, and with these conditions of approval. Any modifications to the project shall be reviewed by the City Planner in accordance with Zoning Ordinance Section 17.12.180. | Planning |
| 1.4 | The applicant shall comply with all applicable current and future provisions of the San Clemente Municipal Code, adopted ordinances, and state laws. | All |
| 1.5 | Use of the subject property shall conform to all occupancy requirements, including posting of signs related to the maximum occupancy limitations. | Code
Comp |

- 1.6 AP 22-101, CUP 22-100, GPA 22-097, SPP 22-103, TPM 22-099, and ZA 22-098 shall be deemed to have expired if within three years of approval the project is not commenced, or the project permitted by the approved application has lapsed, as defined by Zoning Ordinance Section 17.12.150. Planning
- 1.7 Within five business days of project approval, the applicant shall submit to the Planning Division a check made payable to the Orange County Clerk-Recorder in the amount of \$50 for filing the CEQA Notice. Planning
- 1.8 CUP 22-100 is limited to the approval of a Senior Housing Project. Any changes to the approved use shall be subject to review by the City Planner for conformance with the approved CUP. Planning
**

2.0 PRIOR TO APPROVAL OF A FINAL MAP

- 2.2 Prior to recordation of the final map, the applicant shall submit to the City Engineer evidence that the County Surveyor has approved a digitized tract/parcel map pursuant to Orange County Ordinance No. 3809 dated January 28, 1991. The owner or designee shall pay for all costs of said digital submittals, including supplying digital copies to the City of the final, County Surveyor-approved digital map in DXF format. Public Works
- 2.3 A buyer's notification disclosure form shall be given to all potential buyers of the lots/units, which indicates the existence, operations, characteristics, and potential exposure to nuisance/objectionable odors/risk of upset/hazards of the following: Planning
*
Adjacent Commercial Uses
Prima Deshecha Landfill
United States Marine Corps, Camp Pendleton
San Onofre Nuclear Generating Station
Orange County Flood Control Channel
City of San Clemente Wastewater Treatment Plant

Easements

- 2.8 The final map shall depict the location of all easements for open space, trails, water and sewer easements, storm drains and storm drain maintenance access, public street lights, utilities, reciprocal access, emergency access, traffic signal loop improvements, slopes and slope maintenance, and landscaping. Unless approved otherwise by the City Utilities Director, any new utility easements to the City shall be a minimum of 15 feet. (SCMC Section 16.28.030) Public Works
*
- 2.9 The applicant shall demonstrate to the satisfaction of the City Public

Engineer that quitclaims in favor of the City have been obtained from all persons having any interest in existing rights of way for pipelines for the conveyance of water, and for all rights to all underground water. The right to all underground water, but without right of entry to the surface thereof, shall be conveyed to the City. No easements shall be granted nor recorded over any portion of the property shown on the submitted record map between the date the tentative map is approved by the Planning Commission and the date the final or record map is recorded by the County Recorder. (SCMC Section 13.04.500)

Works

- 2.10 The applicant shall submit to the City Engineer, and must obtain approval from the City Attorney's Office, reciprocal access easements. The recording document shall specifically state the purposes of the easements to be the preservation of access and parking in accordance with City Ordinances and the State Subdivision Map Act. (SCMC Section 17.64)

Public
Works

Improvement Plans

- 2.17 The applicant shall submit, and must obtain approval from the City Engineer, water and reclaimed water improvement plans, prepared by a registered civil engineer, which reflect consistency with the City's Water and Reclaimed Water Master Plans and standards. Said plan shall provide for the following:
- A. Indicate a service system which provides, or allows for, independent water metering.
 - B. All water meters shall be tapped into the public water main and be located in the public ROW.
 - C. A double detector check shall be installed at the transition from public to private for water systems.
 - D. All reclaimed service lines shall have meters at the public ROW.
- (SCMC Section 16.32.010)

Public
Works

- 2.18 The applicant shall submit, and must obtain approval from the City Engineer, wastewater improvement plans specific to the project, prepared by a registered civil engineer, which reflect consistency with the City's Sewer Master Plan and standards. (SCMC Section 16.32.101)

Public
Works

- 2.21 The applicant shall submit, and must obtain approvals from the City Engineer and Utilities Director, plans prepared by a registered civil engineer at a scale of 1"=200' that depict all existing and proposed water services, sewer laterals and mains (including gate valves, pressure reducing stations, reservoirs, lift stations, pressure zones, fire hydrants, manholes, pipe sizes, pipe types and any other related appurtenances).

Public
Works
Utilities

(SCMC Section 16.32.202)

Reports

- 2.31 The applicant shall submit, and must obtain approval from the City Engineer, a hydrology and hydraulic study prepared by a registered civil engineer to determine the sizes and locations of all on-site drainage facilities including modification to off-site downstream facilities in accordance with all applicable City regulations and standards. (SCMC Section 16.12.050) Public Works

Streets

- 2.34 Except at the locations shown on the Final Map, vehicular and pedestrian access rights shall be irrevocably offered to the City in a manner meeting the approval of the City Engineer. (SCMC Section 16.28.010) Public Works

Project-Specific

- 2.36 The applicant shall submit, and must obtain approval from the City Engineer, frontage improvement plans. The applicant shall be responsible for the construction of all required frontage improvements as approved by the City Engineer including but not limited to the following: Public Works
**
- A. Sidewalk along the entire frontage, including construction of compliant sidewalk around drive approach or other obstructions to meet current City standards (2% cross fall) when adequate right-of-way exists. Since the street right-of-way is approximately 8 feet behind the curb face, a sidewalk easement is ~~will be~~ required to be granted to the City. The final map shall include an offer of dedication of the necessary sidewalk/pedestrian access easement to the satisfaction of the City Engineer. The final map shall depict the location of the required sidewalk easement needed for public pedestrian access over the sidewalk through the drive approach. Both drive approaches will be required to be reconstructed in order to address ADA compliance and replace currently damaged concrete. Actual construction of improvements are required to be completed prior to final of Grading Permits. (SCMC Section 12.08, 16.28.030)
- 2.37 The Final Map shall include existing and proposed easements, including but not limited to, storm drainage, sewer, reciprocal access, and cross lot drainage. Public Works
**
- 2.38 Traffic signal improvements for the intersection may be required to be accepted by the City since it appears this may not have Pubic Works

- occurred as per the original Conditions of Approval of CUP 93-70 and Resolution 94-06. Unless approved otherwise by the City Engineer, the applicant shall submit for City Engineer and City Attorney approval a Maintenance Agreement and/or Easement Deed for the existing traffic signal loops and associated improvements located at the existing signal on the southeast portion of the site. Said easement may be included for dedication by the property owner and acceptance by the City on the Final Parcel Map. The applicant shall be responsible for preparation and cost associated with all documents needed. This includes all City staff and/or City Attorney cost for preparation, review, and processing of any necessary documents. During the reconstruction of the drive approach, traffic signal loops and other improvements may need to be modified to the satisfaction of the City Engineer. All construction and costs associated with replacement or modification of traffic signal improvements shall be the responsibility of the developer/applicant and shall be completed prior to final of Grading Permits. **
- 2.39 The applicant shall submit, and must obtain approval from OCFA, a fire master plan (service code PR145). OCFA
**
- 3.0 PRIOR TO ISSUANCE OF GRADING PERMITS**
- 3.1 The working drawings shall include within the first four pages a list of all conditions of approval included in this resolution. Planning
- 3.2 The City Engineer shall determine that development of the site shall conform to general recommendations presented in the geotechnical studies, including specifications for site preparation, landslide treatment, treatment of cut and fill, slope stability, soils engineering, and surface and subsurface drainage, and recommendations for further study. (SCMC Chapter 15.36) Public Works
- 3.5 The applicant shall submit, and must obtain approval from the City Engineer, a precise grading plan as required by the City Grading Manual and Ordinance. (SCMC Chapter 15.36) Public Works
- Addressing and Street Names**
- 3.8 The applicant shall submit, and must obtain approval from the City Planner, a plan depicting all street names and addresses for all of the buildings and facilities within the project. Planning
- Financial Security**
- 3.9 The applicant shall provide separate improvement surety, bonds, or irrevocable letters of credit, as determined by the City Engineer, Public Works

for 100% of each estimated improvement cost, as prepared by a registered civil engineer as approved by City Engineer, for the following applicable items: grading improvements; frontage improvements; traffic signal loop improvements; sidewalks; sewer lines; water lines; onsite storm drains; WQMP improvements; and erosion control. In addition, the owner shall provide separate labor and material surety for 100% of the above estimated improvement costs, as determined by the City Engineer or designee. (SCMC Chapter 15.36)

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Noise

- 3.11 The applicant shall demonstrate to the satisfaction of the City Engineer that the following standards shall be satisfied:
- A. All construction vehicles or equipment, fixed or mobile, operated within 1,000 feet of a dwelling shall be equipped with operating and maintained mufflers.
 - B. All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).
 - C. Stockpiling and/or vehicle-storage areas shall be located as far as practicable and out of view from dwellings.
- The City of San Clemente Noise Ordinance, limiting the hours of construction to between 7:00 a.m. and 6:00 p.m., shall be enforced. (SCMC Chapter 15.36)

Public
Works

Improvements

- 3.10 The applicant shall submit, and must obtain approval from the City Engineer, frontage improvement plans. The applicant shall be responsible for the construction of all required frontage improvements as approved by the City Engineer including but not limited to the following:
- A. Sidewalk, including construction of compliant sidewalk around drive approach or other obstructions to meet current City standards (2% cross fall) when adequate right-of-way exists. Since the street right-of-way is approximately 8 feet behind the curb face, a sidewalk easement is anticipated to be required to be granted to the City. Said sidewalk easement shall be dedicated as part of the Final Parcel Map. All median modifications and other street improvements shall be the responsibility of the applicant/developer.
(SCMC Chapter 15.36 and Sections 12.08.010, and 12.24.050)

Public
Works
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NPDES

- 3.13 The applicant shall demonstrate to the City Engineer that the required NPDES permits have been obtained. (SCMC Chapter 13.40)

Public
Works

- 3.14 The applicant shall submit, and must obtain approval from the City Engineer, a project binder containing the following documents: Public Works
- A. If the project is greater than 1 acre, a Notice of Intent (NOI) for coverage under the General Construction Storm Water Permit must be filed with the State Water Resources Control Board (refer to https://www.waterboards.ca.gov/water_issues/programs/storm_water/construction.html) and a copy of the NOI, a WDID number and a copy of the Storm Water Pollution Prevention Plan (SWPPP) must be filed with the City;
 - B. If the site is determined to be a “Priority Project” (as defined by the San Diego Regional Water Quality Control Board Municipal Separate Storm Sewer Systems Permit – refer to the following web address at https://www.waterboards.ca.gov/sandiego/water_issues/programs/stormwater/), a final Water Quality Management Plan (WQMP) must be recorded with the Orange County Recorder’s Office and filed with the City; and
 - C. If a site is determined to be a “Non-Priority Project,” a final Non-Priority Project Checklist must be filed with the City. (SCMC Chapter 15.36)

Project-Specific

- 3.18 The property owner shall formally apply for and pay the application fee for an Administrative Encroachment Permit to allow private improvements to be constructed within City easement areas. Review of the Administrative Encroachment Permit by the City Attorney may be required. The property owner or project applicant shall be responsible for any City Attorney cost associated with review and approval of the Administrative Encroachment Permit. Once approved by the City Attorney and City Engineer, the Administrative Encroachment Permit shall be recorded on the title of the subject parcel at the Orange County Recorder’s Office. (SCMC Chapter 15.36 and Section 12.20) Public Works
**
- 3.19 The developer shall provide evidence of consent from any easement holders for development within easement areas. If necessary, reciprocal access and cross lot drainage easements shall be recorded prior to the issuance of any permits. Public Works
**
- 3.20 The developer shall submit for City Engineer approval a Street Improvement Plan for all street improvements and modifications needed for sidewalk, drive approaches, medians, relocation of utilities, traffic signal loops/improvements, etc. The developer shall be responsible for all costs associated with all necessary street improvements including, but not limited to, the median Public Works
**

modifications and associated landscaping. (SCMC Chapter 15.36 and Sections 12.08.010, and 12.24.050)

3.21 Unless approved otherwise by the City Engineer, since the proposed buildings are lower than street grade, the developer shall provide a hydrology analysis of street drainage to prove the site is not subject to run-on from street drainage. (SCMC Chapter 15.36) Public Works **

3.22 The applicant shall submit, and must obtain approval from OCFA, a fire master plan (service code PR145). OCFA **

3.23 Unless approved otherwise by the City Engineer, the project design shall be in compliance with the latest Regional Water Quality Control Board regulations and the City's MS4 Permit in effect at the time of grading permit issuance. This includes potential updates to the Water Quality Management Plan needing to be updated to meet the latest codes applicable at the time of Grading permit issuance. (SCMC Chapter 15.36) Public Works **

4.0 PRIOR TO ISSUANCE OF BUILDING PERMITS

4.1 The working drawings shall include within the first four pages a list of all conditions of approval included in this resolution. Planning

Affordable Housing

4.2 The applicant shall submit, and must obtain approval from the Director of Community Development, an Affordable Housing Implementation Plan which includes all of the requirements the SCMC, the City's Inclusionary Housing Program, and the Development Agreement for the subject project. Planning *

Landscape Plans

4.5 The applicant shall submit, and must obtain approval from the City Planner, a detailed landscape and irrigation plan incorporating drought tolerant plants, for medians, parkways, public trails, fuel modification areas, common areas, and slopes, and other landscaped areas, prepared by a registered landscape architect, and in compliance with all pertinent requirements including, but not limited to WELO requirements and guidelines contained in the City's Master Landscape Plan of Scenic Corridors. (SCMC Section 17.68.020). The applicant shall ensure the landscape screening for parking is shown and detailed on the landscape plans, including the location, species, and size at planting. Planning *

4.6 The following standards shall apply for all landscape plans specific to parkways, unless otherwise approved for private residential Public Works

streets:

Planning

- A. All parkway trees shall maintain the following distances from improvements:
 - a. 10'0" from water, sewer and storm drain lines.
 - b. 5'0" from hardscape (curbs, sidewalks, street lights, utility boxes, fire hydrants, P.I.V.s, F.D.C., etc.) except for tree wells.
 - c. 15'0" from drive approaches.
 - d. 25'0" from curb return at street intersections.
- B. All landscape irrigation systems shall be designed using the City's reclaimed water standards. In the event reclaimed water is not available at the time the system is put into operation, the system may be connected to the potable water system. When reclaimed water is available, the system shall be converted to reclaimed service. The owner or designee shall install reclaimed water service lines to the meter locations for future connection when reclaimed water is available.
- C. Minimum parkway tree size shall be 15-gallon for canopy trees and ten foot (10') brown trunk height (BTH) for palms.
- D. Trees shall be planted at thirty-foot intervals in commercial or residential parkway areas, or a minimum of one per residential lot frontage.
- E. Residential corner lots shall include a minimum of two trees along the side yard parkway. (SCMC Chapter 17.68)

Noise

- 4.7 Prior to the issuance of building permits for each structure or tenant improvement, other than a parking structure, the applicant shall submit, and must obtain approval from the City Planner, a final acoustical report. The report shall demonstrate that the development will be sound attenuated against present and projected noise levels including stationary, roadway, aircraft, helicopter, and railroad noise to meet City interior and exterior noise standards. The report shall be accompanied by a list identifying the sheet(s) of the building plans that include required sound attenuation measures.
- 4.8 The applicant shall demonstrate to the satisfaction of the Building Official that the plans include all sound attenuation measures specified in the acoustical report required by Conditions 3.11 and 4.7.

Planning

Building

Security Plan

- 4.10 The applicant shall submit, and must obtain approvals from the Code Compliance Manager and the Orange County Sheriff's Department, two security plans for this project: the first for the

Code
Comp
OCSD

medical office building and associated parking lot; the second for the senior apartment complex property, including all portions and features of the property. The security plan shall address the following issues: security and management contact information; authority and responsibility of security staff, risk assessment and audit, security features overview and map, security feature testing schedule, overnight parking policies and vehicle violation abatement procedures, emergency medical services and response protocols, emergency law enforcement services and response protocols, daytime and nighttime security monitoring procedures. Any changes to the security plans are required to be resubmitted and reviewed by the Code Compliance Manager and Orange County Sheriff's Department.

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Shared Parking

- 4.11 The applicant shall submit to the City Planner, and must obtain approval from the City Attorney's Office, and the applicant shall have recorded, two shared parking agreements:
1. Between the senior housing parcel and the medical office parcel, for the senior housing's exclusive use of 11 parking spaces on the medical office parcel during the following hours: 6:00 p.m. through 8:00 a.m., Monday through Friday; 11:00 a.m. through 8:00 a.m. (the following day) Saturdays and Sundays; all day during holidays; or as otherwise determined by the City Planner based on the operational characteristics of the approved use.
 2. Between the senior housing parcel and the medical office parcel, for the medical office's exclusive use of 16 parking spaces on the senior housing parcel during the following hours: 8:00 a.m. through 6:00 p.m. Monday through Friday, and 8:00 a.m. through 11:00 a.m. Saturday and Sundays.

Planning
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The shared parking agreements shall restrict the use of the land on which the parking is located for the duration of the use for which that parking is provided.

Utilities

- 4.12 If the project pertains to a Food Service Establishment (FSE), the applicant shall submit, and must obtain approval from the Utilities Director, plans depicting the Fats, Oils, and Greases (FOG) controls, with the plans and design approved by the Orange County Health Care Agency.
- 4.13 The applicant shall submit, and must obtain approval from the City Engineer, plans depicting the installation of an approved double-detector check backflow assembly on any/all fire lines above

Utilities

Public
Works

ground and as near to the point of connection to the potable water system as practical, given functional and aesthetic considerations. An isolation valve shall be installed on any/all fire lines at the point of connection to the water main. (SCMC Section 13.04.350)

- 4.14 The applicant shall submit, and must obtain approval from the City Engineer, plans depicting the installation of an approved reduced pressure principal backflow assembly on any/all potable water systems, and any/all irrigation systems, above ground, directly after each water meter as practical, and at a minimum height of 12” from the bottom of each assembly to ground level. (SCMC Section 13.04.350)
- Public Works

Project-Specific

- 4.15 The developer shall pay all applicable impact and connection fees. This may include, but is not limited to: RCFPP, water acreage, sewer connection, drainage, and parks fees.
- Public Works
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- 4.16 The applicant shall show trash enclosures that meet the minimum requirements from CR&R. Trash enclosures shall not eliminate parking spaces or landscape areas.
- Planning/
Public Works
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- 4.17 Prior to the issuance of Building Permits, the applicant shall submit, and obtain approval from the City Planner, a property management plan for the senior housing project, which shall include all portions and features of the property. The property management plans shall address the following issues: provision of on-site property management, including 24-hour on-call services and the availability of caretaker(s)/manager(s) living in a manager's unit, resident recruitment, including selection and move-in, and residency policies and procedures, staffing considerations, such as the hiring, training and supervision of leasing staff, guidelines for long-term management, ongoing maintenance protocols, community activities, coordination of the San Clemente Senior Mobility Program on-site, operating details of all site amenities, complaint response protocols, compliance with fair housing laws, and other issues that arise with senior apartment properties and land uses. Any changes to the property management plan is required to be resubmitted and reviewed by the City Planner prior to implementation.
- Code Comp
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- 4.18 The applicant shall submit, and must obtain approval from OCFA, architectural plan for Group R-2 and A-3 Occupancies (service codes OR200-PR285).
- OCFA
**

- 4.19 The applicant shall submit, and must obtain approval from OCFA, plans for underground piping for private hydrants and fire sprinkler
- OCFA
**

systems (service codes PR470-PR475).

- 4.20 Prior to the issuance of Building Permits, the applicant shall submit a Parking Management Plan for approval by the Community Development Department with a detailed program for the operation of the project's shared parking between the senior apartments parcel uses and medical office parcel uses. The Parking Management Plan shall include information regarding the open designation of both covered and uncovered parking spaces, assignment of parking for senior residents, shared parking spaces for senior apartments and medical office uses, parking signage, parking restrictions and enforcement, Electrical Vehicle (E.V.) spaces, loading areas and required periodic review of the Parking Management Plan with the City of San Clemente's Community Development Department to ensure the ongoing success of the shared parking program.
- Planning
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5.0 PRIOR TO FINAL INSPECTION

Engineering

- 5.1 Prior to acceptance of improvements by the City Engineer, the owner shall submit "as-built" plans prepared by a registered civil engineer for streets, traffic signals, street lights, sewer, water, storm drains, street signs, striping, traffic markings, painted curbs and all other required improvements. (SCMC Chapter 16.28)
- Public Works
- 5.4 The applicant shall demonstrate to the satisfaction of the City Engineer and City Maintenance Manager that all street improvements have been completed and accepted and that any damage to new or existing street right-of-way during construction has been repaired/replaced. (SCMC Title 12)
- Public Works

Landscaping

- 5.5 The applicant shall submit, and must obtain approval from the City Planner, a letter from a registered landscape architect confirming that landscaping and irrigation have been installed in accordance with the approved plans.
- Planning
- 5.6 The applicant shall submit, and must obtain approval from the City Planner, a letter from a registered landscape architect confirming that parkway trees have been planted and staked according to the approved landscape plans.
- Planning

Lighting

- 5.7 The applicant shall submit, and must obtain approval from the City
- Planning

Planner, a letter from the preparer of the lighting plans confirming that all lighting has been installed in accordance with the approved plans, and that the lighting conforms to all standards set forth in the Municipal Code.

Surveys

- 5.8 Prior to approval to pour foundations, the applicant shall submit, and must obtain approvals from the City Planner and Building Official, a survey prepared by a registered civil engineer that is licensed to do surveying or a land surveyor confirming that the building foundations conform to the required setbacks as set forth on the approved plans. Planning Building

- 5.9 Prior to approval of the framing inspection, the applicant shall submit, and must obtain approvals from the City Planner and Building Official, a survey prepared by a registered civil engineer that is licensed to do surveying or a land surveyor confirming that the height of all structures conforms to the dimensions set forth on the approved plans. Planning Building

Architecture

- 5.10 All exterior details and materials shall be approved by the Planning Division prior to installation. Planning

Project-Specific

- 5.13 Prior to the issuance of Certificate of Occupancy, the Applicant (including any lessee, or other person or entity with the responsibility to manage the subject property, future property owners and managers, and their designees) shall be responsible for installing and maintaining "No Trespassing" signs in compliance with the definition of "Posted Property" in San Clemente Municipal Code Section 9.24.01 O -Definitions, which "means any property at each corner of which, and at each entrance to which, a sign is posted three (3) feet above the normal ground level, and said sign is composed of wood, metal or other equally substantial material, the face of which is not less than one (1) square foot in area, and upon which, in legible letters not less than two (2) inches in height in black against a white background, appear the words "PRIVATE PROPERTY-NO TRESPASS." In addition, the sign may contain such other words as may be desired, indicating that trespassers are subject to prosecution. Where the area of such property exceeds one (1) acre, the notice shall also be posted at intervals of not more than three hundred (300) feet along or near the boundaries thereof. Additionally, these signs shall also cite California Penal Code Section 602. In conjunction with the OCSD Code
Comp
OCSD
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authorization the Applicant may elect to grant authorization OCSD to deal with issues arising from loitering on the subject site. The Applicant shall provide authorization to the OCSD, along with any and all necessary access through any gates or other devices designed to restrict access to the parking lot, to allow the OCSD to immediately respond to complaints, and address violations and related trespassing issues.

- 5.14 Prior to concealing interior construction, the applicant shall submit, and must obtain approval from OCFA, plans/inspections for fire alarm system (service codes PR500-PR520). OCFA
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- 5.15 Prior to concealing interior construction, the applicant shall submit, and must obtain approval from OCFA, plans/inspections for fire sprinkler system (service codes PR430-PR455). OCFA
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- 5.16 Prior to occupancy, the applicant shall submit, and must obtain approval from OCFA, testing for emergency responder radio system testing (service codes PR928). OCFA
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Emergency Responder Digital Radio System: An emergency responder digital radio system shall be provided in this structure. Refer to CFC 510 and the OCC/OCFA DAS/BDA guidelines (available at ocfa.org) for requirements. Evidence of compliance with emergency responder digital radio system design and performance criteria shall be provided prior to occupancy. In buildings of 2 or more stories, including subterranean levels, a conduit shall be installed in the center of the building extending from the lowest level to the roof. Access points shall be provided at each level and the roof and as otherwise necessary throughout the structure per OCC/OCFA DAS/BDA guidelines to facilitate installation of the system.

- 5.17 Temporary/Final Occupancy Inspections: Prior to issuance of temporary or final certificate of occupancy, all OCFA inspections shall be completed to the satisfaction of the OCFA inspector and be in substantial compliance with codes and standards applicable to the project and commensurate with the type of occupancy (temporary or final) requested. Inspections shall be scheduled at least five days in advance by calling OCFA Inspection Scheduling at 714-573-6150. OCFA
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- 5.18 Phased Occupancy: Phased occupancy of this structure shall be permitted only with prior approval from OCFA and the Building Official. Requests for phased occupancy shall be submitted for evaluation by OCFA as an alternate materials and methods proposal (PR910) accompanying the architectural submittal. Such requests shall be made prior to issuance of a building permit only. OCFA
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- 5.19 Lumber-drop Inspection: After installation of required fire access roadways and hydrants, the applicant shall receive clearance from the OCFA prior to bringing combustible building materials on-site. Call OCFA Inspection Scheduling at 714-573-6150 with the Service Request number of the approved fire master plan at least five days in advance to schedule the lumber drop inspection. OCFA
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6.0 PRIOR TO RELEASE OF FINANCIAL SECURITY

- 6.1 All catch basins and/or storm drain inlets shall be stenciled/marked on either the top of the curb or the curb face adjacent to the inlet "NO DUMPING - DRAINS TO OCEAN." All catch basins shall have filter basket inserts that capture litter and debris down to 5 mm in size. (SCMC Chapter 13.34) Utilities
- 6.2 The applicant shall submit, and must obtain approval from the City Engineer, a video, filmed in the presence of a representative of the Public Works Department, of all sewer and drainage improvements. The video shall become the property of the City. (SCMC Chapter 13.30) Public Works
- 6.3 The applicant shall demonstrate to the satisfaction of the City Engineer that all survey monuments damaged or destroyed are restored. "Corner Records" shall be prepared for submission to the City Engineering Division and for filing with the County Surveyor's Office in compliance with AB 1414. All restorations of survey monuments shall be certified by the Registered Civil Engineer or Land Surveyor in accordance with Section 8771 of the Business and Professions Code. (SCMC Title 16) Public Works
- 6.4 The applicant shall submit the following items, certified by a Registered Civil Engineer, to the Engineering Division: Public Works
- A. All construction improvement plans in digitized format (DXF file format).
 - B. Original mylars of all improvement plans corrected and certified by the engineer of record to be "As Built".
 - C. Duplicate mylars of the recorded Final Map.
 - D. Original mylars of all improvements and utilities at a scale of 1"=40', or at an appropriate scale to be determined by the City Engineer.
- (SCMC Chapter 16.16)
- 6.6 The applicant shall provide a warranty bond in an amount of 25% of the faithful performance bond for each improvement accepted by the City. This warranty bond shall remain in place for one year from the date of acceptance of the improvement. (SCMC Section 16.32.020) Public Works

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| 6.7 | The waste debris enclosure shall be of appropriate size to accommodate bins for recyclable materials, organic waste (food and landscape trimmings) and trash. For residential projects, all waste bins must be substantially hidden from view from any public street or alley. (SCMC Chapter 8.28) | Utilities |
| 6.9 | The applicant shall submit, and must obtain approvals from the City Engineer and City Planner, an agreement which designates responsibility for maintenance and irrigation of parkway trees, shrubs and ground cover within the public right-of-way. The City or designee shall be responsible for maintaining all medians within the public right-of-way, and shall prune and keep disease-free all parkway trees within the public right-of-way. The owner or designee, or the homeowners' association or designee, shall be responsible for watering all parkway trees, shrubs and ground cover within the public right-of-way, and shall trim and otherwise maintain parkway shrubs and ground cover. (Section 12.24 of the SCMC) | Public Works
Planning |
| 6.10 | The applicant shall submit mylar sheets at a scale of 1"=20' or 1"=40', or at an appropriate scale to be determined by the City Engineer, showing "as built" of grading, trails, and irrigation intended for City Maintenance. | Public Works |

7.0 OPERATIONAL CONDITIONS OF APPROVAL

Project-Specific

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| 7.17 | The business operator shall be responsible for resident transportation to doctors' appointments and other non-emergency services. The business operator shall be responsible to handle all back-to-bed and back-to-feet issues for the development's residents and not rely on emergency services. Ambulatory services shall only be used in the event of emergencies. | Planning
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| 7.18 | The project will be subject to any City ordinance adopted to provide for extraordinary cost recovery of emergency services, in excess of the standards set by the City in such ordinance. | Planning
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| 7.19 | Discharge of washwater and other pollutants is prohibited from entering the storm drain system. The applicant shall prevent pollutants (e.g. sediment, trash, food waste etc.) and any washwater used during cleanup from entering the storm drain system. | Code
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WQ
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| 7.20 | Temporary signage is not a part of this review, nor is any such signage approved or permitted by this permit. All temporary | Code
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signage shall comply with Zoning Ordinance Table 17.84.030A & Section 17.84.030(H), and any applicable Master Sign Programs. Any violation of the City's regulations related to window, banner, or temporary signs shall constitute a violation of SCMC Section 8.52.030(Y). (Citation - Section 17.16.240.D of the SCMC)

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7.21 In the event noise generated by the use approved by this permit impacts neighboring properties, the tenant must soundproof the facility, or use other best management practices as determined by the City Planner and/or City Building Official, to comply with the City's noise standards, as described in SCMC Chapter 8.48.

Code
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7.22 The use of amplified sound, including the electronically amplified sound of music, human voice, or other sound within a business or other commercial establishment is not permitted except under a Conditional Use Permit granted by the City. Sound amplification devices located outside the primary building are not permitted, unless specifically identified and approved in this permit or subsequent permits approved by the City. (Citation - Section 8.48.080 of the SCMC)

Code
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Code Compliance Operational

7.23 The Applicant (including any property owners and managers, and their designees) shall use her/his best judgment and best management practices to ensure commercial and residential activities on the premises will be conducted in a manner that will not be disruptive to neighbors. The property owner/property manager/business owner shall be responsible for ensuring compliance with the San Clemente Municipal Code (SCMC), and all conditions of approval contained herein. The Applicant (including any property owners and managers, and their designees) hereby understands that noncompliance with regulations and conditions of approval, shall be immediate grounds for citation pursuant to SCMC Section 8.52.030(Y), which states, *"It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises in such manner that ... A structure, improvement, property, and/or land use is not in compliance with terms and/or conditions of any City of San Clemente issued permit or approval,"* and any subsequent revision of this section of the code.

Code
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7.24 The Senior Housing development shall provide on-site management residing full-time (year-round) on the property in a caretaker/manager's unit within the apartment complex. Two parking spaces shall be provided for manager's units. The caretaker/manager or another responsible manager or security

Code
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staff shall be responsible and available to respond to issues raised by the Orange County Sheriff's Department, Orange County Fire Authority, or City of San Clemente Code Compliance 24-hours a day, 365-days per year.

- 7.25 The Applicant (including any property owners and managers, and their designees) understands, acknowledges, and shall be responsible for ensuring that the only activities that occur on the subject site are those permitted by this permit and routinely performed, provided, or undertaken by the subject land use as approved subject to these conditions, which are recognized on an industry-wide basis on the date of this permit's approval, or those activities approved through another City, state, or federal permit or license. Services or other activities not typically associated with the specific use authorized by this permit shall require separate review and approval by, but not limited to, the City, and are not allowed until permitted. Examples of activities, functions, or events that would require special permitting (such as a Special Activity Permit) would be those that involve events in the parking lot or otherwise outside of an enclosed structure, weddings, receptions, functions, corporate events, open houses (other than for real estate sale purposes), the short-term and temporary subleasing of the buildings or properties, exhibitions or contests, fairs, sporting events, concerts or entertainment shows, etc. The owner or designee shall be responsible for notifying the Planning Division at least 30 days prior to any special activity or event to verify whether additional permitting is required for the service, event, or activity.

Code
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* Denotes a modified Standard Condition of Approval

** Denotes a project-specific Condition of Approval

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA APPROVING AND ADOPTING AN ADDENDUM TO THE SAN CLEMENTE HOUSING AND SAFETY ELEMENTS UPDATE PEIR UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING GENERAL PLAN AMENDMENT (GPA) 22-097, ZONING AMENDMENT (ZA) 22-098, AND A DEVELOPMENT AGREEMENT FOR A MIXED-USE PROJECT WITH 250 FOR-RENT SENIOR RESIDENTIAL UNITS AND A 7,500 SQUARE FOOT MEDICAL OFFICE; TO SUBDIVIDE ONE LOT INTO TWO LOTS; TO REZONE THE PROPERTY FROM REGIONAL MEDICAL FACILITIES 1 (RMF1) TO COMMUNITY COMMERCIAL 4 (CC4); AND TO CHANGE THE GENERAL PLAN DESIGNATION FROM RMF TO CC, LOCATED AT 654 CAMINO DE LOS MARES

WHEREAS, on March 21, 2022, an application was submitted by Hunsaker & Associates Irvine, Inc., 24451 Health Center Drive, Laguna Hills, CA, for Master Project (MP) 22-089, Architectural Permit (AP) 22-101, Conditional Use Permit (CUP) 22-100, General Plan Amendment (GPA) 22-097, Site Plan Permit (SPP) 22-103, Tentative Parcel Map (TPM) 22-099, Zoning Amendment (ZA) 22-098, and Development Agreement and deemed complete on September 29, 2022; to demolish an existing medical building and surface parking lot; construct a mixed-use project with 250 for-rent senior residential units and a 7,500 square foot medical office; subdivide one lot into two lots; rezone the property from Regional Medical Facilities 1 (RMF1) to Community Commercial 4 (CC4); and change the General Plan designation from RMF to CC at 654 Camino De Los Mares (collectively, the Project).

WHEREAS, the Planning Division prepared an Addendum to the San Clemente Housing and Safety Elements Update PEIR (State Clearinghouse No. 2021020256) that was adopted by the City Council on October 5, 2021 for the project in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15164 which allows an addendum to a previously certified EIR or Negative Declaration in instances when “only minor technical changes or additions are necessary” and when the new information does not involve new significant environmental effects beyond those identified in the previous EIR;

WHEREAS, the City's Development Management Team (DMT) reviewed the proposed project on three different occasions for compliance with the General Plan, Zoning Ordinance, and other applicable City regulations, and the DMT recommends approval with conditions contained in Exhibit A;

WHEREAS, on May 25, 2022, July 27, 2022, and August 24, 2022, the City's

Design Review Subcommittee (DRSC) reviewed the project's architecture and compliance with the Design Guidelines, and forwarded the project to the Planning Commission;

WHEREAS, on August 31, 2022, the Planning Commission and City Council of the City of San Clemente held a study session on the subject applications, and information presented by the applicant, City staff, and other interested parties;

WHEREAS, on October 5 and October 19, 2022, the Planning Commission of the City of San Clemente held duly noticed public hearings on the subject applications, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties;

WHEREAS, on November 1, 2022, the City Council of the City of San Clemente held a duly noticed public hearing on the subject applications, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties; and,

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, the City Council of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The City Council hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the City Council as fully set forth in this Ordinance.

Section 2. CEQA Findings.

Based upon its review and consideration of the entire record, including the Staff Report, the Program Environmental Impact Report (EIR) for the Housing and Safety Elements Update (State Clearinghouse No. 2021020256, adopted by the City Council on October 5, 2021, hereafter referred to as "2021 EIR"), the Addendum to the 2021 EIR ("Addendum"), any public comments or testimony presented to the City Council, and the facts outlined below, the City Council hereby finds and determines that an addendum is the appropriate environmental document under the California Environmental Quality Act (CEQA) and State CEQA Guidelines Section 15164. The Addendum to the 2021 EIR was prepared by the City of San Clemente Community Development Department to evaluate whether development of senior housing and medical office at 645 Camino de los Mares would result in any new significant impacts or increased severity of impacts beyond those identified in the 2021 EIR. As Lead Agency under CEQA, and based on the findings contained in the Addendum, the City has determined that the project would not have any new or more severe impacts that were not previously identified in the 2021 EIR, , and that none of the conditions described in State CEQA Guidelines section 15162 have

occurred. The City also finds that the Addendum reflects the City's independent judgment.

Under CEQA Guidelines Section 15164 of the State CEQA Guidelines, an Addendum to a previously certified EIR or Negative Declaration is the appropriate environmental document in instances when "only minor technical changes or additions are necessary" and when the new information does not involve new significant environmental effects beyond those identified in the previous EIR. The analysis contained in the Addendum demonstrates that the proposed Addendum involves only minor technical changes to the 2021 EIR and the Project would not result in any new or increased severity significant environmental effects beyond those identified in the 2021 EIR. As such, an addendum is the appropriate environmental document under CEQA and the City Council hereby approves and adopts the Addendum to the 2021 EIR.

Section 3. General Plan Amendment Findings

With respect to General Plan Amendment (GPA) 22-097, the City Council finds as follows:

- A. The proposed amendment is internally consistent with those portions of the General Plan which are not being amended.
 1. GPA 22-097 would amend the Land Use map (Figure LU-1A), changing the General Plan Land Use designation from Regional Medical Facilities to Community Commercial for the site located at 654 Camino de los Mares.
 2. The amendment would be internally consistent with the following Goal and Policies of the Camino de los Mares Focus Area in that the project would enhance a community hub, collaborates with health care providers based on changing needs, maintains landscaped edges, and provides a Spanish architectural design.
 - i. Goal: Maintain and improve the area as a community hub that provides diverse retail opportunities and commercial services for local residents and high quality medical services and related employment opportunities for San Clemente and surrounding communities.
 - ii. LU-7.03. Collaboration with Health Care Providers. We collaborate with local health care providers and facilities to understand their changing requirements and help meet the needs of our residents.
 - iii. LU-7.04. Entryways and Landscaped Corridors. We maintain entryways and an attractive, well-defined landscaped edge along Caminos Estrella and de los Mares to signify arrival to the City of San Clemente and the Camino de los Mares area.
 - iv. LU-7.06. Design Treatment. Within the Camino de los Mares Focus Area, development projects, including major remodels, shall have a Spanish architectural design, consistent with the Design Guidelines.
 3. The amendment is consistent with the General Plan Housing Element in that the

Housing Element identified the site as a potential housing opportunity site and the project would provide housing, including affordable housing to very low income households.

- B. The proposed amendment will not adversely affect the public health, safety, and welfare.
1. The proposed amendment would create a land use designation consistent with the Community Commercial land use designation adjacent to the west and east, and across the street to the north.
 2. An Addendum was prepared for the proposed project and concluded that potential impacts would be reduced to less than significant with the mitigation measures required as part of the project approval.
 3. Prior to construction, the project will be reviewed during the building permit process to ensure compliance with building, engineering, health, and safety codes. This includes but is not limited to regulations on emergency services, utility connections, easement access, and traffic design standards.

Section 4. Zoning Amendment Findings

With respect to Zoning Amendment (ZA) 22-098, the City Council finds as follows:

- A. The proposed amendment is consistent with the General Plan.
1. The Zoning Amendment would be consistent with the General Plan including but not limited to the following goals and policies:
 - i. Land Use Plan Primary Goal: "...8) provide a diversity of land use areas that complement one another and are characterized by differing functional activities and intensities of use..." in that the project would add to the diversity of uses in the Camino de los Mares focus area.
 - ii. Residential Land Use Goal: "Achieve a mix of residential neighborhoods and housing types that meets the diverse economic and physical needs of residents, that is compatible with existing neighborhoods and the surrounding environmental setting, and that reflects community expectations for high quality" in that the project would add to the variety of housing types available in the City, and provide a high quality architectural style.
 - iii. LU-1.01. General. We accommodate the development of a variety of housing types, styles, tenure and densities that are accessible to and meet preferences for different neighborhood types (e.g., mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Land Use Plan and Housing Element in that the project would add to the variety of housing available in the City, including a variety of income levels, as part of a horizontal mixed-use project.
 - iv. Goal: Maintain and improve the area as a community hub that provides

diverse retail opportunities and commercial services for local residents and high quality medical services and related employment opportunities for San Clemente and surrounding communities in that the proposed use adds to the Camino de los Mares community hub with senior housing next to food, retail, and medical amenities, and the proposed use adds medical office uses.

- v. LU-7.03. Collaboration with Health Care Providers. We collaborate with local health care providers and facilities to understand their changing requirements and help meet the needs of our residents in that the project would support the needs of the health care property owner and add medical offices to help meet the needs of residents.
- vi. LU-7.04. Entryways and Landscaped Corridors. We maintain entryways and an attractive, well-defined landscaped edge along Caminos Estrella and de los Mares to signify arrival to the City of San Clemente and the Camino de los Mares area in that the project would provide an attractive and well-defined landscaped edge along Camino de los Mares with additional parkway trees, private landscaping along the sidewalk, and seating area at the pedestrian paseo entry.
- vii. LU-7.06. Design Treatment. Within the Camino de los Mares Focus Area, development projects, including major remodels, shall have a Spanish architectural design, consistent with the Design Guidelines in that the project's senior housing buildings and medical office building would provide Spanish architectural style.

B. The proposed amendment will not adversely affect the public health, safety and welfare.

1. The proposed amendment would be the same Community Commercial zoning as that zoning for the properties adjacent to the west and east, and across the street to the north.
2. An Addendum was prepared for the proposed project and concluded that potential impacts would be reduced to less than significant with the mitigation measures required as part of the project approval.
3. Prior to construction, the project will be reviewed during the building permit process to ensure compliance with building, engineering, health, and safety codes. This includes but is not limited to regulations on emergency services, utility connections, easement access, and traffic design standards.

Section 5. Development Agreement Findings.

With respect to the Development Agreement, the City Council finds as follows:

- A. The provisions of the agreement are consistent with the general plan and any applicable specific plan.

- a. The provisions of the Development Agreement are consistent with the goals and policies of the General Plan, including but not limited to:
 - i. Land Use Plan Primary Goal: "...8) provide a diversity of land use areas that complement one another and are characterized by differing functional activities and intensities of use..." in that the project would add to the diversity of uses in the Camino de los Mares focus area.
 - ii. Residential Land Use Goal: "Achieve a mix of residential neighborhoods and housing types that meets the diverse economic and physical needs of residents, that is compatible with existing neighborhoods and the surrounding environmental setting, and that reflects community expectations for high quality" in that the project would add to the variety of housing types available in the City, and provide a high quality architectural style.
 - iii. LU-1.01. General. We accommodate the development of a variety of housing types, styles, tenure and densities that are accessible to and meet preferences for different neighborhood types (e.g., mixed use pedestrian environments and traditional suburban neighborhoods), physical abilities and income levels, pursuant to the Land Use Plan and Housing Element in that the project would add to the variety of housing available in the City, including a variety of income levels, as part of a horizontal mixed-use project.
 - iv. Goal: Maintain and improve the area as a community hub that provides diverse retail opportunities and commercial services for local residents and high quality medical services and related employment opportunities for San Clemente and surrounding communities in that the proposed use adds to the Camino de los Mares community hub with senior housing next to food, retail, and medical amenities, and the proposed use adds medical office uses.
 - b. The Development Agreement is consistent with the General Plan Housing Element in that the Housing Element identified the site as a potential housing opportunity site and the project would provide housing, including affordable housing to very low income households.
- B. The agreement provides that any tentative map will comply with Government Code Section 66473.7 in that the Development Agreement includes provisions that the tentative map will comply with Government Code Section 66473.7.

Section 6. The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council's findings and determinations are based are located at San Clemente City Hall, 910 Calle Negocio, San Clemente, CA 92673.

Section 7. Planning Commission Recommendation. Based on the foregoing recitals and findings, and the written and oral comments, facts, and evidence presented, the City of San Clemente City Council approves Master Project (MP) 22-089, Architectural

Permit (AP) 22-101, Conditional Use Permit (CUP) 22-100, General Plan Amendment (GPA) 22-097, Site Plan Permit (SPP) 22-103, Tentative Parcel Map (TPM) 22-099, Zoning Amendment (ZA) 22-098, and Development Agreement for a request to develop a mixed-use project with 250 for-rent senior residential units and a 7,500 square foot medical office; subdivide one lot into two lots; rezone the property from Regional Medical Facilities 1 (RMF1) to Community Commercial 4 (CC4); and change the General Plan designation from RMF to CC, located at 654 Camino De Los Mares, subject to the Conditions of Approval set forth in Exhibit A.

Section 8. The San Clemente General Plan Land Use Map is hereby amended to update the Zoning Designation for 654 Camino de los Mares (Assessor’s Parcel Number 675-072-19) from Regional Medical Facility (RMF) to Community Commercial (CC).

Section 9. The San Clemente Zoning Map is hereby amended to update the Zoning District for 654 Camino de los Mares (Assessor’s Parcel Number 675-072-19) from Regional Medical Facility (RMF1) to Community Commercial 4 (CC4).

Section 10. City Council Adoption of Ordinance. Based on the entire record, including all written and oral evidence presented to the City Council, and the findings made and evidence discussed in the staff report and this Ordinance, the City Council hereby approves and adopts General Plan Amendment 22-097, Zoning Amendment 22-098, and the Development Agreement included as Exhibit A.

Section 11. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable, such decision shall not affect the validity or enforceability of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases would be declared invalid or unenforceable.

Section 12. The City Clerk shall certify to the passage of this Ordinance and publish the same in the manner required by law, and this Ordinance shall take effect as provided by law.

APPROVED AND ADOPTED this _____ day of _____, _____.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) **ss.**
CITY OF SAN CLEMENTE)

I, **JOANNE BAADE**, City Clerk of the City of San Clemente, California, hereby certify that Ordinance No. _____ having been regularly introduced at the meeting of November 1, 2022, was again introduced, the reading in full thereof unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on the _____ day of _____, _____, and said ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

APPROVED AS TO FORM:

CITY ATTORNEY

Ordinance No. _____

EXHIBIT A

DEVELOPMENT AGREEMENT

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City Clerk
City of San Clemente
910 Calle Negocio
San Clemente, CA 92673

Exempt From Recorder's Fees Pursuant
to GOVERNMENT CODE § 6103

(ABOVE SPACE FOR RECORDER'S USE ONLY)

DEVELOPMENT AGREEMENT

BY AND BETWEEN

CITY OF SAN CLEMENTE, A CALIFORNIA MUNICIPAL CORPORATION

AND

**SADDLEBACK MEMORIAL MEDICAL CENTER, A CALIFORNIA NON-PROFIT
PUBLIC BENEFIT CORPORATION**

DEVELOPMENT AGREEMENT

This **DEVELOPMENT AGREEMENT** dated for reference purposes only as of _____, 2022 (“Agreement”), is made and entered into by and between the **CITY OF SAN CLEMENTE**, a California municipal corporation (“City”) and **SADDLEBACK MEMORIAL MEDICAL CENTER**, a California non-profit public benefit corporation (“Owner”).

RECITALS

A. All initially-capitalized words, terms, and phrases used, but not otherwise defined, in the Recitals shall have the meanings assigned to them in Section 1 of this Agreement, unless the context clearly indicates otherwise.

B. To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the legislature of the State of California adopted the Development Agreement Act. Pursuant to the Development Agreement Act and the San Clemente Municipal Code, the City is authorized to enter into an agreement with any person having a legal or equitable interest in real property to provide for the development of such property and to vest certain development rights therein. City enters into this Agreement pursuant to the provisions of the Development Agreement Act, the City’s General Plan, the City Municipal Code, and applicable City policies.

C. Owner is the owner of the Property.

D. Property is a 6.63 acre area of real property generally located at 654 Camino de Los Mares in the City of San Clemente, California (the “Property”), which real property is legally described in the Legal Description attached hereto as Attachment No. 1 of this Agreement and by this reference incorporated herein.

E. Owner desires to develop the Project including Private Improvements of commercial, residential, open space and ancillary uses on the Property in the City of San Clemente.

F. On October 5, 2021, the City Council approved amendments to the Housing Element of the City’s General Plan in which the Property was designated as a candidate site for a mixed-income housing project that would materially enhance City compliance with certain affordable and other housing mandates imposed on City by the State of California including, but not limited to, obligations of City to comply with the regional housing needs requirements as set forth in Government Code Section 65584, et seq.

G. Additionally, to develop the Project, Owner has submitted applications to the City for approval of a General Plan Amendment, Zone Change, Vesting Tentative Map, Architectural Permit, Site Plan Permit, a Conditional Use Permit, and this Agreement.

H. The Parties desire to enter into this Agreement in order to vest the development standards, fees, exactions, and applicable regulations governing the proposed uses on the Property.

I. The Parties also desire to enter into this Agreement in order to provide sufficient funding to ensure that adequate and appropriate community facilities and benefits are provided to the City and

its residents in connection with the development of the Project and that the Project site will be developed in accordance with City's General Plan and zoning.

J. This Agreement constitutes a current exercise of City's police powers to provide predictability to Owner in the development approval process by vesting the permitted uses(s), density, intensity of use, and timing and phasing of development in exchange for Owner's commitment to provide significant public benefits to City. This Agreement allows City to realize these public benefits and meet the needs of the City's residents and visitors to a greater extent than the land uses permitted under the General Plan.

K. On October 19, 2022, as required by California Government Code Section 65867 and San Clemente Municipal Code Section 17.16.230, the Planning Commission of City held a duly-noticed public hearing on this Agreement. On November 1, 2022, the City Council held a duly-noticed public hearing to consider this Agreement and found and determined that this Agreement:

- 1) Is within the scope of the CEQA Compliance Documents;
- 2) Is consistent with the City's General Plan pursuant to Government Coder Section 65867.5(b);
- 3) Is compatible with the orderly development of the Property and the surrounding area;
- 4) Will have an overall positive effect on the health, safety, and welfare of the residents of the City by providing 20 very low income housing units (or 8% of 250 units) at the Property;
- 5) Constitutes a lawful, present exercise of the City's police power and authority under the Development Agreement Act and the Municipal Code; and
- 6) Is entered into pursuant to and in compliance with the requirements of the Development Agreement Act and the Municipal Code.
- 7) Will ensure a desirable and functional community environment, provide effective and efficient development of public and community facilities, assure attainment of maximum effective utilization of resources within the City, make a significant contribution toward the availability of very low income housing units in an area where real estate prices and other economic pressure make such housing very difficult to provide, the waiver of the right to settlement agreement payments as set forth in Section 2.1 of the Development Agreement, and provide other significant benefits to the City and its residents; and
- 8) Strengthens the public planning process, encourages private participation in comprehensive planning, particularly with respect to the implementation of the City's General Plan, and reduces the economic costs of development and government.

Based on these findings, the City Council finds that the best interests of the citizens of the City and the public health, safety and welfare will be served by entering into this Agreement.

L. On November 1, 2022, the City Council introduced for first reading of the Enabling Ordinance. On November 15, 2022, the City Council conducted the second reading of the Enabling Ordinance and thereafter adopted the Enabling Ordinance, thereby approving this Agreement.

M. The City and Owner wish to enter into this Agreement in order to set forth the terms and conditions of the vesting of certain development rights and to effectuate and memorialize the Owner's payment of various City fees and exactions for the Project. By electing to enter into this Agreement, the City shall be bound by the obligations specified herein. The terms and conditions of this Agreement have undergone extensive review by the City's Planning Commission and the City Council and have been found to be fair, just, and reasonable.

N. All of the procedures required by CEQA have been satisfied based on the Environmental Impact Report Addendum (cite Addendum title, date and identifying number, if any) and the completion of certain studies evaluating the environmental impacts of the Project (the "EIR Addendum"). The City has made certain findings and determinations that this Agreement and the Project have been adequately analyzed and are supported by the CEQA Compliance Documents in compliance with all applicable requirements of CEQA.

O. This Agreement and the Project are consistent with the City's General Plan, Municipal Code, and the applicable Land Use Regulations.

Q. The various exchanges contemplated in this Agreement are in the vital and best interest of the City and the welfare of its residents and are in accordance with the public purposes and provisions of applicable Laws.

The foregoing Recitals constitute a substantive part of and are hereby incorporated into this Agreement.

AGREEMENT

1. **Definitions.** As used in this Agreement, the following terms shall have the following meanings:

Affordable Unit(s) is defined in Section 2.8.1 of this Agreement.

Affordable Units Complex is defined in Section 2.8.2 of this Agreement.

Agreement means this Development Agreement.

Annual Review is defined in Section 12.1 of this Agreement.

Applicable Land Use Regulations means the Land Use Regulations in effect on the date this Agreement is executed by all Parties in accordance with Government Code Section 65866 including, but not limited to, the Entitlements.

Applicable Rules means this Agreement, the Applicable Land Use Regulations, the Development Agreement Act and the Municipal Code+.

Building Codes means standard, uniform codes governing construction then in effect at the time of submittal of the Development plans by Owner in connection with the Project.

Building Permit means the permit issued by the City for the construction of the foundations, footings, subterranean and vertical Private Improvements and required Public

Improvements for each element of the Project.

Business Day means Monday through Friday, excepting holidays.

CC&Rs is defined in Section 2.9 of this Agreement.

CEQA means the California Environmental Quality Act (Pub. Res. Code § 21000, *et seq.*) and the implementing regulations promulgated thereunder as set forth in Title 14 Cal. Code Regs. Section 15000, *et seq.*

CEQA Compliance Documents means the EIR Addendum, as defined in Recital N of this Agreement above as well as the CEQA findings made in connection with the approval of this Agreement. The CEQA findings concluded that: (1) with implementation of the mitigation measures identified in the EIR Addendum, the Project will result in no new significant impacts that were not analyzed in the Program EIR nor would the Project cause a substantial increase in the severity of any previously identified environmental impacts in the Program EIR; (2) the potential impacts associated with the Project would be the same or less than those described in the Program EIR; (3) there are no substantial changes to the circumstances under which the Project will be undertaken that would result in new or more severe significant environmental impacts than previously addressed in the Program EIR; and (4) no new information regarding the potential for new or more severe environmental impacts were identified since the Program EIR was approved.

City means the City of San Clemente, California, a municipal corporation.

City Agency means each and every agency, department, board, commission, authority, employee, and/or official acting under the authority of the City, including without limitation the City Council and Planning Commission.

City Council means the City's duly-elected and/or appointed City Council.

City Manager means the City Manager of the City and his or her authorized designees.

Convey and **Conveyance** means the sale, transfer or assignment, but not the leasing, of any portion of the Property or the sale, transfer or assignment of more than fifty percent (50%), cumulatively, of the ownership interests in Owner; provided, however, that a sale, transfer or assignment of the Property or any portion thereof or of the ownership interests in Owner to any corporation, partnership, limited liability company or other entity controlling, under the control of or in common control with Owner shall not constitute a Conveyance hereunder; provided further, expressly excluded from the definition of Convey and/or Conveyance is (a) any granting by Owner of any easements, access or use rights to any third party for utilities, right of way, reciprocal access or parking rights to adjacent or nearby property owners or occupants or other similar rights reasonably and customarily granted to third parties in connection with similar development projects and due diligence studies and/or inspections by prospective purchasers or tenants; (b) any Dedications or Reservations; (c) any sale, transfers or assignments of the Property or any portion thereof by Owner to any Financier for security purposes or otherwise included within the definitions of Encumber or Encumbrance; and/or (d) any sale, transfer or assignment of the Property to an entity in which Owner and/or Owner's affiliates has a direct or indirect ownership interest.

County means the County of Orange, California.

Dedication and **Dedicate** means Owner's grant of real property or an interest therein to the City or another governmental agency or public or private utility for a public purpose.

Default means the failure of a Party to perform any action or covenant required by this Agreement within the time periods provided, if applicable, following notice and opportunity to cure, as set forth in Section 13 of this Agreement.

Development shall have the same definition as in California Government Code Section 65927, as that statute exists on the date the Enabling Ordinance is adopted.

Development Agreement Act means Government Code Section 65864, *et seq.*

Development Agreement Ordinance means San Clemente Municipal Code Section 17.16.230 which the City adopted for considering, approving and administering development agreements including the Agreement.

Development Exaction means and include Development Impact Fees, Dedications, Reservations, special taxes, general taxes as they pertain to development of the Property (but not including ad valorem property taxes or other taxes that are applicable City-wide), improvements, and any other obligation to pay money, construct facilities, or Dedicate land as a condition of Development of the Project or of obtaining an Entitlement.

Development Impact Fee means any impact fee or exaction or other similar fee or charge (whether collected as a condition of issuance of a demolition, grading, building or certificate of occupancy permit, or otherwise) imposed by the City on and in connection with Development of the Project in accordance with this Agreement. Development Impact Fees do not include (a) Processing Fees and Charges, (b) impact fees, exactions, assessments or fair share charges or other similar fees or charges imposed by other governmental entities regardless of whether the City is required to collect or assess such fees pursuant to applicable Laws (e.g., school district impact fees pursuant to Gov. Code § 65995) or (c) Fair Share Fees. The Development Impact Fees to be imposed on the Project pursuant to Section 3.3 of this Agreement are set forth in Attachment 2 of this Agreement and by this reference incorporated herein.

Discretionary Action means an action proposed by Owner which requires the exercise of judgment, deliberation and a decision on the part of the City as distinguished from an activity such as the issuance of Ministerial Permits and Approvals, which merely requires the City and/or any City Agency to determine whether there has been compliance with applicable, objective statutes, ordinances and/or regulations.

Effective Date means thirty (30) calendar days after the City Council's final approval of the Enabling Ordinance following the second reading thereof.

Enabling Ordinance means City Ordinance No. _____ by which this Agreement was approved by the City Council and as described in Recital M of this Agreement.

Encumber and **Encumbrance** means mortgages, deeds of trust, and any other device by which Owner pledges all or any portion of Owner's interest in the Property to secure a loan.

Entitlements means (a) this Agreement; (b) Master Project (MP) 22-089, (c) General Plan Amendment (GPA) 22-097, (d) Zoning Amendment (ZA) 22-098, (e) Tentative Parcel Map (TPM) 22-099, (f) Conditional Use Permit (CUP) 22- 100, (g) Site Plan Permit (SPP) 22-103, and (h) Architectural Permit (AP) 22-101: together with all other statutes, ordinances, decisions, resolutions, permits, rules, regulations, and official policies of the City that govern permitted uses, density, design, construction standards and specifications, density or intensity of use, height and size of buildings, Reservation or Dedication of land for public purposes, growth management, Development Impact Fees, Fair Share Fees, special taxes and special assessments used to mitigate the impacts of Development of the Project, other conditions, environmental analyses, and/or environmental mitigation, applicable to the Property or prerequisite to the Development and occupancy of the Project in effect on the Effective Date.

Fair Share Fees means the fees described in Section 3.2 and Attachment No. 2 of this Agreement, attached hereto and by this reference incorporated herein.

Financier means any mortgagee, beneficiary, or trustee as to an Encumbrance.

Force Majeure means problems or occurrences beyond the control of the affected Party that delay a Party's performance of its obligations under this Agreement. Examples of Force Majeure include, but are not limited to, floods, earthquakes, adverse weather conditions (with respect to weather sensitive work), pandemics, and other Acts of God; fires; wars; civil commotion, riots, and similar hostilities; strikes, picketing, and other labor difficulties; shortages of materials or supplies; inability of any government agency, including but not limited to the City, to provide adequate levels of public services or facilities to the Property, including, by way of illustration only, a lack of water caused by drought; Laws of other agencies (including, but not limited to, voter initiative or referenda, moratoria, and judicial decisions); and Litigation brought by a third party challenging the validity of this Agreement, an Entitlement or an existing Law.

Hazardous Materials means any substance, material or waste which is or becomes regulated by any Laws, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "acutely hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law)), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated biphenyls, (viii) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. § 1317), (ix) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.* (42 U.S.C. § 6903), (x) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.* (42 U.S.C. § 9601), (xi) Methyl-Tertiary Butyl Ether, or (xii) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any Laws either requires special handling in its use,

transportation, generation, collection, storage, handling, treatment or disposal, or is defined as "hazardous" or harmful to the environment.

Hospital Litigation means Owner's lawsuit disputing the validity of certain City land use regulations on the Property limiting its use to hospital-related uses (USDC, Cen. Dist., Case No. 8116-cv-00852-DOC-JCG). Owner and City subsequently entered into that certain Settlement Agreement dated as of June 18, 2019 which settled the case under which City and Owner have certain obligations (as amended and modified from time to time) ("Settlement Agreement").

Indemnitees means the City and its elected and appointed officials, employees, volunteers, agents, and representatives.

Indemnitor means, at the time of the accrual of any Liability (as defined in Section 15 of this Agreement) Owner or its successors in interest, whichever owns the Property and/or the Project, upon the date or dates on which such Liability shall have accrued.

Land Use Regulations means all ordinances, resolutions, codes, rules, regulations, official policies of the City adopted by ordinance or resolution governing the development and use of land, including, without limitation, the Development Agreement Ordinance and/or any other ordinance or resolution governing the permitted use of land, the density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, encroachment permits and the conveyance of rights and interests that provide for the use of or the entry upon public property and the design, improvement and construction standards and specifications applicable to the Development of the Project. Land Use Regulations does not include any City ordinance, resolution, code, rule, regulation or official policy governing:

- (a) the conduct of businesses, professions, and occupations except subdivisions;
- (b) taxes and assessments;
- (c) the control and abatement of nuisances; and/or
- (d) the exercise of the power of eminent domain.

Law means any official legislative or administrative enactment or decision of a governmental agency or decision or ruling of a court that binds the Parties. The term Laws includes but is not limited to, case law, constitutional provisions, statutes, ordinances, initiatives, resolutions, policies, orders, rules, and regulations. A matter is a Law regardless of whether it was imposed by a legislative body (such as the City Council or State Legislature), an administrative agency (such as the Public Utilities Commission), the electorate (as by initiative or referendum), court (by judgment, order or opinion), or any other official body (such as the Planning Commission), and regardless of whether it is federal, state, or local.

Legal Description means the description of the Property set forth in Attachment No. 1 of this Agreement, attached hereto and by this reference incorporated herein.

Liabilities is defined in Section 15 of this Agreement.

Litigation means all forms of judicial or quasi-judicial proceedings, including but not limited to complaints (for damages, declaratory relief, or otherwise), arbitrations, judicial references, petitions (for traditional mandate, administrative mandate, or otherwise), and appeals, no matter how denominated.

Material Change in the Project means any change in the Project as described in the Entitlements that the City determines would require preparation of a subsequent or supplemental environmental impact report or mitigated negative declaration in accordance with Sections 15162 and 15163 of Title 14 of the California Code of Regulations, and such subsequent or supplemental environmental impact report or mitigated negative declaration concludes that the impact from such change in the Project would result in a new significant adverse environmental impact or a substantial increase in the severity of previously identified significant impact, and such new impact cannot be mitigated to a less than significant level.

Ministerial Permits and Approvals means the permits, approvals, plans, inspections, certificates, documents, licenses, and all other actions required to be taken by the City in connection with the implementation of the Entitlements which merely require the City and/or any City Agency to determine whether there has been compliance with applicable, objective provisions of statutes, ordinances and/or regulations, including without limitation, building permits, public works permits, grading permits, encroachment permits and other similar permits and approvals. The term Ministerial Permits and Approvals shall not include any Discretionary Actions.

Municipal Code means the City's Municipal Code.

Notice means any approval, disapproval, demand, appeal, document or other communication to be delivered to a Party or otherwise pursuant to this Agreement.

Owner means Saddleback Memorial Medical Center, a California non-profit public benefit corporation or its successors in interest in the Property and to this Agreement.

Parties means City and Owner.

Party means City or Owner as the context dictates.

Permits means all grading, building, and other permits required to be obtained by Owner prior to and as a condition precedent to the commencement of construction of the Private Improvements or the Required Public Improvements.

Planning Commission means the City's duly-appointed Planning Commission.

Private Improvements means the mix of commercial, residential, open space and ancillary uses that will be Developed on the Property as depicted on the Site Plan, which may be amended from time to time in accordance with this Agreement.

Processing Fees and Charges means all fees and charges required by the City uniformly in connection with review and approval of Entitlement applications, new construction, including, but not limited to, Project permits, building permit applications, building permits, grading permits, encroachment permits, tract maps, parcel maps, lot line adjustments, air right lots, street vacations,

certificates of occupancy and other similar permits. Processing Fees and Charges shall not include Development Impact Fees, Fair Share Fees or any exaction or impact fee.

Project means the Development of the Private Improvements and the Required Public Improvements pursuant to this Agreement.

Property means the real property legally described in Attachment No. 1 of this Agreement, attached hereto and by this reference incorporated herein.

Required Public Improvements means and includes all public improvements required as a condition of approval of the Project and/or required by the CEQA Compliance Documents approved for the Project, which are described in Attachment No. 4 of this Agreement, attached hereto and by this reference incorporated herein.

Reservation means the setting aside of land for future public use, without any legal right, title, or interest being conveyed other than the promise to convey an interest upon payment of fair market value for such land.

Reserved Powers means the rights and authority excepted from the assurances and rights provided to Owner under this Agreement and reserved to the City under Section 5 of this Agreement.

Site Plan means the Site Plan depicted in Attachment No. 3 of this Agreement, attached hereto and by this reference incorporated herein.

Special Review is defined in Section 12.2 of this Agreement.

State means the State of California.

Term is defined in Section 9.2 of this Agreement.

2. **Obligations Under the Settlement Agreement and Development of the Property.** During the Term, Owner shall have the vested right to develop the Project at the Property as provided for in Section 4.1 of this Agreement and in accordance with the terms, provisions and conditions of this Agreement.

2.1 **Waiver of Right to Settlement Agreement Payments.** Upon approval of the Entitlements vested in accordance with this Agreement and following the running and expiration of any applicable period of administrative, arbitative, judicial or electoral action, appeal, suit challenge, referendum, initiative, moratorium, vote, ballot or plebiscite that could be initiated or brought by any person or entity with respect to any of the Entitlements without the initiation, bringing, filing, notice, service, qualification or other commencement of any such action, appeal, suit, challenge, referendum, moratorium, initiative, vote, ballot or plebiscite, each of the foregoing in accordance with applicable Law and so long as none of the Entitlements shall have been revoked or modified without the written consent of Owner, which consent may be withheld in Owner's sole and absolute discretion, and Owner shall otherwise be entitled to develop the Project in accordance with this Agreement (whether or not any revocation, modification or inability to develop and operate the Property in accordance with this Agreement is caused by the exercise or existence of any of the Reserved Powers), Owner shall be deemed to have waived its right to

receive any amount from City for costs incurred to maintain and secure the Property and the facilities thereon up to Fifteen Thousand Dollars (\$15,000.00) per month, whenever accruing, under Section 2(c)(4) of the Settlement Agreement.

2.2 **Uses.** Development of the Property shall occur in accordance with the Applicable Land Use Regulations, which uses shall include 250 senior housing units for persons qualifying under Civil Code Section 51.3(b)(1), (2) and (3) for occupancy of a senior citizen housing development (one (1) of which is a manager unit, and twenty (20) of which must be rented to very low income household seniors) and a medical office building.

2.3 **Intensity.** Permitted density and intensity of use vested hereby shall be the maximum permitted by the Applicable Land Use Regulations, specifically 250 senior residential units (one a manager's unit, and 20 units for very low income households) on a 6.16 acre parcel resulting in density of 40.6 units per acre, and Building 3 consisting of 7,500 square feet of medical office on a 0.47 acre parcel resulting in 0.36 floor area ratio.

2.4 **Size and Design.** The maximum height and size of buildings vested hereby shall be as set forth in the Applicable Land Use Regulations, specifically Building 1 consisting of 90,473 square feet of residential with height up to 51'-9" feet (a partial 3- and 4-story, see plans for details) and Building 2 consisting of 141,150 of residential with height up to 49'-5" feet (a partial 3- and 4-story, see plans for details), and Building 3 consisting of 7,500 square feet of medical office with a maximum height of 31'-0".

2.5 **Description of the Development.** Development of the Project at the Property shall be in accordance with all Applicable Rules and any and all other documents submitted by Owner and approved by the City as set forth herein; provided, however, nothing contained herein shall be deemed or construed as requiring Owner to construct the Private Improvements, which may be constructed or not in accordance with Owner's complete and absolute discretion. In connection with and as a condition of approval for the Development of the Project, except as provided in Section 3.4 of this Agreement, Owner will be required to construct the Required Public Improvements in connection with the Private Improvements. All construction on the Property shall adhere to the Building Codes in effect at the time a Building Permit is approved for such construction.

This Agreement, the Entitlements and the Development of the Project have been determined to be consistent with the current City's General Plan, the existing zoning restrictions affecting the Property and all other ordinances, policies and standards of the City in effect as of the Effective Date of this Agreement, along with exceptions permitted in accordance with City regulation and policy, and along with concessions permitted in accordance with State Density Bonus Law, all of which shall govern Development of the Project for the Term. No moratorium, whether adopted by the City or by initiative or referendum, shall apply to the Project for the entire Term. During the Term, to the extent there is a conflict between this Agreement and any amendments to the City's General Plan, zoning requirements, other Land Use Regulations or moratoria, whether adopted or imposed by the City or the electorate of the City by initiative or referendum, affecting Development of the Project, this Agreement shall control and supersede all such amendments.

2.6 **Issuance of Building Permits.** No building permit or certificate of occupancy shall be withheld from Owner if Owner has complied with the requirements of this Agreement. If necessary, the City shall use reasonable, good faith efforts to process in a prompt

and timely manner any other Entitlements that are necessary for the completion of construction and occupancy of the Project, or any portion thereof.

2.7 **Timing of Development.** Owner shall obtain all Entitlements at its own cost for approval of the Project. City warrants that the City's General Plan and Zoning Code permit Development of the Project, and operation, and use of the Project, subject only to (i) those Development approvals yet to be obtained, if any; provided, however, that it is expressly understood by the parties hereto that City makes no representations or warranties with respect to approvals required by any other governmental entity and, except as otherwise provided in this Agreement, City hereby reserves full police power authority over the Project. In order to avoid the result in *Pardee Construction Co. v. City of Camarillo*, 37 Cal. 3d 465 (1984), Owner shall have the right, in the exercise of its sole and absolute discretion and subjective business judgment, to develop the Project in accordance with this Agreement at such rates and at such times as Owner deems appropriate.

2.8 **Tentative Subdivision Maps.** With respect to applications by Owner for approval of tentative subdivision maps for the Property, Owner may file and process vesting tentative maps in accordance with Government Code Section 66498.1, et seq., and the applicable provisions of City's Subdivision Code in effect on the Effective Date.

2.9 **Water Supply and Sanitary Sewer Service Infrastructure.** The City shall provide sufficient water, if available, and water delivery and sanitary sewer service infrastructure to serve the entire Project. Consistent with Government Code Sections 65864 and 66473.7, proof of the availability of a sufficient water supply shall be requested by the subdivision applicant or local agency, at the discretion of the local agency, and shall be based on written verification from the applicable public water system within 90 days of a request.

2.10 **Affordable Housing.**

2.10.1 **Development of Affordable Housing Units.** Owner shall construct or cause to be constructed eight percent (8%) of the residential units developed with the Project (twenty (20) of the residential units) as rental dwelling units affordable to very low income households, as defined Health and Safety Code Section 50105, ("Affordable Unit(s)"), which shall be built within the Property and completed and ready for occupancy (as evidenced by the issuance of certificates of occupancy) according to the phasing plan contained in the Affordable Housing Agreement described below. The unit mix for these Affordable Units shall consist of studios, one bedroom and two bedroom units. Owner shall require any operator or manager of the Affordable Units to screen all tenants for eligibility with the affordable housing income requirements described in this Section 2.8.1 and certify compliance with same to the City and perform annual income recertification of all tenants of the Affordable Units. Following such annual certification, Owner shall advise City of the occupancy of the Affordable Units by delivering a "Certificate of Continuing Program Compliance" in a form to be approved by the City Attorney certifying: (i) the income of each household occupying an Affordable Unit; (ii) the number of Affordable Units in the Project which were occupied or deemed occupied by a individuals or families meeting the above income requirements, separated by each income level, during such period; (iii) the number of months during which each Affordable Unit was occupied; and (iv) any other reasonable requirement imposed by City to assure compliance with the provisions of this Section 2.10.1, as may be further described in the approved covenants required by Section 2.10.2 of this Agreement.

2.10.2 **Affordable Housing Agreement.** Prior to issuance of any grading or building permit, whichever comes first, Owner and City shall enter into an affordable housing agreement governing each Affordable Unit or complex of Affordable Units (“Affordable Units Complex”) to (1) include a phasing plan identifying that the market rate units will be issued occupancy approvals concurrent with or after the date on which affordable units are issued occupancy approvals and (2) maintain the mix of affordable units for fifty-five (55) years, (3) to impose maximum occupancy limits of 2 occupants per bedroom plus 1 additional occupant per dwelling unit, and (4) to properly maintain each Affordable Unit. The agreement shall further require the manager and operator of the Affordable Units Complex to maintain such Affordable Units Complex in good condition and repair at all times, provide adequate security, and impose leasing conditions on all tenants to maintain each Affordable Unit and the Affordable Units Complex free of any criminal activity, including but not limited to, drug-related criminal activity, on or near the Affordable Units or Affordable Units Complex. “Drug-related criminal activity” means the illegal manufacture, sale, storage, distribution, use, or possession with intent to manufacture, sell, distribute, or use a controlled substance as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802). The terms of such agreement requiring each Affordable Unit and the Affordable Units Complex to be free of criminal activity shall further provide that violation of such requirements shall be a material violation of the lease of an Affordable Unit and good cause for immediate termination of the tenancy.

2.11 **Master Maintenance Association.** In the event the individual residential units within the Project, or any portion thereof, will be offered for sale, prior to recordation of the first final subdivision map for the residential portion of the Project, Owner shall provide draft covenants, conditions and restrictions (“CC&Rs”) for the residential portion of the Project to be offered for sale to the City in a form and substance reasonably acceptable to City’s Community Development Director and City Attorney for approval. The final approved CC&Rs shall be recorded with the Orange County Recorder’s Office. The CC&Rs shall provide that a master homeowners association shall be created and provisions made to adequately fund in perpetually maintenance in good condition and repair all common, park, recreation, parking and open space areas within the Project. The master homeowners association shall have the authority to transfer maintenance obligations to Project component homeowners associations in a form and substance reasonably acceptable to the City’s Community Development Director and City Attorney. Additionally, prior to recordation of the first final subdivision map for a commercial development within the Project containing more than one commercial unit, Owner shall provide draft CC&Rs to the City in a form and substance reasonably acceptable to the City’s Community Development Director and City Attorney for the perpetual, full and adequate maintenance in good condition and repair all common areas within any such complex of commercial units. The final Community Development Director and City Attorney-approved CC&Rs shall be recorded with the Orange County Recorder’s Office.

2.12 **Compliance with Laws.** Owner shall carry out the design and construction of the Project in conformity with all Land Use Regulations and applicable Laws to the extent they do not conflict with the Applicable Rules.

2.12.1 **Public Works Requirements.** To the extent Owner elects to construct the Required Public Improvements and Owner receive Development Impact Fee credit for same pursuant to Section 2.11.2 of this Agreement, Owner shall design and construct the

Required Public Improvements in conformity with all applicable Laws (including, without limitation, with respect to the Required Public Improvements only, and not the Private Improvements, the requirements under California Law to pay prevailing wages and to hire apprentices and all applicable public bidding requirements) (collectively "Labor Laws"). The City and Owner acknowledge and agree that, due to the provision of reimbursements by the City for the Required Public Improvements, the construction and installation of the Required Public Improvements shall be considered "public works" pursuant to Labor Code Section 1720, *et seq.* Owner hereby agrees that, with respect to Owner's construction and installation of the Required Public Improvements, Owner and its contractors and subcontractors shall pay prevailing wages and employ apprentices in compliance with Labor Code Section 1770, *et seq.*, and shall be responsible for the keeping of all records required pursuant to Labor Code Section 1776, complying with the maximum hours requirements of Labor Code Sections 1810 through 1815, and complying with all regulations and statutory requirements pertaining thereto. Upon the periodic request of the City, Owner shall certify to the City that it is in compliance with these requirements. Nothing herein shall be deemed to make any part of the Project other than the Required Public Improvements a public work.

2.12.2 **Reimbursement of City Development Impact Fees.** To the extent that Owner constructs a Required Public Improvement for which a Development Impact Fee is otherwise imposed, Owner shall be eligible to receive a fee credit against the Development Impact Fee imposed on the Project for the same type of public facility so constructed.

3. **Development Exactions.**

3.1 **Reservations, Dedications, and Improvements.** Reservations and Dedications of land and the provision of Required Public Improvements for public purposes shall be only those required by this Agreement.

3.2 **Owner's Obligation to Pay Fees.** Upon issuance of each Building Permit for the Private Improvements, Owner shall pay all required Development Impact Fees (subject to the provisions of Section 3.3 of this Agreement), Fair Share Fees (fees assessed by City for Required Public Improvements, the cost of which is shared by other private and governmental entities), Processing Fees and Charges imposed by the City all other fees and charges imposed by all other governmental agencies with jurisdiction over the Property or the Project within the time and in the manner prescribed by such agency and Owner shall receive such credits and/or reimbursements for Required Public Improvements constructed in accordance with the applicable provisions set forth in the Municipal Code and this Agreement.

3.3 **Development Impact Fees.** Development of the Project shall be subject to all Development Impact Fees imposed by the City in accordance with the applicable provisions of the Municipal Code or other City Council enactment; provided, however, City shall impose only those Development Impact Fees required to be paid and in the amount established by City as of the Effective Date. As further set forth in Sections 5.8 and 5.10 of this Agreement, nothing in this Agreement is intended to prevent the assessment of fees or other exactions by any governmental entity not affiliated with City.

3.4 **Provision of Real Property Interests.** Subject to the provisions of this Section 3.4, in any instance where Owner is required to construct Required Public Improvement

on land not owned by Owner, City shall, at its sole cost and expense, provide or cause to be provided, the real property interests necessary for the construction of such Required Public Improvements. To the extent real property owned by the City as of the Effective Date is needed for right-of-way for Required Public Improvements, the City shall Dedicate such property for public right-of-way at no cost to Owner unless prevented from doing so by applicable Laws. Owner shall construct all Required Public Improvements as contemplated by Attachment No. 4 of this Agreement; provided, however, Owner's obligations with respect to Required Public Improvements on such public right-of-way shall be conditioned upon City providing access to the public right-of-way as required to fulfill Owner's obligations under this Agreement. If Owner is unable to obtain such required right of way, Owner shall request that the City obtain such required right-of-way (at City's sole cost and expense) subject to the time limitations set forth in Government Code Section 66462.5. Thereafter, the City shall use good faith efforts to obtain such required right-of-way. Nothing herein shall obligate the City to pursue eminent domain proceedings to acquire such public right-of-way. In the event City is unable to obtain the right-of-way necessary to construct and install a Required Public Improvement, the condition of approval or other requirement to construct and install such Required Public Improvement shall be waived by City.

4. **Vested Rights.** The following provisions shall apply to the Project until the expiration of the Term:

4.1 **Project Entitlements/Density.** Owner is hereby granted the vested right to Development of the Project in accordance with this Agreement including, but not limited to, the Applicable Rules, subject only to the terms, provisions and conditions hereof.

4.2 **Enforcement.** Except to the extent this Agreement has been amended, modified, suspended or terminated in accordance with its terms, this Agreement shall be enforceable by either Party notwithstanding any change in any Applicable Land Use Regulations.

5. **Reserved Powers.** Notwithstanding any other provision of this Agreement, the following regulations shall apply to the Development of the Project as and to the extent that such regulations apply generally to similar developments proposed or approved within the City:

5.1 **Processing Fees and Charges.** The City's Processing Fees and Charges at the rates in effect when each application and decision subject thereto is deemed complete.

5.2 **Procedural Regulations.** Procedural regulations related to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and/or any other matter of procedure so long as such procedural regulations are uniformly and consistently applied by the City in a non-discriminatory manner.

5.3 **Uniform Building Codes.** Written regulations, policies and rules governing objective engineering and construction standards and specifications applicable to public and private improvements, including, without limitation, all Building Codes and similar codes adopted by the City and any local amendments to such codes adopted by the City.

5.4 **Police Power.** Any City ordinance, resolution, regulation, or official policy which is reasonably necessary to protect persons on the Property and in the community, or both, from conditions dangerous to their health, safety, or both, shall apply to the Project

notwithstanding that the application of such ordinance, resolution, regulation, or official policy which would result in the impairment of Owner's vested rights under this Agreement. Any such regulations must constitute a valid exercise of the City's police power, applied and enforced in a uniform, consistent and non-discriminatory manner and must be applied and construed so as to provide the Owner, to the maximum extent possible, with the rights and assurances provided under this Agreement.

5.5 **Non-Conflicting Ordinances, Regulations and Official Policies.** Written regulations approved by the City that are not in material conflict with the Applicable Rules and do not materially and adversely impact Development of the Project. Any ordinance, regulation or policy adopted after the Effective Date, whether adopted by initiative or otherwise, limiting the rate or timing of Development of the Property or impacting and/or increasing any Development Exaction shall be deemed to materially conflict with the Applicable Rules and shall therefore not be applicable to Development of the Project.

5.6 **Conflicting Ordinances, Regulations and Official Policies.** Ordinances, regulations and official policies approved by the City that are in material conflict with the Applicable Rules shall be applicable and binding upon Owner and the Project only if Owner has given its written consent to the application of such Ordinances, regulations and official policies to Development of the Property and/or the Project.

5.7 **End Users.** Ordinances, regulations and official policies of the City that impose, levy, alter or amend fees, charges, or Land Use Regulations relating solely to post-Development conduct of consumers or end users of Development on the Property, so long as the City applies and enforces such ordinances, regulations and official policies in a uniform, consistent and non-discriminatory manner and such enactments do not impair Owner's vested rights to Develop or operate the Project.

5.8 **Laws.** Laws of the state and/or federal governments, including those of regional agencies or departments such as the Regional Water Quality Control Board, which override Owner's vested rights set forth in this Agreement shall apply to the Project and the Property, together with any City ordinances, resolutions, regulations and official policies to the extent necessary to enable the City to comply with such overriding Laws; provided, however, that (i) Owner does not hereby waive its right to challenge or contest the validity of any Laws; and (ii) in the event that any such Law (or City ordinances, resolutions, regulations or official policies adopted or enacted pursuant thereto) prevents or precludes compliance with one or more provisions of this Agreement, the Parties shall negotiate in good faith the amendment or suspension of such provisions of this Agreement to ensure the minimal necessary interference with Owner's rights hereunder; provided, however, that no Party shall be bound to approve any amendment to this Agreement unless this Agreement is amended in accordance with the procedures applicable to the adoption and amendment of development agreements as set forth in the Development Agreement Act, the Development Agreement Ordinance, and this Agreement and each Party retains full discretion with respect thereto.

5.9 **Immediate Threat.** If the City Council finds that there is a severe and immediate threat to the health or safety of the City's residents due to the Development of the Project, the City may unilaterally suspend this Agreement for a period not to exceed the time required for notice and a public hearing before the City Council to determine whether suspension

of this Agreement shall be extended; provided, however, that all applicable time limits set forth herein shall be extended for any such period of suspension, including, but not limited to, the Term.

5.10 **Regulation by Other Public Agencies.** The Parties acknowledge that other public agencies, not within the control of the City, may possess authority to regulate aspects of Development of the Project and the Property separately from the City. This Agreement does not limit the authority of such other public agencies. Nothing contained in this Agreement shall be construed as limiting, in any way, the authority of the City to impose on the Project any new or increased development impact fees or other fees or charges imposed by any other public agency with jurisdiction over the Property or Project, but collected by the City.

6. **Amendments.** This Agreement may be amended or terminated in whole or in part only in the manner provided for in Government Code Section 65868, the Development Agreement Ordinance and this Agreement. This provision shall not limit any remedy of the City or Owner as provided by this Agreement.

6.1 **Material Changes.** Owner may request amendments to the Entitlements without risk to any rights that have vested pursuant to this Agreement. Any such requested changes shall be subject to the City's standard and generally applicable review and approval procedures then in effect; provided, however, only a Material Change in the Project shall require an amendment to this Agreement. The City may condition such Material Change approval to ensure compliance with CEQA.

6.2 **Operating Memoranda.** This Agreement requires a close degree of coordination between the City and Owner. Refinements of planned Development of the Property may demonstrate that clarifications are appropriate with respect to the details of the City's and Owner's performance under this Agreement. City and Owner may effectuate such clarifications through operating memoranda approved by both Parties which, after execution, shall be attached hereto and made a part of this Agreement. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice and hearing pursuant to Section 6 of this Agreement. Upon the City Attorney's reasonable approval, the City Manager may execute any operating memoranda without City Council action.

6.3 **Nature of Change in Law.** The provisions of this Agreement shall apply to the Development of the Project regardless of whether a change in the Entitlements is the result of the City Council or voter action, whether by initiative or referendum. The Parties intend hereby to avoid the result in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984) as provided in Section 2.6 of this Agreement.

7. **Owner Obligations.**

7.1 **Compliance With Law.** Owner shall comply with all Laws and the Entitlements.

7.2 **Nature of Dedications.** All Dedications made by Owner to the City shall be made free and clear of liens and encumbrances, other than easements or restrictions that in the reasonable determination of the City do not preclude or interfere with the dedicated purpose.

7.3 **Processing Fees.** Owner shall pay all Processing Fees and Charges

pursuant to the fee schedules in effect at the time of application for such City approval. Owner shall also pay any additional third party, out-of-pocket costs reasonably incurred by the City for expedited processing requested by Owner.

7.4 **Costs of City Actions.** Owner shall pay all third party, out-of-pocket costs City reasonably incurs as authorized by and in furtherance of this Agreement within thirty (30) calendar days following receipt of appropriate documentation (including, for example, invoices) showing such costs. Such costs include, but are not limited to, the City's out-of-pocket, third party costs incurred to in connection with the City's efforts to seek assistance from other governments pursuant to Section 8.3 of this Agreement; and monitoring and review costs pursuant to Section 12 of this Agreement.

7.5 **Obligation to Construct the Required Public Improvements.** Notwithstanding anything to the contrary contained in this Agreement, (i) nothing contained in this Agreement shall be deemed or construed as creating any obligation on Owner to construct the Required Public Improvements unless and until the date the City issues a Building Permit(s) for the Private Improvements ("Building Permit Date"); and provided, further, prior to the Building Permit Date, Owner shall not be deemed to be in Default under this Agreement for the failure to commence construction of the Required Public Improvements for the Project. Until the Building Permit Date, or at any time after the completion and acceptance of the Required Public Improvements, Owner shall have the absolute right, exercisable upon the delivery of written notice to the City, to terminate this Agreement, in which event (i) Owner shall reimburse the City for all out-of-pocket third party costs actually incurred by the City in connection with and as required by this Agreement prior to the delivery of such termination notice; and (ii) the City shall execute and deliver to Owner for recordation a notice of termination of this Agreement, and thereafter this Agreement shall be of no further force or effect and neither Party shall have any further obligations hereunder.

8. **City Obligations.**

8.1 **Processing.** The City shall accept and process all completed applications for Permits for the Project in accordance with its standard policies and procedures applicable to all applications for Permits and in accordance with the Permit Streamlining Act (Gov. Code § 65920, *et seq.*).

8.2 **Review.** The City shall provide sufficient staff to review compliance with this Agreement.

8.3 **Assistance From Other Governments.** The City shall use reasonable good faith efforts to seek, assist and cooperate with Owner in seeking all of the following as requested by Owner for Development of all or any part of the Project:

8.3.1 Necessary permits under the jurisdiction of or issued by the state or federal governments or any instrumentalities thereof.

8.3.2 Available tax benefits from the state or federal governments, including but not limited to affordable housing tax incentives and credits, sales tax exemptions and other tax benefits.

8.3.3 Available grants, loans, proceeds of bond issues and subsidies from the state or federal governments for affordable housing and other portions of the Project.

8.4 **Mitigation Fee Act.** The City shall comply with Government Code Section 66006 with respect to any fee it receives or cost it recovers pursuant to Development of the Property.

8.5 **Recordation of Agreement.** The City Clerk shall file this Agreement for recordation with the County Recorder of the County of Orange within ten (10) days after the Effective Date and execution of this Agreement by City and Owner. In connection with the expiration of the Term or any earlier termination of this Agreement, the City shall execute and deliver to Owner a recordable notice of termination of this Agreement in form and substance reasonably acceptable to Owner.

9. **Term.**

9.1 **Commencement.** This Agreement shall become effective on the Effective Date.

9.2 **Duration.** Unless terminated earlier pursuant to another provision hereof, the term this Agreement shall commence on the Effective Date and be in full force and effect until the twentieth (20th) anniversary of the Effective Date ("Term"). All Entitlements shall be valid and vested for the Term.

9.3 **Termination.** This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

9.3.1 **Automatic Termination.** If not previously terminated in accordance with this Agreement, this Agreement shall automatically terminate and be of no further force or effect upon completion of the Project in accordance with the terms, provisions and conditions of this Agreement and any further amendments thereto and the issuance of all occupancy permits and acceptance by the City of all dedications and improvements required by Development of the Project.

9.3.2 **Expiration.** Expiration of the Term.

9.3.3 **Final Judgment.** Entry of a final judgment setting aside, voiding or annulling the adoption of the Enabling Ordinance.

9.3.4 **Referendum.** The timely adoption of a referendum measure overriding or repealing the Enabling Ordinance. Owner acknowledges that, pursuant to Article 2, Section 11 of the California Constitution and California Elections Code Section 9235, *et seq.* (collectively, the "Referendum Laws"), the electors of the City may, within thirty (30) days after adoption of the Enabling Ordinance, file a petition in accordance with Elections Code Section 9237 to require the City to either repeal the Enabling Ordinance or hold an election to obtain voter approval of such and this Agreement. In the event a valid referendum petition challenging adoption of the Enabling Ordinance is timely filed in accordance with the Referendum Laws, the City shall submit the Enabling Ordinance to the voters for approval in accordance with the Referendum Laws.

9.3.5 **Termination Based on Default**. Termination of this Agreement based on any material Default of any Party (except as otherwise provided in this Agreement) after complying with the termination proceedings required by this Agreement.

9.3.6 **Termination Under Section 7.5**. Termination of this Agreement pursuant to Section 7.5 of this Agreement.

9.4 **Effect of Agreement on Title**. The Parties shall record an appropriate release upon termination of this Agreement as to all or any part of the Property, in form and substance acceptable to Owner.

9.5 **Force Majeure Extensions**. The Term of this Agreement and the time for performance by either Party of any of its obligations hereunder shall be extended by the period of time that a Force Majeure event exists. Such delay shall not be deemed to be a Default. In addition, the Term of this Agreement shall be extended day-for-day by delays arising from the pendency of Litigation relating to this Agreement or to the Development contemplated hereby. There shall be no extension for Force Majeure unless the Party claiming that a Force Majeure event exists shall give notice thereof to the other Party within thirty (30) days of actually learning of a Force Majeure event.

10. **Financing, Transfer, and Assignment**.

10.1 **Right to Encumber**. Owner may, in its sole and absolute discretion, obtain or allow one or more Encumbrances. Unless otherwise required by Law, neither entering into nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Encumbrance made in good faith and for value. In connection with any Encumbrance, the City shall execute and deliver to a Financier of any Encumbrance an estoppel certificate as requested by such Financier in accordance with Section 13.8 of this Agreement.

10.2 **Mortgage Protection**. This Agreement shall be superior and senior to the lien of any Encumbrance. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish, or impair the lien of any Encumbrance made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Property or any portion thereof, or to this Agreement, by a Financier (whether pursuant to foreclosure, lease termination or otherwise) shall upon written election by the Financier within sixty (60) days after receipt of such right, title or interest, be subject to all of the terms and conditions of this Agreement and any such Financier who takes title to the Property or any portion thereof, or to this Agreement, shall also be entitled to the rights and obligations arising under this Agreement.

10.3 **Financier Not Obligated**. Notwithstanding the provisions of this Section 10, a Financier will not have any rights, obligations or duties pursuant to the terms set forth in this Agreement to perform the obligations of Owner or other affirmative covenants of Owner hereunder or to guarantee such performance, unless such Financier expressly assumes the rights and obligations of the Owner and except that (a) the Financier shall, upon written election by the Financier within sixty (60) days after receipt of such right, title or interest, have no right to develop the Project without materially complying with the terms of this Agreement, and (b) to the extent that any covenant to be performed by Owner is a condition to the performance of any covenant by

the City, the performance thereof by Owner or Financier or any other person or entity shall continue to be a condition precedent to the City's performance hereunder. If a Financier so expressly assumes the rights and obligations of the Owner under this Agreement, such Financier shall not be liable for any interest, penalties, fines or any damages from any breach or default accruing prior to the date or such notice. Although not obligated to do so, upon written election by the Financier within sixty (60) days after receipt of such right, title or interest, any Financier may do any act or thing required of Owner hereunder, and do any act or thing which may be necessary and properly done in the performance and observance of the agreements, covenants and conditions hereof to prevent termination of this Agreement in accordance with Section 10.4 below. Any Financier and its agents and contractors shall have full access to the Property for purposes of accomplishing any of the foregoing. Any of the foregoing done by any Financier shall be as effective to prevent a termination of this Agreement as if the same would have been done by the Owner.

10.4 **Notice of Default to Financier; Right of Financier to Cure.** Each Financier shall, upon written request to City be entitled to receive written notice from City of the result of the Annual Review and of any default by Owner of its obligations set forth in this Agreement simultaneously with the delivery of such notices to the Owner. Each Financier shall have the right, but not an obligation, to cure such default within ninety (90) days after receipt of such notice or, if such default can only be remedied or cured by such Financier upon obtaining possession of the Property, such Financier shall have the right to seek or obtain possession with diligence and continuity through a receiver or otherwise, and to remedy or cure such default within ninety (90) days after obtaining possession, and, except in case of emergency or to protect the public health or safety as determined by the City in its reasonable discretion, City may not exercise any of its remedies set forth in this Agreement until expiration of such ninety (90) day period whether commencing upon receipt of notice or upon obtaining possession of the interests covered by a Encumbrance, as applicable; provided, however, that in the case of a default which cannot reasonably be remedied or cured or the remedy or cure of which cannot be commenced within such ninety (90) day period, the Financier shall have such additional time as is reasonably necessary to remedy or cure such default. Any notice of termination delivered in violation of this Section 10.4 shall be rendered void. In any case where, sixty (60) days after receipt by the Financier of the notice of the Owner's default, the holder of any Encumbrance creating a lien or encumbrance upon the Property, or any part thereof, has not exercised the option to cure, or, if it has exercised the option, is not proceeding diligently with the cure, the City may proceed with termination of this Agreement and any further obligations of City hereunder.

10.5 **Bankruptcy.** Notwithstanding the foregoing provisions of this **Section 10**, if any Financier is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Owner, the times specified in Section 10.4 for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition. In addition, if this Agreement is rejected or otherwise terminated in connection with any such proceeding, then upon the request of any Financier, a new development agreement upon the same terms and conditions set forth in this Agreement shall, at the election of Financier, be entered into between such Financier and City.

10.6 **Termination Subject to Financier's Rights.** All rights of City to terminate this Agreement, vis-a-vis the Financier, as a result of the occurrence of any default shall be subject

to, and conditioned upon, City having first given to each Financier written notice of the default as required under Section 10.4 above, and all Financiers having failed to remedy such default or acquire Owner's interests hereunder, or having failed to commence foreclosure or other appropriate proceedings in the nature thereof as set forth in Section 10.4 above.

10.7 **No Cancellation.** There shall be no cancellation, surrender or modification of this Agreement by joint action of the Parties without a minimum of ninety (90) days prior written notice to each Financier who has requested such notice.

10.8 **Notice.** Owner and/or any Financier shall have the right to give notice to the City of the existence of an Encumbrance. Thereafter, the City shall serve each Financier with copies of all Notices given to Owner pursuant to this Agreement.

10.9 **Transfer or Assignment.** Subject to Section 10.10, Owner shall have the right to sell, transfer, or assign its rights and obligations under this Agreement (collectively, an "Assignment") in connection with a transfer of Owner's interest in all or any portion of the Property or Owner's lease of all or substantially all of the residential or commercial portions of the Property, or both, each as designated by the Applicable Rules (such interest transferred or leased, the "Transferred Property"). No Assignment shall be made unless made together with the sale, transfer, lease or assignment of all or part of the Property. Any mortgage, deed of trust, or other form of conveyance for financing of the Project (other than a lease of the type described in the first sentence of this Section 10.9) shall not be considered an Assignment for purposes of this Section 10.9. Within fifteen (15) business days after any Assignment, Owner shall notify City in writing of the Assignment and provide City with an agreement, in a form reasonably acceptable to City, executed by the purchaser, transferee, lessee or assignee (collectively, the "Assignee") to expressly and unconditionally assume all duties and obligations of Owner under this Agreement.

10.10 **Effect of Assignment.** Subject to Section 10.9, upon an Assignment the Assignee shall be liable for the performance of all obligations of Owner with respect to Transferred Property, but shall have no obligations with respect to the portions of the Property, if any, not transferred or leased (the "Retained Property"). The owner or lessee of the Retained Property shall be liable for the performance of all obligations of Owner with respect to Retained Property, but shall have no further obligations or Liabilities (as defined in Section 15 of this Agreement) with respect to the Transferred Property. The Assignee's exercise, use and enjoyment of the Property shall be subject to the terms of this Agreement to the same extent as if the Assignee were the Owner.

10.11 **City's Consent to Assignment.** The City's consent shall not be required to an Assignment unless, at the time of the Assignment, Owner has been determined to be in default of this Agreement and the default has not been cured. If Owner is in default, City shall consent to any Assignment which provides adequate security to City, in the reasonable exercise of City's discretion, to guarantee the cure of the default upon completion of the Assignment.

11. **Binding Effect.**

11.1 **Entirety of Property.** Except as otherwise provided in this Agreement, all of the Property shall be and remain subject to this Agreement throughout the Term unless sooner terminated in accordance with this Agreement.

11.2 **Property and Agreement Remain Linked.** Owner shall have the right to sell, transfer, lease or assign the Property or any portion thereof and its rights under the Agreement. However, except as otherwise provided in this Agreement, any person acquiring any interest in the Property shall do so subject to this Agreement. Conversely, no sale, transfer, lease or assignment of any right or interest under this Agreement shall be made unless made together with a corresponding sale, transfer, lease or assignment as to the Property or any portion thereof. If less than all of the Property is sold or leased, the purchaser or lessee of that portion of the Property shall be responsible for all Development related to the acquired portion, including Development Exactions and the Required Public Improvements applicable to that portion of the Property or Project acquired by such purchaser or lessee, and the original Owner (or its successors as to the entire Property) shall remain responsible for all such matters outside such portion of the Property or Project unless such obligations are (i) assigned by Owner; (ii) assumed by the purchaser or lessee as documented in writing; or (iii) no longer applicable because such obligations have been completed prior to the date of such transfer; provided, however, the obligations of Owner under this Agreement shall not apply to the purchaser or lessee of any portion of the Property where Development has been completed.

11.3 **Binding on Financiers.** This Agreement shall bind all Financiers and every owner of the Property, or part thereof, whose title is acquired by foreclosure or deed-in-lieu of foreclosure; provided, however, such Financier and their respective successors and assigns shall not be liable for any interest, penalties, fines or any damages from any pre-foreclosure (or deed-in-lieu of foreclosure) Default accruing prior to the date such party takes title to the Property or any portion thereof through completion of a foreclosure action or execution and delivery of a deed-in-lieu of foreclosure.

12. **Compliance Review.**

12.1 **Annual Review.** This Agreement shall be subject to annual review ("Annual Review") by the City pursuant to the applicable provisions of the Municipal Code on or before each anniversary of the Effective Date and/or conduct a Special Review, as described in Section 12.2 of this Agreement, in order to ascertain the good faith compliance by Owner with the terms, provisions and conditions of this Agreement. Within thirty (30) days of receipt of written notice from the City Manager of the City's intent to conduct a Special Review and/or Annual Review, Owner shall submit a report, in a form reasonably required by the City Manager, describing its compliance with this Agreement during the immediately preceding twelve (12) month period.

12.2 **Special Review.** A Special Review of compliance with this Agreement may be made either by agreement of the Parties or by initiation in one or more of the following ways:

12.2.1 **City Manager.** Recommendation of the City Manager, based on an alleged default of Owner;

12.2.2 **City Council.** Action of the City Council.

12.3 **Procedure for Annual Review and/or Special Review.** With respect to either Annual Review or Special Review, the provisions of the applicable provisions of the

Municipal Code shall be followed.

12.4 **Certificate of Agreement Compliance.** If, at the conclusion of an Annual Review or Special Review, Owner is found to be in compliance with this Agreement, the City shall, upon request by Owner, issue a Certificate of Agreement Compliance ("Certificate") to Owner (and any Financier) stating that, after the most recent Annual Review or Special Review and based upon the information known or made known to the City Manager and City Council that (i) this Agreement remains in full force and effect; and (ii) Owner is not in Default under this Agreement. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after an Annual Review or Special Review and shall state the anticipated date of commencement of the next Annual Review. Owner may record the Certificate with the County Recorder of the County of Orange.

12.5 **Failure by the City.** The failure of the City to conduct any Annual Review shall not constitute a Default under this Agreement, affect Owner's obligations hereunder, or render this Agreement or any portion thereof invalid or void.

13. **Default.**

13.1 **Default by Owner.** Owner shall be in Default under this Agreement if it does any or any combination of the following and does not cure the same within the applicable Notice and cure period, if any, set out below:

13.1.1 **Fraud.** Practices any intentional fraud or deceit upon the City, as reasonably determined by the City Council, in which case no right to cure shall apply; provided, however, Owner shall be given prior Notice of such determination and the opportunity to respond to any allegations at a duly noticed public hearing before the City Council at which evidence may be submitted and testimony received.

13.1.2 **Material Default.** Fails to cure a material Default of this Agreement of the type described in this Section 13.1.2 within the time required by this Agreement following a written notice of Default from the City to Owner. With respect to any payment default involving an obligation to pay money to the City, such cure period shall be fifteen (15) Business Days following Owner's receipt of written notice from the City of failure to pay when due, and with respect to all other events of Default, such cure period shall not be less than thirty (30) calendar days from Owner's receipt of written notice from the City; provided, further, if a Default not involving the payment of money to City cannot reasonably be cured within such thirty (30) day period, then Owner shall not be deemed in Default under this Agreement if Owner commences such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion within a reasonable period of time.

13.2 **Default by the City.** The City shall be in Default under this Agreement only if it fails to cure a material breach of this Agreement within the time set forth in a written notice of Default from Owner to the City; provided, however, with respect to any payment Default, such cure period shall not be less than fifteen (15) Business Days following the City's receipt of written Notice from Owner, and with respect to all other events of Default, such cure period shall not be less than thirty (30) calendar days following the City's receipt of written Notice from Owner; provided, further, if such Default cannot reasonably be cured within such thirty (30) day period,

then the City shall not be deemed in Default under this Agreement if the City commences such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion within a reasonable period; provided, further, the Term and the time for Owner's performance of its obligations hereunder shall be extended on a day-for-day basis during such cure period to the extent Owner is actually prejudiced by the City's Default hereunder.

13.3 **Notice of Default.** A Party alleging a Default shall serve written notice thereof on the other Party. Each such notice shall state with specificity all of the following:

13.3.1 **Nature of Default.** The nature of the alleged Default.

13.3.2 **Manner of Cure of Default.** The manner in which the alleged Default may be satisfactorily cured.

13.3.3 **Time to Cure Default.** Subject to the provisions of Sections 13.1 and 13.2 of this Agreement, a period of time in which the Default may be cured.

13.4 **Remedies for Default.** The Parties acknowledge and agree that the nature of the Project and the terms of this Agreement render ordinary remedies at law inadequate for a Default under this Agreement. The Parties also acknowledge and agree that it would not be feasible or possible to restore the Property to its pre-Development condition once implementation of the Agreement has begun. Therefore, the Parties agree that, except as otherwise expressly provided in this Agreement, the remedies for a Default under this Agreement shall be limited to one or more of the following:

13.4.1 **Default by City.** The remedies for Default by the City shall be limited to injunctive relief, mandate (traditional and/or administrative), specific performance, and/or restitution/reimbursement for unused fees and for Dedications and improvements to the extent not required for Development completed as of the date Owner gave the City Notice of Default pursuant to Section 13.3 of this Agreement.

13.4.2 **Default by Owner.** The remedies for Default by Owner shall be limited to injunctive relief, specific performance, termination, and/or restitution.

13.5 **Service of Process.** In the event that any legal action is commenced by Owner against the City or City against Owner, service of process shall be made in such manner as may be provided by Law.

13.6 **Rights and Remedies Are Cumulative.** Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other Party.

13.7 **Inaction Not a Waiver of Default.** Any failures or delays by either Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive either such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

13.8 **Estoppel Certificate.** Each of the Parties shall at any time and from time to time upon not less than thirty (30) days prior notice by the other Party, execute, acknowledge and deliver to such other Party a certificate in writing certifying that this Agreement is in full force and effect, stating which provisions of this Agreement have been fully performed, and stating whether or not to the actual knowledge of the signer of such certificate such other Party is in Default in performing or observing any provision of this Agreement, and, if in Default, specifying each such Default of which the signer may have knowledge, and such other matters as such other Party may reasonably request. It is intended that any such certificate delivered by Owner to City may be relied upon by the City or any successor in interest to the City, and it is further intended that any such certificate delivered by the City to Owner may be relied upon by Owner or any prospective assignee of Owner's interest in the Project, Property or this Agreement and any Financier. Reliance on any such certificate shall not extend to any Default as to which the signer of the certificate had no actual knowledge at the time the statement was signed.

14. **Appeal of Administrative Decisions.** Owner may appeal directly to the City Council any decision by City staff, including, but not limited to, the City Manager, concerning an interpretation and/or administration of this Agreement or any part hereof. Owner shall file any such appeal with the City Clerk within twenty (20) Business Days after Owner receives Notice of the staff decision; provided, however, that a failure to timely file an appeal shall not nullify the right to such appeal except to the extent the City is actually prejudiced by such failure to timely appeal. The City Council shall render a decision at an open, public meeting held within sixty (60) calendar days following Owner's delivery of the appeal to the City Clerk.

15. **Indemnification.** Indemnitor shall pay for, save, protect, defend, indemnify and hold harmless the Indemnitees from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including, without limitation, third party tort claims, civil or criminal penalties, fines and/or monetary sanctions), losses, costs or expenses (including, without limitation, consultant's fees, investigation and laboratory fees, attorney's fees and remedial and response costs) (the foregoing are hereinafter collectively referred to as "Liabilities") which may now or in the future be incurred or suffered by the Indemnitees (or any of them) by reason of, resulting from, in connection with or arising in any manner whatsoever as a direct or indirect result of any of the following: (i) any claim, action or proceeding brought by a third party against any Indemnitee to attack, set aside, void or annul the approval of this Agreement or the Entitlements except any such claim, action or proceeding to attack, review or set aside the City's General Plan; (ii) any Indemnitor's release of water from the Property or the Project; and/or (iii) Development of the Project; provided, however, that the foregoing indemnity shall not apply to any Liabilities to the extent arising or occurring as a result of the negligence or willful misconduct of any Indemnitee. The City shall have the right to reject or consent to any particular law firm or attorney engaged by Owner to represent the City; provided, however, the City's consent shall not be unreasonably withheld; and further provided that if the City elects to retain separate counsel following assumption of defense by Owner under this Section 15, all fees and expenses associated with retention of such separate counsel shall be at the City's sole cost and expense. The City shall cooperate in good faith with Owner when Owner is acting pursuant to this Section 15. Indemnitor's obligations under this Section 15 shall survive termination of this Agreement with respect to any Liabilities covered by this Section 15 that arose during the Term and shall terminate upon the expiration of the statute of limitation applicable to such surviving Liabilities covered under this Section 15.

16. **Insurance Requirements.** Owner shall purchase and maintain in full force and effect until completion of all Development contemplated by this Agreement policies of insurance in accordance with this Section 16 and shall cause its contractors to purchase and maintain in full force and effect in accordance with Section 16.2 of this Agreement, the following policies of insurance:

16.1 **Owner's Liability Insurance.** Liability insurance with the minimum insurance coverages set forth below:

16.1.1 **Commercial General Liability.** Commercial General Liability Insurance with a combined single limit of liability of Two Million Dollars (\$2,000,000.00) for bodily injury, personal injury and property damage, arising out of any one occurrence. The City shall be named as an "additional insured" under such policy as it applies to Owner's activities under this Agreement. The insurance provided herein shall be considered "primary" insurance.

16.1.2 **Workers Compensation.** Workers compensation and employer's liability insurance as required by Law.

16.2 **Insurance During Construction.** Prior to commencing Project construction activities within the Property, Owner shall obtain and require its contractors and their subcontractors to obtain and thereafter maintain, so long as such Project construction activity is occurring and until the completion of such Project construction, the minimum insurance coverages set forth below:

16.2.1 **Workers Compensation.** Workers compensation and employer's liability insurance as required by any applicable law or regulation.

16.2.2 **Commercial General Liability.** Commercial General Liability insurance covering all operations by or on behalf of the contractors and subcontractors, which shall include the following minimum limits of liability and coverages:

- (a) Required coverages:
 - (i) Premises and Operations.
 - (ii) Products and Completed Operations.
 - (iii) Contractual Liability, insuring the indemnity obligations assumed by contractor under the contract documents.
 - (iv) Broad Form Property Damage (including Completed Operations).
 - (v) Explosion, Collapse and Underground Hazards.
 - (vi) Personal Injury Liability.
- (b) Minimum limits of liability:
 - (i) \$2,000,000 each occurrence (for bodily injury and property damage).
 - (ii) \$2,000,000 for Personal Injury Liability.

- (iii) \$2,000,000 aggregate for Products and Completed Operations.
- (iv) \$2,000,000 general aggregate applying separately to this Project.

16.2.3 **Automobile Liability.** Automobile liability insurance, including coverage for owned, hired and non-owned automobiles. The limits of liability shall not be less than \$1,000,000 combined single limit each accident for bodily injury and property damage. Owner's contractors shall require each of its subcontractors to include in their liability insurance policies coverage for automobile contractual liability.

16.3 **Terms of Insurance.** All insurance required by this Section 16 shall be written on an occurrence basis and procured from companies rated by Best's Rating Guide not less than A-VIII, and which are authorized to do business in California. All insurance may be provided under (i) a combination of primary and excess policies; (ii) an individual policy covering the Property; (iii) a blanket policy or policies which includes other liabilities, properties and locations of Owner; provided, however, that if such blanket commercial general liability insurance policy or policies contain a general policy aggregate of less than Two Million Dollars (\$2,000,000), then Owner shall also maintain excess liability coverage necessary to establish a total liability insurance limit of Two Million Dollars (\$2,000,000); (iv) a plan of self-insurance, provided that Owner notifies the City of its intent to self-insure (which notice shall be deemed to have been delivered to City upon the full execution of this Agreement) and shall, upon request, deliver to the City each calendar year a copy of its annual report that is audited by an independent certified public accountant which discloses that Owner has One Hundred Million Dollars (\$100,000,000) of both net worth and net current assets; or (v) a combination of any of the foregoing insurance programs. To the extent any deductible is permitted or allowed as a part of any insurance policy pursuant to this Section 16, Owner shall be deemed to be covering the amount thereof under an informal plan of self-insurance; provided, however, that in no event shall any deductible exceed One Hundred Thousand Dollars (\$100,000.00) unless Owner complies with the requirements regarding self-insurance pursuant to Subsection (iv) of this Section 16.3. Owner shall furnish to the City, upon request, a certificate(s) or memorandum(s) of insurance, or statement of self-insurance evidencing that the insurance required to be carried by Owner in accordance with this Section 16 is in full force and effect.

16.4 **Additional Insured.** Any insurance policy under which the City is an additional insured shall include the following provisions:

16.4.1 **Severability.** Severability of interests.

16.4.2 **Reduction or Voidability.** An act or omission of one (1) of the insureds or additional insureds which would void or otherwise reduce coverage, shall not reduce or void the coverage as to the other insureds.

16.4.3 **Contractual Liability.** Contractual liability coverage with respect to any indemnity obligation set forth in this Agreement.

The procurer of such insurance shall promptly serve Notice on (and in any event within five (5) Business Days) the City of any intent to cancel, reduce (in amount or in coverage provided) or other material modification of insurance coverage required by this Section 16 as soon as such

procurer has actual knowledge thereof and shall deliver a copy of any Notices received from the insurer related thereto.

17. **Representations and Warranties.**

17.1 **City Representations.** The City represents and warrants to Owner as follows, which warranties and representations are effective as of the date of this Agreement:

17.1.1 **Existence.** The City is a municipal corporation, duly incorporated pursuant to the laws of the State of California.

17.1.2 **Authority.** The execution, performance, and delivery of this Agreement by the City have been fully authorized by all requisite actions on the part of the City required by Law.

17.1.3 **No Default.** The City's execution, delivery, and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which the City is a party or by which it is bound.

17.2 **Owner's Representations.** Owner represents and warrants to the City as follows, which warranties and representations are effective as of the date of this Agreement:

17.2.1 **Authority.** Owner has full right, power and lawful authority to develop the Private Improvements, the Required Public Improvements and to undertake all obligations as provided in this Agreement. The execution, performance, and delivery of this Agreement by Owner has been fully authorized by all requisite actions on the part of Owner required by Law.

17.2.2 **Interest in Property.** Owner represents that Owner (or its affiliates) owns or has entered into agreements to acquire fee title to the Property. Owner further represents that it (or its affiliates) has the legal authority to encumber the Property by recordation of this Agreement.

17.2.3 **No Conflict.** To the best of Owner's knowledge, Owner's execution, delivery, and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement, or order to which Owner is a party or by which it is bound.

17.2.4 **No Owner Bankruptcy.** To the best of Owner's knowledge, Owner is not the subject of a current or threatened bankruptcy proceeding.

18. **Miscellaneous.**

18.1 **Time of Essence.** Time is of the essence of each provision of this Agreement in which time is an element.

18.2 **Further Documents.** The City and Owner shall sign, deliver and if appropriate record any additional documents necessary to effectuate the purposes of this Agreement.

18.3 **Notices.** All Notices and other communications given pursuant to this Agreement shall be in writing and shall be deemed received when delivered upon the first Business Day after prepayment with a recognized overnight delivery service with instructions to deliver the next Business Day, or upon the fifth calendar day after deposit in the United States mail, first-class, registered or certified, postage prepaid, return receipt requested at the following addresses:

- If to City:** City of San Clemente
910 Calle Negocio
San Clemente, CA 92673
Attn: City Manager
Tel: (949) 361-8200
Email: cityhall@san-clemente.org
- With a copy to:** Best Best & Krieger, Attorneys at Law
18101 Von Karman Avenue
Suite 1000
Irvine, CA 92612
Attn: Scott C. Smith, City Attorney
Tel: (949) 263-6561
Email: scott.smith@bbklaw.com
- If to Owner:** Saddleback Memorial Medical Center
24451 Health Center Drive
Laguna Hills, CA 92653
Attn: Thomas Leary,
Senior Vice President & Chief Legal Officer
Tel: 714-377-3245
Email: TLeary2@memorialcare.org
- With a copy to:** Nossaman, LLP
18101 Von Karman Avenue
Suite 1800
Irvine, CA 92612
Attn: Gregory W. Sanders, Esq.
Tel: (949) 833-7800
Email: gsanders@nossaman.com

Any Party may, from time to time by written Notice to the other designate a different address which shall be substituted for the one specified above.

18.4 **Entire Agreement.** This Agreement contains the entire agreement between the Parties regarding the subject matter hereof, and all prior agreements or understandings, oral or written, are hereby merged herein.

18.5 **Waiver.** No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless it is

executed in writing by a duly authorized representative of the Party against whom enforcement of the waiver is sought.

18.6 **Relationship of the Parties.** Nothing contained herein, nor any action taken or document created pursuant hereto, shall be construed as creating the relationship of partners, joint venturers, or any other association of any kind or nature between the City and Owner.

18.7 **No Third Party Beneficiaries.** This Agreement is made and entered into for the sole benefit of the Parties, any Financiers and their respective successors in interest. No other person (such as a taxpayer or citizens' group) shall have any right of action based upon any provision of this Agreement.

18.8 **Non Liability of Certain Individuals.**

18.8.1 **Officials and Employees of the City.** No official or employee of the City shall be personally liable to Owner or any successor in interest in the event of any Default by the City or for any amount which may become due to Owner or its successors or on any other obligations under the terms of this Agreement.

18.8.2 **Owner Parties.** No officer, director, manager, member, or employee of Owner (or any of their respective officers, directors, shareholders, partners, members, managers, employees, trustees, or beneficiaries) shall be personally liable to the City or its successor in interest in the event of any Default by Owner or for any amount which may become due from Owner or its successors or on any other obligations of Owner under the terms of this Agreement.

18.9 **City Approvals and Actions.** The City shall maintain authority under this Agreement and the authority to implement this Agreement through the City Manager (or his or her duly authorized representative). The City Manager shall have the authority to make approvals, issue interpretations, waive provisions, execute implementing documents and/or make and execute further agreements on behalf of the City (collectively, "City Manager Action") so long as such City Manager Action(s) does not materially change the uses or Development permitted on the Property, or materially or substantially add to the costs incurred or to be incurred by the City or Owner as specified herein, and such interpretations, waivers and/or further agreements may include extensions of time to perform; provided, however, in the event Owner disagrees with any City Manager Action(s), Owner may appeal such City Manager Action(s) to the City Council and shall be entitled to a public hearing on such appeal. All other material and/or substantive interpretations, waivers, or amendments shall require the consideration, action and written consent of the City Council. The City Manager retains full discretion to submit any matter to the City Council for approval notwithstanding that such matters may be considered immaterial.

18.10 **Counterparts.** This Agreement may be signed in multiple counterparts which together shall constitute a binding agreement.

18.11 **Rules of Construction.** Captions and headings in this Agreement are for convenience only and are not guides for interpretation. This Agreement is the result of negotiations between Parties who were each represented by counsel. No ambiguity in this Agreement, if any, shall be interpreted against one Party. This Agreement has been prepared and negotiated jointly

and equally by the Parties. This Agreement shall not be construed against either Party on the ground that a Party prepared the Agreement.

18.12 **Computation of Time.** The time in which any act is to be done under this Agreement is computed by excluding the first day and including the last day, unless the last day is a holiday, Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Sections 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

18.13 **Legal Advice.** Each Party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any rights which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other Party, or their respective agents, employees or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

18.14 **Governing Law and Venue.** This Agreement is entered into and will be performed in the County of Orange, California, and shall be governed by the laws of the State of California. Any legal action or proceeding concerning this Agreement shall be filed and prosecuted in the Superior Court in the County of Orange, California or the United States District Court for the Central District of California.

18.15 **Attorneys' Fees.** In any action between the Parties to interpret, enforce, reform, modify, rescind or otherwise in connection with any of the terms or provisions of this Agreement, the prevailing Party in such action shall be entitled, in addition to injunctive relief or any other relief to which it might be entitled, reasonable costs and expenses including, without limitation, litigation costs, expert witness fees and attorneys' fees.

18.16 **Severability.** If a Court invalidates part of this Agreement, the remainder shall remain in force and effect unless the invalidation materially impairs a Party's consideration, in which event this entire Agreement shall terminate.

18.17 **Recitals and Attachments.** All recitals and attachments to this Agreement are incorporated herein.

18.18 **Mutual Covenants.** The covenants contained herein are mutual covenants which constitute conditions to the concurrent or subsequent performance of the other covenants.

ATTACHMENTS

Attachment No. 1 Legal Description of the Property

Attachment No. 2 Fair Share Fees

Attachment No. 3 Site Plan

Attachment No. 4 Required Public Improvements

[Signatures appear on following page.]

IN WITNESS WHEREOF, Owner and the City have executed this Agreement on the date first above written.

CITY:

CITY OF SAN CLEMENTE,
a California municipal corporation

_____, Mayor

OWNER:

**SADDLEBACK MEMORIAL MEDICAL
CENTER,** a California non-profit public benefit
corporation

ATTEST:

_____, City Clerk

APPROVED AS TO FORM:

Scott C. Smith, City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____) ss.

On _____ before me, _____, Notary Public,

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ before me, _____, Notary Public,

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

ATTACHMENT NO. 1
LEGAL DESCRIPTION OF THE PROPERTY

01225.0005/692274.11 FG
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01225.0005/692274.11 FG
60360956.v1

Attachment No. 1
Page 1 of 1

ATTACHMENT NO. 2

FAIR SHARE FEES

Sidewalk fees?

Parks Development

fees?

Sewer Connection fees

Drainage Facilities fees

Water Acreage fees

Regional Circulation Financing and Phasing Program

ATTACHMENT NO. 3

SITE PLAN

01225.0005/692274.11 FG
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01225.0005/692274.11 FG
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Attachment No. 3
Page 1 of 1

ATTACHMENT NO. 4
REQUIRED PUBLIC IMPROVEMENTS

Summary Tables

Table 1. Senior Housing Density Bonus Requests

Development Standard	Allowed	Proposed	Density Bonus Provision
Height / Stories	45'-0" / 3 Stories	Max. 51'-6" / 3 & 4 Stories	Concession - Govt Code Section 65915(b)(1)(B) and (d)(1)(A)
Elevator Shaft Height	51'-0"	57'-9"	Waiver - Govt Code Section 65915(e)(1)
Floor Area Ratio	0.50	0.89	Waiver - Govt Code Section 65915(e)(1)
Parking	249 covered 2 uncovered 50 guest spaces	249 covered 2 uncovered 23 guest spaces	Waiver - Govt Code Section 65915(e)(1)
Open Space	Private – 25,000 sf Group – 25,000 sf	Private* – 14,610 sf Group – 35,590 sf	Waiver - Govt Code Section 65915(e)(1)

*Includes request to waive the requirement that all units have at least some private open space.

Table 2. Development Standards for Senior Housing Projects in Nonresidential Zones

Standard	Zoning Ordinance	Proposed	Complies with the Code or Density Bonus Law (DB)*
<u>Building Height</u> (Maximum):	By zone, or up to 45' if granted by exception	Building 1 – 51'-6" Building 2 – 49'-6"	Yes, DB
<u>Lot Coverage</u> (Maximum)	80%	44%	Yes, Code
<u>Lot Size</u> (Minimum)	6,000 square feet	268,329 square feet	Yes, Code
<u>Front Setback</u> (Minimum)	10'	10'+	Yes, Code
<u>Side Setback</u> (Minimum)	10' adjacent to residential 0' nonresidential	80'+	Yes, Code
<u>Rear Setback</u> (Minimum)	5' adjacent to residential 0' nonresidential	142'	Yes, Code
<u>Density</u>	Nonresidential zones – 45 du/ac	40.5 du/ac	Yes, Code

Standard	Zoning Ordinance	Proposed	Complies with the Code or Density Bonus Law (DB)*
<u>Floor Area Ratio**</u>	0.50	0.89	Yes, DB
<u>Parking (Minimum)</u>	Manager's – 2 Senior – 249 covered Guest – 50	Manager's – 2 Senior – 249 covered Guest – 23 onsite, 42 shared	Yes, Code and DB

*See above discussion regarding Density Bonus requests

** Floor area ratio per underlying CC4 Zone

Table 3. Development Standards for Medical Office in the CC4 Zone

Standard	Zoning Ordinance	Proposed	Complies with the Code
<u>Lot Area (Minimum)</u>	6,000 square feet	16,117 square feet	Yes
<u>Lot Width (Minimum)</u>	60'-0"	148'	Yes
<u>Front Setback Minimum</u>	0'-0"	10'+	Yes
<u>Interior Side Setback Minimum</u>	0'-0"	45'+	Yes
<u>Rear Setback Minimum</u>	0'-0"	46'+	Yes
<u>Lot Coverage (Maximum)</u>	60%	20%	Yes
<u>Floor Area Ratio</u>	0.50	0.37	Yes
<u>Height Limitation (Maximum):</u>			
<u>Top of Plate</u>	37'-0"	26'	Yes
<u>Top of Roof</u>	45'-0"	36'	Yes
<u>Stories</u>	3	2	Yes

Table 4. Required and Proposed Parking

Use	SCMC Required Parking*	Proposed Parking
Senior Units	249	249
Manager's Unit	2	2
Guest Spaces	50	44
<i>Subtotal</i>	<i>301</i>	<i>295</i>
Medical Office	38	22
Total	339	317

*SCMC requires 1/senior unit, 2/manager's unit, 1/5 housing units, and 200/sf of medical office



HUNSAKER & ASSOCIATES

IRVINE, INC.

PLANNING
ENGINEERING
SURVEYING
GOVERNMENT RELATIONS

IRVINE
LOS ANGELES
PALM DESERT
RIVERSIDE
SAN DIEGO

September 28, 2022

Ms. Jennifer Savage, AICP
Assistant to the City Manager
CITY OF SAN CLEMENTE
910 Calle Negocio, Suite 100
San Clemente, CA 92673

**Subject: Project Narrative
Entitlement Applications
San Clemente Senior Housing & Health Center
APN 675-072-19
654 Camino de los Mares
San Clemente, CA**

Dear Jennifer:

On behalf of the property owner and applicant, Saddleback Memorial Medical Center, Hunsaker & Associates Irvine, Inc. is submitting to the City of San Clemente entitlement applications for the proposed mixed-use redevelopment of 654 Camino de los Mares (APN 675-072-19) in the City of San Clemente. The 6.630-acre (gross area) site is located on the south side of Camino del los Mares, approximately 545 feet west of the Marbella intersection. The proposed mixed-use redevelopment will consist of the demolition of the existing building for development of 250 for-rent dwelling units and a 7,500 gross square foot medical office building/health center, as well as the associated infrastructure and common area improvements for both project components, including surface parking and amenity areas. All of the for-rent residential units will be age restricted for residents 55 years and older. The proposed mixed-use development will be compatible in size and scale with the surrounding development along Camino del los Mares (existing senior assisted-living facility, medical office buildings and commercial centers) and will add value to the community by providing greatly-needed, high-quality for-rent senior housing in San Clemente as prescribed for the property by the recent City of San Clemente General Plan 2021-2029 Housing Element update, approved by City Council on October 5, 2021.

FOUNDING PARTNERS:

RICHARD HUNSAKER
TOM R. McGANNON
JOHN A. MICHLER
DOUGLAS G. SNYDER

We believe the proposed mixed-use redevelopment is the best use for the property based on the following project objectives:

- The project suits the neighborhood in style, size, scale and function.
- The project is properly scaled, and creates an attractive street-scene along Camino de los Mares.
- The project provides greatly needed housing in San Clemente.
- The project will support adjacent uses and energize them. The proposed senior living project will foster the growth of a robust seniors' community alongside the established assisted-living center, San Clemente Villas. Between the two communities, seniors will enjoy access – within casual walking distance – to shopping, dining, MemorialCare's new health center building, and the medical offices that line Camino de los Mares creating a balanced symbiotic relationship between the land uses.

Three Hughes
Irvine, California
92618-2021
(949) 583-1010 PH
(949) 583-0759 FX
www.hunsaker.com



Ms. Jennifer Savage
 Assistant to the City Manager
 City of San Clemente
 September 28, 2022
 Page 2

Existing Site Conditions

The approximate 6.630-net acre project site, fronts on the south side of Camino del los Mares, approximately 545 feet west of the Marbella intersection. The site is designated on the San Clemente General Plan Land Use Map as RMF – Regional Medical Facilities, with the corresponding zoning of RMF1 - Regional Medical Facility. The existing land uses on-site consists of a vacant hospital facility with supporting access drives and surface parking areas. A portion of the property along the southerly boundary consists of a steep down-slope with ornamental landscaping, which descends from the improved area south towards the Interstate 5 freeway. Within the developed areas, landscaping is sparse, with some mature trees along the Camino del los Mares parkway and within landscape planters in the surface parking areas. The property's surrounding land uses consist of existing San Clemente Villas senior assisted-living facility to the east, Camino del los Mares to the north with medical office buildings beyond, Ocean View Plaza commercial center to the west, and the Interstate 5 freeway to the south.

Proposed Project

The proposed redevelopment will consist of the demolition of the existing and presently vacant building on-site for development of a 250-dwelling unit senior housing project, within two residential apartment buildings (Building 1 – 99 units and Building 2 – 151 units), and a 7,500 square foot, two-story health center (Building 3). Both the senior housing and health center components will be served by on-site access drives with surface parking areas around the perimeter of the buildings connecting to the two main entries off of Camino de los Mares at the west and east ends of the project's frontage. The main entries both align with existing driveway locations to the project site to maintain line-of-sight clearances for vehicles and pedestrians, and remain compatible with driveway spacing/locations for surrounding properties.

Architecture & Site Design

The project's architecture for the two senior residential buildings and health center will consist of the Spanish Colonial Revival style to embrace San Clemente's "Spanish Village by the Sea" theme, with architectural features such as low-pitched red tile hip, gable and shed roofs, varied roof lines, whitewashed stucco facades with articulated massing, arches, window treatments, as well as covered walkways, balconies and patios to integrate indoor and outdoor living. The buildings will also work with the site's terrain, including stepping down with the site grades and providing both three-story and four-story height elements for the senior apartments.

The project adopts a pedestrian-friendly scale on Camino de los Mares; along the parkway, only three-story elements appear. Like the adjacent senior assisted-living facility, San Clemente Villas, the four-story elements will not be apparent from Camino de los Mares; instead, they will be sited at the rear of the parcel, where the land slopes considerably, near Interstate 5 and away from Camino del los Mares.

The health center building will be two-stories in height. All buildings will also be sited to provide view corridors through the site, to the Pacific Ocean, at the perimeter access drives and central paseo/courtyard area. On-site access drives will be located around the perimeter of the site on the west, south and east edges, enclosing the buildings to provide a physical buffer and transition the adjacent land uses, Ocean View Plaza (to



Ms. Jennifer Savage
 Assistant to the City Manager
 City of San Clemente
 September 28, 2022
 Page 3

the west), San Clemente Villas (to the east) and Interstate 5 freeway (to the south). Together these architectural and site design features will integrate the development with its surrounding environment, while creating an appropriately scaled and attractive street-scene along Camino del los Mares.

The table below is a summary of the senior housing component’s unit mix between the two apartment buildings.

Senior Housing Unit Mix			
Unit Type	Unit Count	Unit Percentage of Total Units	Square Footage (sq. ft.)
Studio	62	25%	507 sq. ft. to 546 sq. ft.
1-Bedroom	120	48%	650 sq. ft. to 827 sq. ft.
2-Bedroom	68	27%	985 sq. ft. to 1,185 sq. ft.
Total	250	100%	194,649 sq. ft. (net leasable)

Amenities & Open Space

To serve the residents, amenity areas (indoor and outdoor) will be part of the senior housing community including a common clubroom, fitness center, roof-top deck, resort style pool deck, bicycle storage, landscaped courtyards and central paseo walkway. Additionally, most units will include either a private deck or patio, if on the ground floor level, for private open space connected to the residential unit. Below is a summary of the open space areas provided with the senior residential use.

Open Space Summary	
Private Open Space (Patos & Balconies)	14,610 sq. ft.
Group Open Space (Common Outdoor Areas)	35,590 sq. ft.
Total Open Space	50,200 sq. ft.

Pedestrian circulation will be an important component of the apartment buildings and site design with internal walkways linking residents to the amenity, open space and surface parking areas, as well as providing connection to the Camino de los Mares parkway for access to nearby public transportation (bus stops), commercial centers and medical office buildings.

Circulation & Parking

Vehicular access to the site will be provided off Camino de los Mares with two entries at the west and east ends of the project’s frontage. The western entry will serve as the main entry and drop-off location for the proposed senior apartments. Access at the western entry will be limited to right-in and right-out turning movements from and onto Camino de los Mares, to avoid conflicts with the turning movements of the existing driveway on the north side of Camino de los Mares for the medical offices. To reinforce the right-in and right-out turning movements at the western entry, median improvements will be made in Camino de los Mares as well as signage and a center island (pork chop) at the driveway entrance to direct traffic. The eastern entry, a signalized intersection, will be the primary access point for the proposed health center building and existing San Clemente Villas, as well as providing secondary access for the proposed senior apartments.



Ms. Jennifer Savage
 Assistant to the City Manager
 City of San Clemente
 September 28, 2022
 Page 4

Both project entries will bring residents, visitors, patrons, and employees of the senior apartments and health center to the surface parking areas along the perimeter of the site on the west, south and east edges. The health center will have 38 surface spaces to serve its patrons and employees primarily at the site's northeast corner. The 38 spaces for the health center will also be part of a shared parking agreement with the senior apartments to satisfy the senior apartments' guest parking requirement (50 guest spaces). Residents of the senior apartments will have 1 covered parking space per unit and 2 parking spaces (uncovered) for the Manager's unit. Overall, there will be 251 resident parking spaces and 61 shared surface parking space provided for the guests of senior residents and for the health center's patrons and employees (refer to following Parking Summary Tables).

Parking Summary Tables

Required Parking			
Use	Parking Ratio	Number of Units / Building Square Footage	Parking Spaces Required (Spaces)
Senior Apartments	1 covered space per unit	249	249
Senior Apartments Manager Unit	2 spaces	1	2
Senior Apartment Guests	0.2 spaces per unit	250	50
Health Center	1 space per 200 sq. ft.	7,500 sq. ft.	38
Total Parking Spaces Required			339*

*249 of the total 339 required spaces shall be covered.

Provided Parking	
Senior Residential Residents	
Covered Spaces (249 Senior Apartment Spaces)	249 spaces
Senior Apartments Manager Unit (Uncovered Spaces)	2 spaces
Subtotal - Senior Residential Residents Parking	251 spaces
Shared Parking	
Guest Spaces (Senior Apartments)*	23 spaces
Health Center*	38 spaces
Subtotal - Shared Parking	61 spaces
Total Parking Spaces Provided	312 spaces

*Shared Parking spaces are uncovered.



Ms. Jennifer Savage
 Assistant to the City Manager
 City of San Clemente
 September 28, 2022
 Page 5

Affordable Housing

The applicant is committed to provide 5% of the project's senior housing units as affordable housing at the Very-Low Income level, pursuant to State of California guidelines. The project's affordable housing component will be included as part of the project's development agreement in the entitlement process.

Location

Located less than a half mile away from the freeway ramps, the project enjoys easy access to Interstate 5. Public transportation is also in close proximity with the nearest bus stop being located within 100 feet of the site's westerly boundary, on the adjacent Ocean View Plaza commercial center frontage. The San Clemente Metro Link Station is also nearby, being located approximately 3.2 miles from the site.

Being located adjacent to Ocean View Plaza provides a great variety of retail, dining and services all within a short walking distance. Across Camino del los Mares to the north are medical offices and more commercial/retail uses including a movie theater, offering plenty of convenient options for the senior residents, making the project a very attractive housing option for seniors looking to live in south Orange County by the coast.

Relationship with General Plan

The proposed project site was identified in the City of San Clemente's General Plan 2021-2029 Housing Element update, approved by City Council on October 5, 2021, as a housing opportunity site with the maximum development intensity of 45 dwelling units per acre and 7,500 square foot of commercial floor area for the overall 6.630-acre parcel to help satisfy some of the City's future housing needs. The proposed mixed-use redevelopment is intended to implement the City's vision and provide senior housing and a health center building at the property.

Requested Entitlements

The following entitlements will be requested as part of the proposed project.

1. **Development Agreement** to memorialize the project's terms, conditions and obligations and provide vesting development rights for all of the project components, public improvements, fees and associated benefits to the City of San Clemente and developer.
2. **General Plan Amendment** to change the land use designation for the 6.630-acre property to Community Commercial 4 (CC4) from Regional Medical Facilities (RMF) to allow for the proposed senior housing and health center uses.
3. **Zone Change** to change the zoning for the 6.630-acre property to Community Commercial 4 (CC4) from Regional Medical Facility (RMF1) to allow for the proposed senior housing and health center uses.
4. **Vesting Tentative Parcel Map** to subdivide the property into two parcels for the proposed senior apartment and health center uses.



Ms. Jennifer Savage
 Assistant to the City Manager
 City of San Clemente
 September 28, 2022
 Page 6

5. **Conditional Use Permit** for a proposed senior housing use (for-rent, apartments with age restriction) in a Community Commercial 4 (CC4) zone and any required exceptions from development standards for the proposed building height, floor area ratio (FAR) and parking. The Conditional Use Permit will also provide for the ability to have a shared parking agreement for the shared parking of 61 surface parking spaces to satisfy the parking demand of the health center use and the senior housing project's manager unit and guest parking requirements.
6. **Architectural Permit** to provide for the architectural review of the proposed senior housing and health center components of the proposed redevelopment to ensure the conceptual plans are in compliance with the City of San Clemente's General Plan Urban Design Element and the City's Design Guidelines.
7. **Site Plan Permit** to provide for the site plan review of the proposed senior housing and health center components of the proposed redevelopment to ensure the conceptual plans are in compliance with the City of San Clemente's General Plan Urban Design Element, zoning regulations and the City's Design Guidelines. The Site Plan Permit will also allow for the ability to increase the project's floor area ratio (FAR) for the senior housing component.
8. **Density Bonus Law** to receive applicable development incentives or concessions associated with the project's commitment to provide 5% of the proposed senior residential units (13 units) as very low income households.

CEQA

As part of the City of San Clemente's entitlement review process for the proposed redevelopment, an Addendum to the Environmental Impact Report (EIR) for the City of San Clemente's certified Final EIR for the City of San Clemente Housing and Safety Elements Update (SCH # 2021020256) will be prepared for the project's CEQA analysis and finding. The Addendum EIR will provide site specific analysis and technical studies based on the proposed project's conceptual plans, to supplement the Housing and Safety Elements Update EIR, which analyzed the proposed project site as a housing opportunity site with a development intensity of 45 dwelling units per acre and 7,500 square foot of commercial floor area.

Conclusion

Thank you for your review of the entitlement applications for the proposed San Clemente Senior Housing and Health Center redevelopment. We look forward to working with the City of San Clemente on this exciting project.



Ms. Jennifer Savage
Assistant to the City Manager
City of San Clemente
September 28, 2022
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Should you have any questions regarding the entitlement package or need additional information, please give me a call at (949) 283-2294 or email to tfrattone@hunsaker.com.

Sincerely,

HUNSAKER & ASSOCIATES IRVINE, INC.

A handwritten signature in blue ink, appearing to read 'Ted D. Frattone', written over a horizontal line.

Ted D. Frattone
Project Manager,
Planning & Entitlements

TF:tl

cc: Aaron Coley, Saddleback Memorial Medical Center
Robert Kim
Chris Williams, TCA Architects

W.O 4479-1
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ATTORNEYS AT LAW

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Gregory W. Sanders
D 949.477.7669
gsanders@nossaman.com

Refer To File # 504163-0001

VIA HAND DELIVERY

September 27, 2022

Jennifer Savage, AICP/CTP
Assistant to the City Manager
City of San Clemente
9100 Calle Negocio
San Clemente, CA 92673

Re: Master Project (MP) 22-089 (Senior Citizen Housing and Medical Office Building)
– Incentives or Concessions and Waivers or Reductions of Development
Standards

Dear Ms. Savage:

We continue to represent Saddleback Memorial Medical Center (“Saddleback”) with regard to all matters related to Master Project (MP) 22-089 which includes, among other matters, various land use entitlement applications for a 250 unit senior citizen housing complex and a 7,500 square foot medical office building at 654 Camino de los Mares (“Project”). The purposes of this letter are to further memorialize and specify Saddleback’s requests for incentives or concessions from and waivers or reductions of certain development standards as mandated by Government Code Section 65915, subdivisions (b), (d), and (e) that would otherwise be applicable to the senior citizen housing portion of the Project.

By letter of August 31, 2022, Mr. Ted D. Frattone of Hunsaker & Associates Irvine, Inc., the Project manager for planning and entitlements, requested “applicable development incentives or concessions associated with the project’s commitment to provide 5% of the proposed senior residential units (13 units) as very low income households in accordance with the Density Bonus Law [the commonly used term for Section 65915].” As you are aware, Section 65915, subdivision (d), paragraph (2), subparagraph (A) provides that the City of San Clemente (“City”) must grant “One incentive or concession for projects that include . . . at least 5 percent [of the units] for very low income households . . .” As the letter explains, thirteen (13) of the senior citizen units, which equals five (5) percent of the 250 units Included within the senior citizen housing portion of the Project, will be dedicated for rent to very low income households (as defined in Section 65915). In addition, it is noteworthy that the senior citizen housing portion of the Project also qualifies for incentives or concessions (as well as waivers or reductions of development standards) pursuant to Section 66915, subdivision (b), paragraph (1), subparagraph (C) because the senior citizen housing complex is a qualified senior citizen housing project.

Therefore, in accordance with Section 65915, subdivision (b), paragraph (1), subparagraphs (B) and (C) and subdivision (d), paragraph (1), Saddleback hereby requests a

September 27, 2022
Page 2

concession from the forty-five foot/thirty-seven foot plate/3 story height limitation imposed by the Community Commercial 4 (CC 4) zone to the heights set forth in the Development Standards Matrix, San Clemente Senior Housing and Health Center, Master Project (MP) 22-089, dated September 26, 2022 submitted to you by Mr. Frattone (copy enclosed) (“Development Standards Matrix”).

In addition to the foregoing, the City has been informed by Saddleback orally and in writing that strict application of certain development standards found in the City’s Municipal Code, design guidelines and elsewhere would preclude construction of the senior citizen housing portion of the Project. As you are further aware, Section 65915, subdivision (e), paragraph (1), provides that the City may not “apply any development standard that will have the effect of physically precluding construction of a development meeting the criteria of subdivision (b) [which includes the senior housing portion of the Project] at the densities or with the concessions or incentives permitted under this section” “Development standard” is defined in Section 65915, subdivision (o), paragraph (1) to include, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open space requirement or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.” Therefore, Saddleback hereby requests waivers or reductions from all City Municipal Code provisions, development guidelines, ordinances, general plan elements, specific plans, and all other laws, policies, resolutions and regulations of the floor area ratio, onsite open space, parking development standards and the additional height of the buildings caused by the protrusion from the roofs of the elevator shafts and equipment that would otherwise apply to the senior citizen housing portion of the Project, all as set forth in the Development Standards Matrix.

Please let us know if you need any further information regarding this matter.

Sincerely,



Gregory W. Sanders
Nossaman LLP

GWS:jg



Development Standards Matrix
San Clemente Senior Housing & Health Center
Master Project MP22-089
September 26, 2022

Development Standard	CC4 Zone Requirement	Senior Housing Projects Requirement	Proposed Project	Required Exception & Findings
Minimum Lot Area	6,000 sq. ft.	6,000 sq. ft.	Senior Housing – 268,408 sq. ft. Health Center – 20,387 sq. ft.	None
Minimum Lot Width	60 ft.	-	Senior Housing – 500 ft. Health Center – 145 ft.	None
Minimum Front Setback	0 ft.	10 ft.	Senior Housing – 15.5 ft. Carports – 10 ft. Health Center – 14 ft.	None
Minimum Interior Side Setback	0 ft.	0 ft.	Senior Housing – 46 ft. Carports - 0 ft. Health Center – 44.5 ft.	None
Minimum Street Side Setback	0 ft.	-	n/a	None
Minimum Rear Setback	0 ft.	0 ft.	Senior Housing – 143.5 ft. Carports – 35 ft. Health Center – 46 ft.	None
Maximum Lot Coverage	60% of Lot Area	80% of Lot Area	Senior Housing – 44% Health Center – 20%	None
Floor Area Ratio	0.50	0.50	Senior Housing – 0.89 Health Center – 0.37	Two Alternatives: (1) CC4 zone allows the applicant to seek exception to FAR (up to 2.0 FAR) for a senior project. (2) State Density Bonus Law Development Standards Waiver (GC 65915 (d) and (e))
Residential Density (dwelling units per acre)	-	45 dwelling units per acre	Senior Housing – 40.6 dwelling units per acre Health Center – n/a	None
Height Limitation	45 ft. Top of Roof; 37 ft. Plate; 3 Stories	45 ft. Top of Roof; 37 ft. Plate; 3 Stories	Senior Housing: <u>Building 1</u> Max. Height (4th Story) – 51'-6" Max. Plate (4th Story) – 43'-3" # of Stories – 3 & 4 <u>Building 2</u> Max. Height – 49'-6" Max. Plate – 40'-4" # of Stories – 3 & 4 Health Center: Top of Roof – 32'-6" Plate – 26' # of Stories – 2	State Density Bonus Law Development Standards Concession or Incentive (GC 65915 (d))
Elevator Shaft Height	51 ft. (6 ft. above maximum building height of 45 ft. per Table 17.24.080B, SC Zoning Code – Section 17.24.080)	51 ft. (6 ft. above maximum building height of 45 ft. per Table 17.24.080B, SC Zoning Code – Section 17.24.080)	Senior Housing: <u>Building 1</u> Elevator Shaft – 56'-2" <u>Building 2</u> Elevator Shaft – 57'-9" Health Center: Elevator Shaft – less than 45 ft.	Senior Housing: State Density Bonus Law Development Standards Waiver (GC 65915 (d) and (e)) Health Center: None
Parking	Medical Office - 1 space per 200 sq. ft.	Manager's unit – 2 spaces per unit (uncovered) Senior units – 1 space per unit (covered) Guest Spaces – 1 space per 5 units or 0.2 spaces per unit (Manager's & Senior units)	Senior Housing: Manager's unit – 2 spaces per unit (uncovered) / 2 spaces Senior units – 1 space per unit (covered) / 249 covered spaces Guest Spaces – 0.092 space per unit (Manager's & Senior units) / 23 spaces* Health Center: 1 space per 200 sq. ft. / 38 spaces* *Shared Parking (Senior Guest Spaces & Health Center): 61 shared spaces	Two Alternatives: (1) Exceptions to parking requirements substantiated by a parking study may be approved through the discretionary review required for a senior housing project (SC Zoning Code - Section 17.28.280); Shared Parking (SC Zoning Code -Section 17.64.120 (2) State Density Bonus Law Development Standards Waiver (GC 65915 (d) and (e))
Percentage of Total Parking Area to be Landscaped (50+ stalls)	12%	12%	12%	None
Open Space (Design Guideline)** ** Not a zoning requirement	-	Private Open Space: 100 sq. ft. per unit / 25,000 sq. ft. Group Open Space: 100 sq. ft. per unit / 25,000 sq. ft.	Private Open Space: 14,610 sq. ft.*** Group Open Space: 35,590 sq. ft. Total Open Space: 50,200 sq. ft. ***200 units have private open space	Two Alternatives: (1) Design Guidelines allow for common/group open space to be substituted for 64 sq. ft. of the 100 sq. ft. of private open space per unit. (2) State Density Bonus Law Development Standards Waiver (GC 65915 (d) and (e))



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September 28, 2022

Via Email (SavageJ@san-clemente.org)

Ms. Jennifer Savage, AICP, CTP
Assistant to the City Manager
City of San Clemente
910 Calle Negocio
San Clemente, California 92673

Re: Master Project MP22-089, 654 Camino De Los Mares, San Clemente, California

Dear Ms. Savage:

This letter is submitted with reference to Master Project MP22-089, General Plan Amendment GPA22-097, Site Plan Permit SPP22-103, Tentative Parcel Map TPM22-099, Zoning Amendment ZA22-098, Architectural Permit AP22-101, Conditional Use Permit CUP22-100 and related applications with respect to the proposed development of a mixed-use project with 250 for-rent senior residential units and a 7,500 square foot medical office at 654 Camino de los Mares in San Clemente, California (collectively, the "Application").

You have asked us to provide reasons for our request for the incentives, concessions, waivers and reductions of the City's development standards relating to the Application, as identified in the Development Standards Matrix, San Clemente Senior Housing and Health Center, Master Project (MP) 22-089, dated September 26, 2022 and submitted to you by Mr. Ted Frattone in the form enclosed with this letter (collectively, the "Incentives and Waivers"), and as such are required to be granted by the City under California Government Code Section 65915 (the "Density Bonus Law").

Among the Incentives and Waivers requested by the Applicant and required under the Density Bonus Law are relief from the City's design standards associated with building height limitations, elevator shaft height limitations, floor area ratios, parking ratios, and private and group open space standards.

The Incentives and Waivers are required to enable the project to accommodate the number of units sought by the Applicant and to create sufficient parking for the project's residential units and medical office building, given the physical and topographical constraints of the subject property. To make the project financially feasible, and to justify the investment necessary to design, build and operate the project, the rents to be generated by the project must be sufficient to pay for the

Ms. Jennifer Savage
September 28, 2022
Page 2

land value, hard and soft construction costs, financing costs, and the costs and expenses of marketing, leasing and operating the property. Particularly given that the City will require from the project a number of affordable units, the units provided for in the Application will also create a source of revenue sufficient to support those costs and expenses, as well as the subsidy necessary to offset the financial impact of the designated affordable units.

While, nationwide, increases in the consumer price index are approaching 9% per annum, hard construction costs (for such things as concrete, steel, wood, drywall and labor) are rising even faster. CBRE's Construction Cost Index projects a 14.1% year-over-year increase through the end of 2022. As inflation accelerates, interest rates, which govern construction borrowing costs, have risen too. A median bank construction borrowing rate today would be approximately 6.50%, up several hundred basis points from 2021. Other factors, including rising soft costs (costs of, for example, design, engineering, applications and permits) and international supply chain problems, have made real estate projects of all kinds more expensive and riskier.

The project's anticipated cost of construction, at around \$84,000,000, are high and likely to increase. Reducing the number of units would reduce available residential revenues, and our design professionals point out that construction costs are unlikely to be reduced proportionately to compensate for the loss in revenue. Ensuring that the project is planned with the critical mass of units provided for in the Application, which number is achievable only with the Incentives and Waivers, will better ensure that the construction and other project and operating costs are paid for by an adequate number of rent-producing apartments. Moreover, spreading the construction costs across a larger number of units will ultimately help to improve the affordability of those units to all renters.

We acknowledge that, as construction costs have risen consistently over the last few years, rents in Southern California have largely kept pace with those increases. We believe, however, that this trend is unlikely to continue. Among the primary goals of the Federal Reserve in pushing up interest rates as much as it has this year is to dampen wage growth. Weak wage growth, or wage stagnation, will reduce the rents tenants can afford. In addition, with inflation rising, seniors on fixed incomes will spend more for life's basic needs, putting further downward pressure on rents in the process. Higher construction and financing costs alongside weaker rent growth will challenge this project.

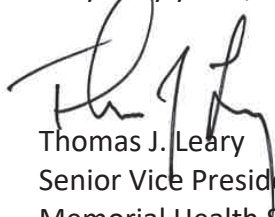
Finally, the number of senior apartment builders in the United States is smaller than the number of non-age-restricted apartment builders by as much as one-half. The senior housing market's limited size amplifies design and economic concerns simply because fewer bidders are available to compete for property. Any perception that the number of units in a project might be insufficient to pay for construction and other project and operating costs, together with a reasonable margin

Ms. Jennifer Savage
September 28, 2022
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to protect an owner/operator from risks associated with market conditions and economic instability, can disproportionately affect the economic viability of a project and the prospects for it to move from the design stage to reality.

We believe this project is right for San Clemente. It will create inviting, beautiful apartment homes for seniors, and allow them to stay and thrive in San Clemente, near their children and grandchildren, and enjoy all that the City has to offer. In addition, it will help the City meet its obligations under applicable state residential and affordable housing laws, which has been a goal and key driver of this project from the outset. The Incentives and Waivers are necessary to ensure the project's feasibility and to enhance its prospects for success and service to the community.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Thomas J. Leary', is written over the typed name and title.

Thomas J. Leary
Senior Vice President & Chief Legal Officer
Memorial Health Services
on behalf of MemorialCare Saddleback Medical Center



Development Standards Matrix
San Clemente Senior Housing & Health Center
Master Project MP22-089
September 26, 2022

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Refer To File # 504163-0001

September 8, 2022

Scott McKhann, Chair and
Members of the Planning Commission
City of San Clemente
910 Calle Negocio
San Clemente, CA 92673

Re: Saddleback Memorial Medical Center Land Use Entitlement and Development Agreement Applications for Real Property at 654 Camino de Los Mares – State Law Preemption and CEQA Compliance (September 21, 2022 Planning Commission Meeting)

Dear Chair McKhann and Members of the Planning Commission:

We represent Saddleback Memorial Medical Center (“Saddleback”) with regard to all matters pertaining to applications for General Plan Amendment GPA 22-097; Zoning Amendment ZA22-098; Vesting Tentative Parcel Map TPM22-099; Architectural Permit AP22-101; Site Plan Permit SPP22-103; Conditional Use Permit CUP22-100; and a Development Agreement for the above referenced property (“Property”) for development of a 250 unit senior citizen housing complex and medical office building (“the Project”). The purposes of this letter are to advise you of a) the requirements of state law that preempt various provisions of the City of San Clemente Zoning Code (San Clemente Muni. Code, tit. 17) (“Zoning Code”) otherwise applicable to the Project; and b) compliance of the Project with the California Environmental Quality Act (Pub. Res. Code § 21000, et seq.) (“CEQA”).

I. Government Code Section 65915 Preemption.

As discussed below, various provisions of Government Code Section 65915 preempt a number of requirements of the Zoning Code. As further discussed below, the preemption applies to densities and other development standards that would otherwise apply to the Project.

Government Code Section 65915, subdivision (b)(1) provides, in pertinent part, that “A city . . . shall grant one density bonus and, if requested by the applicant . . . incentives or concessions, as described in subdivision (d), waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p), if an applicant . . . seeks and agrees to construct a housing development . . . that will contain at least any one of the following: (B) Five percent of the total units of a housing development for rental or sale to very low income households, as defined in Section 50105 of the Health and Safety Code. [or] (C) A senior citizen housing development, as defined in Section 51.3 and 51.12 of the Civil Code” The Project qualifies for a density bonus and incentives and concessions, etc. by virtue of the

facts that it will a) contain thirteen (13) units for rental or sale to lower income households as defined in Health and Safety Code Section 50105 which constitutes five (5) percent of the total number of Project dwelling units; and b) qualify as a senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code (all of the units, with the possible exception of one (1) manager's unit, will be rented or sold to qualifying senior citizens and senior citizen households).

Under Government Code Section 65915, subdivision (d)(2)(A), an applicant "shall receive . . . one incentive or concession for projects that include . . . at least 5 percent for very low income households . . ." As such, the Project qualifies for one (1) incentive or concession. An "incentive or concession" is defined to include "a reduction in site development standards or a modification of zoning code requirements or architectural design requirements . . ." (Gov. Code §65915, subd. (k)(1).) A development standard is defined to include "a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development . . ." (Gov. Code § 65915, subd. (o)(1), italics added.) As part of the land use entitlement application package, Saddleback has submitted application ZA22-098 to change the zoning for the Property from RMF to CC 4. As set forth in Table 17.36.030J of the Zoning Code, the "Height Limitation" development standard in the CC 4 zone is 45'0" Top of Roof; 37'0" Plate; 3 stories (all expressed as one development standard) ("Height Limitation Standard"). Saddleback has chosen to use its one (1) incentive or concession with respect to the Height Limitation Standard. Thus, in accordance with the preemption requirements discussed in this paragraph, the Project is relieved from compliance with the Height Limitation Standard.

Further, Government Code Section 65915, subdivision (e)(1), provides that "in no case may a city . . . apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section." The Project qualifies for this preemption because a) five (5) percent of its units will be rented or sold to very low income households; and b) it constitutes a development for senior citizens, as discussed above. Further as discussed above, the City is required to grant the Project "waivers or reductions of development standards, as described in subdivision (e), and parking ratios, as described in subdivision (p) . . ." (Gov. Code § 65915, subd. (b)(1).) Thus, separate and apart from the one (1) incentive or concession that the Project is entitled to, the City is preempted by state law from applying any development standard that would preclude construction of the Project. We note that Government Code Section 65951, subdivision (e)(1) also provides that "if a court finds that the refusal [by a city] to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit."

II. Project CEQA Compliance.

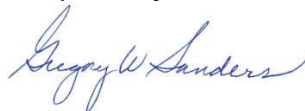
The Property was included with a number of other potential affordable housing sites analyzed in a Program Environmental Impact Report ("Program EIR") recently adopted by the City in compliance with CEQA Guidelines Section 15168 in connection with adoption of an update to the City's General Plan Housing Element. The City has decided to prepare an addendum to the Program EIR for the Project in order to satisfy the requirements of CEQA.

September 8, 2022
Page 3

In a letter to members of the San Clemente City Council and Planning Commission (meeting jointly for a study session on the Project on August 31, 2022) the Sea Pointe Estates Homeowners Association Board of Directors alleged that CEQA requires a public review (presumably the same review afforded environmental impact reports, etc., by the CEQA Guidelines) of the CEQA documents related to the Project which, as discussed above, consists of an addendum. CEQA Guidelines Section 15164, subdivision (c), provides that "An addendum need not be circulated for public review" The public will have ample opportunity to review and comment on the addendum prior to and at the Planning Commission meeting at which the Project will be considered for approval.

We will be present with the Saddleback team to answer any questions you have regarding the issues addressed in this letter and address any other issues that arise.

Respectfully submitted,



Gregory W. Sanders
Nossaman LLP

GWS:jg



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Refer To File # 504163.0001

VIA EMAIL

September 15, 2022

Scott Smith
City of San Clemente, City Attorney
c/o Best Best & Krieger
Attorneys at Law
18101 Von Karman Ave., Ste. 1000
Irvine, CA 92612

Re: MemorialCare Project – MP22-089 – Waiver or Reduction of Parking Ratio

Dear Mr. Smith:

City Staff recently asked if state law required waiving or reducing the City's parking ratio to the extent application of that requirement would physically preclude construction of MemorialCare's project. The answer is yes.

The City's parking ratio is a development standard under California's Density Bonus Law, Government Code §§ 65915-65918. Specifically, a development standard is defined to include "a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development . . . , or other local condition, law, policy, resolution, or regulation." (Gov. Code, § 65915, subd. (o)(1), underlining added.) Government Code section 65915, subdivision (e)(1), states that "[i]n no case may a city . . . apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section." MemorialCare's project meets the criteria of subdivision (b). (See, e.g., Gov. Code, § 65915, subd. (b)(1)(C) ["A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code".])

Thus, because application of the City's parking ratio would preclude construction of MemorialCare's project as presently designed, it must be reduced or waived. (*Bankers Hill 150 v. City of San Diego* (2022) 74 Cal.App.5th 755, 774 [developer "was entitled under the Density Bonus Law to a waiver of any development standard that would have the effect of physically precluding the construction of the Project at the permitted density and with the requested incentive"]; *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1346-1347 [city required to waive standards for height, number of stories and setbacks, and grant variances to allow an additional story and a higher building height, because otherwise construction of a housing development meeting the requirements for a density bonus would've been physically precluded].)

Scott Smith
September 15, 2022
Page 2

If you think it would be helpful, I am happy to schedule a call to discuss these issues further. Please just let me know your availability.

Very truly yours,

A handwritten signature in blue ink that reads "Gregory W. Sanders". The signature is written in a cursive style with a large initial 'G'.

Gregory W. Sanders
Nossaman LLP

GWS:

MEMORANDUM

DATE: August 16, 2022

To: Thomas J. Leary, MemorialCare Health System

FROM: Ken Wilhelm, Principal, LSA

SUBJECT: Parking Analysis for San Clemente Senior Housing/Medical Office Project

LSA has prepared this parking analysis for the proposed San Clemente Senior Housing/Medical Office project (project) at 654 Camino De Los Mares in the City of San Clemente (City), California. The purpose of this memorandum is to determine whether the proposed project would comply with the City's Off-Street Parking Requirements.

PROJECT DESCRIPTION

The project site currently contains a vacant hospital. The proposed project includes the demolition of the existing, vacant hospital and the construction of 250 dwelling units of senior housing (including one manager's unit) and 7,500 square feet (sf) of medical office use. The project would provide a total of 312 parking spaces on site, which includes 251 parking spaces reserved for the senior residents (including the manager's unit), and 61 parking spaces shared between the medical office building and guests of the residents (including the manager's unit). Access to the project would be provided via existing signalized and unsignalized driveways along Camino De Los Mares.

CITY MUNICIPAL CODE REQUIREMENTS

LSA prepared an analysis based on the City of San Clemente Municipal Code for Off-Street Parking Requirements. The senior housing parking requirements were based on Municipal Code Section 17.28.280 and the medical office use was based on Municipal Code Section 17.64.050 to determine the parking spaces required for the proposed project.

Table A (all tables attached) provides a breakdown of parking rates per land use and the total required parking per City Code of each component of the project. As shown in Table A, the project would require 301 parking spaces for the senior housing component (including the residents, manager's unit, and guests) and 38 parking spaces for the medical office building. The total parking required per City Code is 339 parking spaces.

The proposed project would meet the Municipal Code requirements for the senior housing component (residents and manager's unit) and the medical office building. The City's requirement for guest parking for the senior housing units is 50 spaces. The project would provide 23 spaces dedicated for guest parking. The remainder of guest parking would be shared with the medical office parking spaces. The peak parking demand for different land uses can occur during different times of

the day. As such, there is an opportunity for shared parking between the guest parking and medical office uses.

City Municipal Code Section 17.64.120 describes the ability to share parking spaces for mixed-use projects. Specifically, the Code states:

In all nonresidential and mixed-use zones, private parking facilities may be shared by multiple uses whose activities are not normally conducted during the same hours, or when hours of peak use vary. The applicant shall have the burden of proof for a reduction in the total number of required off-street parking spaces.

Per the City's Municipal Code, the parking study should result in the following findings:

1. Given the specific conditions of the site and the adjacent area, the shared parking arrangement would not result in inadequate parking; and
2. The number of parking spaces required for the site, in accordance with Municipal Code Section 17.64.050(B), Number of Parking Spaces Required, is provided through the shared parking arrangement, based on varied hours of operation and/or combinations of peak and off-peak uses.

SHARED PARKING ANALYSIS METHODOLOGY

Shared parking is the use of a parking space to serve two or more individual land uses without conflict because of variations in the (parking) accumulation of vehicles by hour, by day (ULI *Shared Parking* 2020). LSA conducted a shared parking analysis consistent with the methodology presented in the Urban Land Institute's (ULI) *Shared Parking* to determine whether the peak senior housing guest parking demand and the peak medical office parking demand can be accommodated based on the shared parking supply proposed on site.

The projected parking utilization for the proposed senior housing guests and medical office uses was calculated using the methodology presented in *Shared Parking* (ULI 2020). The percentage of utilization was obtained from *Shared Parking* for resident guests and medical office uses and applied to the required number of parking spaces per the City's Municipal Code.

The total projected demand was calculated against the proposed shared parking supply (61 spaces) to determine the expected parking utilization per hour. Tables B and C show the peak parking utilization of the proposed guest/medical office components for a typical weekday and weekend, respectively. The number of residual or deficient parking stalls was also identified per scenario.

PARKING ADEQUACY FINDINGS

Weekday Analysis

The peak weekday utilization of the combined resident guest and medical office uses occurs at 7:00 p.m. when 61 spaces are occupied. Based on the proposed parking supply of 61 shared stalls, the parking supply would accommodate the peak parking demand. As a result, adequate parking supply would be provided during the weekday.

Weekend Analysis

The peak weekend utilization of the combined resident guest and medical office uses occurs between 7:00 p.m. and 10:00 p.m. when 50 spaces are occupied. Based on the proposed parking supply of 61 shared stalls, a residual of 11 stalls is expected. As a result, adequate parking supply would be provided during the weekend.

City Municipal Code Shared Parking Findings

The shared parking arrangement between the resident guests and medical office uses would not result in inadequate parking. Furthermore, the number of parking spaces required for the site is provided through the shared parking arrangement between the two uses, based on varied hours of operation and/or combinations of peak and off-peak uses. As such, the project meets the findings of the City's shared parking requirements (Municipal Code Section 17.64.120).

CONCLUSIONS

The shared parking analysis demonstrates that the proposed parking supply of 312 spaces, including 61 spaces shared between guests of the residents and the medical office building, would adequately accommodate the expected parking demand during the weekday and weekend.

Attachments: Tables A–C

Table A: City Parking Requirement

Land Use	Quantity	Parking Ratio ¹	Parking Required	Parking Provided
Senior Housing Apartments	249 units	1 covered parking space per residential dwelling unit.	249	249
Manager's Unit	1 unit	2 parking spaces	2	2
Senior Housing Guests	---	1 guest parking space for each five dwelling units (including Manager's Unit)	50	23 ²
Medical office building	7,500 sf	1 space per 200 sf	38	38
Total Parking Spaces:			339	312

Notes:

¹ Parking for Senior Housing Projects (Section 17.28.280)
 Parking for Medical Office (Section 17.64.050)

² Senior guest parking spaces shared with Medical Office use. Total shared spaces = 61 spaces.

Table B: Shared Parking Analysis - Weekday

Weekday							
Time	Senior Housing Guests		Medical Office Size = 7,500 sf		Spaces		
	Demand ¹ = 50 spaces		Demand ¹ = 38 spaces		Utilized	Provided	Residual/ (Deficit)
	% Utilization ²	Spaces	% Utilization ²	Spaces			
8:00 AM	20%	10	90%	34	44	61	17
9:00 AM	20%	10	90%	34	44	61	17
10:00 AM	20%	10	100%	38	48	61	13
11:00 AM	20%	10	100%	38	48	61	13
12:00 PM	20%	10	30%	11	21	61	40
1:00 PM	20%	10	90%	34	44	61	17
2:00 PM	20%	10	100%	38	48	61	13
3:00 PM	20%	10	100%	38	48	61	13
4:00 PM	20%	10	90%	34	44	61	17
5:00 PM	40%	20	80%	30	50	61	11
6:00 PM	60%	30	67%	25	55	61	5
7:00 PM	100%	50	30%	11	61	61	0
8:00 PM	100%	50	15%	6	56	61	5
9:00 PM	100%	50	0%	0	50	61	11
10:00 PM	100%	50	0%	0	50	61	11
11:00 PM	80%	40	0%	0	40	61	21
Peak Shared Parking Demand							61
Parking Supply							61
Residual / (Deficit)							0

¹ Parking demand referenced from the City of San Clemente Municipal Code, Chapters 17.28.280 and 17.64.050

² Time-of-Day Factors referenced from *Shared Parking, Third Edition*, Urban Land Institute, 2020.

DU = dwelling unit

sf = square feet

Table C: Shared Parking Analysis - Weekend

Weekend							
Time	Senior Housing Guests		Medical Office Size = 7,500 sf		Spaces		
	Demand ¹ = 50 spaces		Demand ¹ = 38 spaces		Utilized	Provided	Residual/ (Deficit)
	% Utilization ²	Spaces	% Utilization ²	Spaces			
8:00 AM	20%	10	90%	34	44	61	17
9:00 AM	20%	10	90%	34	44	61	17
10:00 AM	20%	10	100%	38	48	61	13
11:00 AM	20%	10	100%	38	48	61	13
12:00 PM	20%	10	30%	11	21	61	40
1:00 PM	20%	10	0%	0	10	61	51
2:00 PM	20%	10	0%	0	10	61	51
3:00 PM	20%	10	0%	0	10	61	51
4:00 PM	20%	10	0%	0	10	61	51
5:00 PM	40%	20	0%	0	20	61	41
6:00 PM	60%	30	0%	0	30	61	31
7:00 PM	100%	50	0%	0	50	61	11
8:00 PM	100%	50	0%	0	50	61	11
9:00 PM	100%	50	0%	0	50	61	11
10:00 PM	100%	50	0%	0	50	61	11
11:00 PM	80%	40	0%	0	40	61	21
Peak Shared Parking Demand							50
Parking Supply							61
Residual / (Deficit)							11

¹ Parking demand referenced from the City of San Clemente Municipal Code, Chapters 17.28.280 and 17.64.050

² Time-of-Day Factors referenced from *Shared Parking, Third Edition*, Urban Land Institute, 2020.

DU = dwelling unit

sf = square feet

MEMORANDUM

DATE: September 21, 2022

To: Thomas J. Leary, MemorialCare Health System

FROM: Ken Wilhelm, Principal, LSA

SUBJECT: Supplemental Parking Analysis for San Clemente Senior Housing/Medical Office Project

LSA prepared a parking analysis for the proposed San Clemente Senior Housing/Medical Office project (project) at 654 Camino De Los Mares in San Clemente, California. The purpose of the analysis was to determine whether the proposed project would comply with the City of San Clemente's (City) Off-Street Parking Requirements. The analysis was completed on August 16, 2022.

On August 31, 2022, the City held a joint Study Session with the City Council and Planning Commission members. Several members had questions about parking and whether the project would provide adequate parking spaces to accommodate peak demand.

This memorandum summarizes the conclusions of the parking analysis and provides additional information to support the parking proposed for the project.

SUMMARY OF PROJECT SHARED PARKING ANALYSIS

The proposed project includes the demolition of the existing, vacant hospital and the construction of 250 dwelling units of senior housing (including one manager's unit) and 7,500 square feet (sf) of medical office use. The project would provide a total of 312 parking spaces on site, which includes 251 parking spaces reserved for the senior residents (including the manager's unit), 23 spaces dedicated to residential guests, and 38 parking spaces for the medical office building. A total of 61 parking spaces would be shared between the guests of the residents (including the manager's unit) and the medical office building.

The project meets the City Municipal Code Section 17.28.280 for the required number of parking spaces for the residents of the senior housing component. The project also meets the City Municipal Code Section 17.64.050 for the required number of parking spaces for the medical office component. The parking analysis evaluated the ability to share parking spaces between the guests of the senior residential component and the medical office component. The two components do not "peak" during the same time of day and therefore have the ability to share parking between the two uses.

The results of the parking analysis identified that the peak weekday utilization of the combined senior resident guest and medical office uses occurs at 7:00 p.m. when 61 spaces are occupied. Based on the proposed parking supply of 61 shared stalls, the parking supply would accommodate the peak parking demand. As a result, adequate parking supply would be provided during the weekday.

The analysis also described that the peak weekend utilization of the combined senior resident guest and medical office uses occurs between 7:00 p.m. and 10:00 p.m., when 50 spaces are occupied. Based on the proposed parking supply of 61 shared stalls, a residual of 11 stalls is expected. As a result, adequate parking supply would be provided during the weekend.

Therefore, the shared parking analysis demonstrates that the proposed parking supply of 312 spaces, including 61 spaces shared between guests of the senior residents and the medical office building, would adequately accommodate the expected parking demand during the weekday and weekend. Per City Municipal Code Section 17.64.120, the two components meet the findings necessary to share parking on-site.

INSTITUTE OF TRANSPORTATION ENGINEERS PARKING GENERATION

LSA reviewed the Institute of Transportation Engineers (ITE) *Parking Generation Manual* (5th Edition, 2019), which includes parking requirements for different land uses. The *ITE Parking Generation Manual* is accepted throughout the nation as an industry standard.

Based on the *ITE Parking Generation Manual* (Land Use 252 – Senior Adult Housing, Attached), the peak parking demand for senior housing occurs between the hours of 10:00 p.m. and 8:00 a.m. The average parking rate is 0.61 space per dwelling unit. This includes both residents and guests/visitors. Based on the 250 senior units for the proposed project, this would require 153 parking spaces for the senior residents and their guests. ITE also identifies an 85th percentile parking rate of 0.67 spaces per dwelling unit. Using this more conservative rate, the proposed project would require 168 parking spaces.

The proposed project will provide 274 dedicated parking spaces for the senior residents and their guests. This presents 121 more spaces than the average ITE rate for Senior Adult Housing and 106 more spaces than the 85th percentile parking rate identified in ITE.

URBAN LAND INSTITUTE SHARED PARKING

LSA reviewed the Urban Land Institute (ULI) *Shared Parking Manual* (3rd Edition, 2020), which includes a case study on senior adult housing parking requirements. The *ULI Shared Parking Manual* is also accepted throughout the nation as an industry standard.

Based on the survey of eight active adult senior housing facilities (Kimley-Horn, Figure 4-26 in the *ULI Shared Parking Manual*), the average parking rate is 0.88 space per dwelling unit. This includes both residents and guests/visitors. Based on the 250 senior units for the proposed project, this would require 220 parking spaces for the senior residents and their guests. The case study also identifies an 85th percentile parking rate of 0.90 space per dwelling unit. Using this more conservative rate, the proposed project would require 225 parking spaces.

The ULI *Shared Parking Manual* states “considering the parking behaviors, ITE parking ratios, and observed parking ratios, the recommended ratios of parking spaces per unit is 0.85 spaces per unit for weekdays and 0.76 spaces per unit for weekends,” which results in 213 and 190 spaces for the proposed project, respectively.

The proposed project will provide 274 parking spaces for the senior residents and their guests. This presents 54 more spaces than the average ULI rate in the case study for senior housing and 49 more spaces than the 85th percentile parking rate from ULI. This also results in 61 more spaces than the recommended ULI parking rate for senior housing.

SHORECLIFFS SENIOR APARTMENTS

An application to the City was submitted and approved by the Planning Commission on March 6, 2019, for a 150-unit senior housing development at the Shorecliffs Golf Course property. As included in the Planning Commission Staff Report, a parking analysis (attached) was provided to present actual parking demand at four comparable senior housing properties within Southern California.

The data presented shows an average parking requirement of 0.80 space per dwelling unit. Based on the 250 senior units for the proposed project, this would require 200 parking spaces for the senior residents and their guests. The proposed project will provide 274 parking spaces for the residential component. This represents 74 more spaces than the average parking rate of similar senior housing facilities nearby.

CONCLUSIONS

The shared parking analysis demonstrates that the proposed parking supply of 312 spaces, including 274 designated for senior residents and their guests, would adequately accommodate the expected parking demand during the weekday and weekend. The sources identified above based on actual observations, as summarized in Table A (attached), suggest that the peak parking demand for senior adult housing does not require one space per dwelling unit per the City’s Municipal Code requirement. As such, parking will be more than satisfied for the residents, guests, and medical office building on site.

Attachments: Table A – Senior Housing Parking Rate Summary
Shorecliffs Senior Apartments Parking Justification

Table A: Senior Housing Parking Rate Summary

Source	Parking Rate per Senior Unit	Project		Parking Surplus/(Deficit)
		Parking Required	Parking Provided	
ITE Parking Generation Manual (5th Edition)				
- Average Rate	0.61	153	274	121
- 85th Percentile Rate	0.67	168	274	106
ULI Shared Parking Manual (3rd Edition)				
- Average Rate	0.88	220	274	54
- 85th Percentile Rate	0.90	225	274	49
- Recommended Rate	0.85	213	274	61
Shorecliffs Golf Course Senior Housing Parking Study				
- Average Rate	0.80	200	274	74

Memorandum

To: Amy Stonich, Contract Planner, City of San Clemente

From: Omar Rawi, Greystar

Re: Justification for Requesting Reduction in Number of Covered Parking Stalls

Greystar is proposing a 150-unit active adult senior housing development at the Shorecliffs Golf Course property specifically designated for senior housing by the City Council. The project is specifically subject to the parking standards generally applicable to senior projects in the City. Section 17.28.280(E) (2) of the City's Zoning Code requires one (1) covered space for each senior unit, plus one (1) additional space for every five (5) units. Greystar is proposing a total of 182 parking spaces, or two (2) more than required by the Zoning Code; but only 136 of the spaces are proposed to be covered (fourteen (14) fewer than the Zoning Code standard). However, Section 17.28.280 specifically allows for exceptions to the parking requirements if supported by a parking study.

The purpose of this memo is to provide information on actual parking demand at comparable senior housing properties in order to justify an exception to the standard number of covered parking spaces at the proposed project. The proposed 136 covered spaces at Shorecliffs equates to 0.91 per unit.

There is very limited parking demand data available on senior housing. In 2015, Greystar commissioned the engineering firm, Kimley Horn, to study parking demand for a project very similar to the proposed project: "Overture Fairview" located in the Dallas Fort Worth Area. The following is an excerpt from that study:

A review of recent available information on parking demands at senior living facilities shows that there are relatively few sources of data. Generally, the low traffic generation and parking demands associated with these types of developments mean that the sites very rarely cause any interference to their neighbors. As a result, the engineering community has had no need to document the characteristics of these uses.

The acknowledged source for national-level parking demand data is the Institute of Transportation Engineers (ITE) publication *Parking Generation*, 4th Edition (2010). The category matching Overture Fairview is Land Use #252 Senior Adult Housing – Attached. It shows an average peak period parking demand of 0.59 vehicles per dwelling unit (the highest observed parking demand during a typical weekday), and an 85th-percentile demand, often used for design, of 0.66 vehicles per dwelling unit.

Some older research was found in a paper from the 1996 ITE annual meeting, *Senior Housing Trip Generation and Parking Demand Characteristics* by Stephen B. Corcoran, P.E. The research at a mix of senior sites around Chicago found them generating traffic at about 2/3rds the rate of typical multifamily sites, and that the senior living trips occurred away from the typical commuter peak hours. The parking demand was observed to be 0.40 spaces per dwelling unit. This research was the spur to differentiate the retirement land use research to better fit the senior living, independent living, and other types.

The demand for parking at Greystar's "active senior" projects in suburban locations has generally exceeded the peak demand figures discussed in the national standards cited by Kimley Horn (0.59 and 0.4.), but the demand for resident or tenant spaces has consistently averaged well below one (1) per unit. Greystar

respectfully submits that because the one covered space per unit requirement is intended to ensure an adequate number of covered spaces *for tenants*, information on actual tenant parking demand (rather than overall parking demand) is the most relevant data for evaluating whether to allow a reduction in the number of covered spaces.

Therefore, Greystar has obtained information from four local senior projects. Two of the properties, Buena Vida and San Sebastian, are owned by Greystar. The other two, Vintage Shores in San Clemente and Vintage Aliso, are owned by a USA Properties. The average tenant parking demand at these four properties ranged from a low of 0.70 per unit to a high of 0.86 per unit, or 0.80 per unit on average. Note that the San Sebastian and Vintage Aliso projects have a greater percentage of two-bedroom units than proposed for the Shorecliffs project.

Total Parking Demand Data Summary

PROPERTY	LOCATION	RESIDENT DEMAND PER UNIT
LOCAL PROPERTIES		
Buena Vida	Rancho Santa Margarita, CA	.70
San Sebastian	Laguna Woods, CA	.86
Vintage Shores	San Clemente, CA	.82
Vintage Aliso	Aliso Viejo, CA	.82
LOCAL AVERAGE		.80

Conclusion

The proposed project proposes a total of 182 parking spaces, which exceeds expected overall parking demand and the City's standard. Additionally, while the project's proposed 136 covered parking spaces is short of the City's one (1) per unit standard, data suggests that providing 0.91 per unit will be more than adequate to accommodate the anticipated tenant parking demand at the property. If the project has average tenant demand for parking spaces, it would need 120 covered spaces to provide a covered space for each tenant that has a car (150 units x 0.80 per unit = 120).



Addendum to the City of San Clemente
Housing and Safety Elements Update Program
Environmental Impact Report for the
San Clemente Senior Housing & Medical
Office Project
San Clemente, California

Prepared for
City of San Clemente
910 Calle Negocio
San Clemente, CA 92673

Prepared by
RECON Environmental, Inc.
3111 Camino del Rio North, Suite 600
San Diego, CA 92108
P 619.308.9333

RECON Number 9335-6
September 29, 2022

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CITY OF SAN CLEMENTE
ADDENDUM TO ADOPTED PROGRAM ENVIRONMENTAL IMPACT REPORT

This document is an Addendum to the San Clemente Housing and Safety Elements Update PEIR (State Clearinghouse No. 2021020256) that was adopted by the City Council on October 5, 2021, hereafter referred to as "2021 FEIR"). The Addendum analyzes the environmental effects of the proposed project in light of the Final PEIR, which analyzed potential environmental impacts associated with the development of a number of housing sites, including housing development at 654 Camino del los Mares. The Addendum has been prepared in accordance with relevant provisions of the California Environmental Quality Act (CEQA) of 1970 (as amended) and the State CEQA Guidelines.

According to Section 15164 of the State CEQA Guidelines, an addendum to a previously certified EIR or Negative Declaration is the appropriate environmental document in instances when "only minor technical changes or additions are necessary" and when the new information does not involve new significant environmental effects beyond those identified in the previous EIR. The analysis herein demonstrates that the proposed addendum involves only minor technical changes to the 2021 FEIR and would not result in any new or increased severity significant environmental effects beyond those identified in the 2021 FEIR. As such, an addendum is the appropriate environmental document under CEQA.

1. Project Title

San Clemente Senior Housing & Medical Office Project

2. Lead Agency Name and Address

City of San Clemente
910 Calle Negocio
San Clemente, CA 92673

3. Contact Person and Phone Number

Jennifer Savage
Assistant to the City Manager
City of San Clemente
(949) 361-6186
savagej@san-clemente.org

4. Project Location

654 Camino del los Mares, San Clemente, CA 92673
Assessor's Parcel Number 675-072-19-00

5. Project Applicant/Sponsor's Name and Address

Memorial Care Health System
17360 Brookhurst Street
Fountain Valley, CA 92708

6. General Plan Designation

Existing: Regional Medical Facilities (RMF)
Proposed: Community Commercial (CC4)

7. Zoning

Existing: Regional Medical Facilities (RMF1)
Proposed: Community Commercial (CC4)

All reports and documents referenced in this Addendum are on file with the City of San Clemente, Community Development Department, 910 Calle Negocio, San Clemente, California 92673. Telephone Number: (949) 361-6100. A digital copy is available from the City website: <https://www.san-clemente.org/departments-services/environmental-documents-for-current-projects>.

8. Statement of Environmental Findings

An Addendum to the Program Environmental Impact Report (PEIR) for the Housing and Safety Elements Update was prepared by the City of San Clemente (City), Community Development Department to evaluate whether development of senior housing and medical office at 645 Camino de los Mares would result in any new significant impacts or increased severity of impacts beyond those identified in the 2021 FEIR for the Housing and Safety Elements Update. As Lead Agency under CEQA, and based on the findings contained in the attached Addendum, the City has determined that the project would not have any new or more severe impacts that were not previously identified in the PEIR for the Housing and Safety Elements Update. The City also finds that the Addendum reflects the City's independent judgment.

The location and custodian of the documents and any other materials which constitute the record of proceedings upon which the City bases its determination to adopt this Addendum are as follows: City of San Clemente, Community Development Department, 910 Calle Negocio, San Clemente, California, Custodian: Jennifer Savage, Assistant to the City Manager.

9. Previous Environmental Document

The 2021 FEIR determined that implementation of the Housing and Safety Elements Update would result in significant and unavoidable direct and/or cumulative impacts related to Air Quality (Direct and Cumulative), Greenhouse Gas (Direct and Cumulative), Land Use (Direct), Noise (Direct and Cumulative), and Transportation (Direct and Cumulative). The 2021 FEIR determined that implementation of the Housing and Safety Elements Update would result in impacts that would be mitigated to a level less than significant related to Biological Resources (Direct and Cumulative),

Cultural and Tribal Resources (Direct and Cumulative), Geology and Soils (Direct and Cumulative), and Hazards and Hazardous Materials (Direct). All other impacts were determined to be less than significant or would have no impact.

10. Summary of Original Project

The original project consisted of updates to the City's Housing and Safety Elements as described below.

Housing Element Update: The City prepared the 6th Cycle Housing Element Update (2021-2029) to identify the City's housing needs and outline goals, policies, and programs to address them. The Housing Element evaluated ways to accommodate the Regional Housing Needs Assessment (RHNA) of 982 new housing units allocated to the City by the Southern California Association of Governments (SCAG). To this end, the City identified an inventory of available sites that could accommodate the City's RHNA allocation through a combination of sources including accessory dwelling units (ADUs) and vacant and underutilized sites (Housing Sites). The project evaluated rezoning of specific sites to allow development ranging from residential medium (24 dwelling units per acre [du/ac]), residential medium high (30 du/ac), or residential high (40 du/ac). Although the 2021 FEIR evaluated rezoning of these sites, including the site at 654 Camino del los Mares, rezones were not adopted with certification of the FEIR. The City's intent was to implement rezoning at a future date, such as when development is proposed. Relevant to this addendum, the FEIR evaluated development at 645 Camino de los Mares of up to 238 housing units and 7,500 square feet of commercial space. The site is referred to as Site V in the FEIR.

The Housing Element also included a program to allow by-right approval of housing projects that include 20 percent of the units as housing affordable to lower income households. The ministerial process is implemented through a Housing Overlay that provides objective development standards. The City's existing architectural and design review process is used for projects in the Affordable Housing Overlay Zone. Future development consistent with the Housing Element was anticipated to be processed either ministerially, using the City's existing Affordable Housing Overlay Zone or a subsequently approved Housing Overlay Zone, or with a discretionary process.

Safety Element Update: The project also included an update to the Safety Element, including figure updates for the issues of geologic, seismic and soil hazards, flood hazards, potential tsunami inundation areas, fire hazard severity zones, critical facilities, and hazardous materials sites. Updates to the Safety Element did not affect the potential for development to occur or result in any physical change as it is a policy document.

11. Project Site Existing Conditions and Surrounding Land Use(s)

The 6.63-acre project site is located at 654 Camino del los Mares in San Clemente, California and is a Housing Site identified in the City's Housing Element Update sites inventory. The project site is located on the south side of Camino de los Mares, approximately 545 feet west of the intersection with Marbella. The project site is currently developed with a vacant hospital facility and supporting access drives and parking areas. The project site is located within an urban environment surrounded by a mixture of commercial and residential uses. Existing commercial uses are located along the project's western boundary, and to the north across Camino de los Mares. The San Clemente Villas

by the Sea assisted living facility is located adjacent to the project's southeastern boundary, while Interstate 5 (I-5) is located south of the project site. Figure 1 presents the regional location and Figure 2 presents an aerial photograph of the project site and vicinity.

12. Project Description

The project would implement housing and medical office at 654 Camino del los Mares, a site evaluated for approval of rezoning and a general plan amendment under the 2021 Final EIR. The project would demolish the existing buildings on-site and construct a 250-dwelling unit senior housing complex consisting of two residential apartment buildings (Building 1, 99 units and Building 2, 151 units), and a 7,500-square-foot (sf), two-story medical office (Building 3). The senior housing complex would consist of 61 studio units (540 sf), 119 one-bedroom units (650–897 sf), and 70 two-bedroom units (985–1,120 sf), for a total of 192,568 net leasable square feet. The project proposes both indoor and outdoor amenities for the residents, including a common clubroom, fitness center, roof-top deck, resort style pool deck, landscaped courtyards, and central paseo walkway. Both the senior housing and medical office would have all-access drives with surface parking areas around the perimeters of the buildings.

Access to the project site would be provided via Camino del los Mares with two entries at the west and east ends of the project's frontage. The west entry would serve as the main entry and drop-off site, while the east entry would be the main access point for the medical office building as well as a secondary access point for the senior apartments. In order to reinforce the right-in and right-out turning movements at the western driveway, the project would make median improvements within Camino de Los Mares, and introduce signage and a center island at the driveway entrance to direct traffic. These changes would improve safety for turns into or out of the western driveway. The site would have a total of 312 parking spaces, of which 249 would be for the senior apartments, two would be for the manager's unit, 38 for the medical office, and the remaining 23 would be part of a shared parking agreement. Figure 3 presents the proposed site plan. Construction of the project is anticipated to begin in the fall of 2023 and would continue for 18 to 24 months.

The project would require the following discretionary actions:

- General Plan Amendment to change the land use designation from Regional Medical Facilities (RMF) to Community Commercial (CC4).
- Zoning Code Amendment to change the zoning designation from Regional Medical Facilities (RMF1) to Community Commercial (CC4).
- Vesting Tentative Parcel Map to subdivide the property into two parcels.
- Conditional Use Permit for a proposed senior housing use under the Community Commercial (CC4) zone.
- Site Plan Permit for development of a new non-residential building and a tentative map.
- Architectural Permit for development of a new non-residential building and a new residential development of five or more units.

Compared to the development assumptions for the site analyzed in the 2021 Final EIR, the project is consistent except 12 additional senior housing units are proposed. The 2021 Final EIR evaluated development of 238 units, while the project proposes 250 units. This addendum addresses the increase in units to ensure no new or more severe impacts would result. Additionally, it should be

noted that the 2021 FEIR authorized up to a maximum of 1,564 residential units, but not all sites are likely to be developed, resulting in a conservative estimate of impacts. Additionally, the PEIR assumed the General Plan designation and zone at 654 Camino del los Mares would change from Regional Medical Facility to Community Commercial, or CC4 allowing up to 45 units per acre. The project is consistent with this zone and designation.

13. Other Required Agency Approvals or Permits Required

General Construction Permit (San Diego Regional Water Quality Control Board)

14. New Significant Environmental Effects or Substantially More Severe Environmental Effects Compared to Those Identified in the Previous CEQA Document

The subject areas checked below were determined to be new significant environmental effects or to be previously identified effects that have a substantial increase in severity either due to a change in project, change in circumstances or new information of substantial importance, as indicated by the checklist and discussion on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology/Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

15. Determination

Based on all available information in light of the entire record, the analysis in this Addendum, and pursuant to Section 15164 of the State CEQA Guidelines, the City has determined the following:

- There are no substantial changes proposed in the project which will require major revisions of the previous environmental document due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes have not occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous environmental document due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

- There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous environmental document was certified as complete or was adopted, shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous environmental document;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous environmental document;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous environmental would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

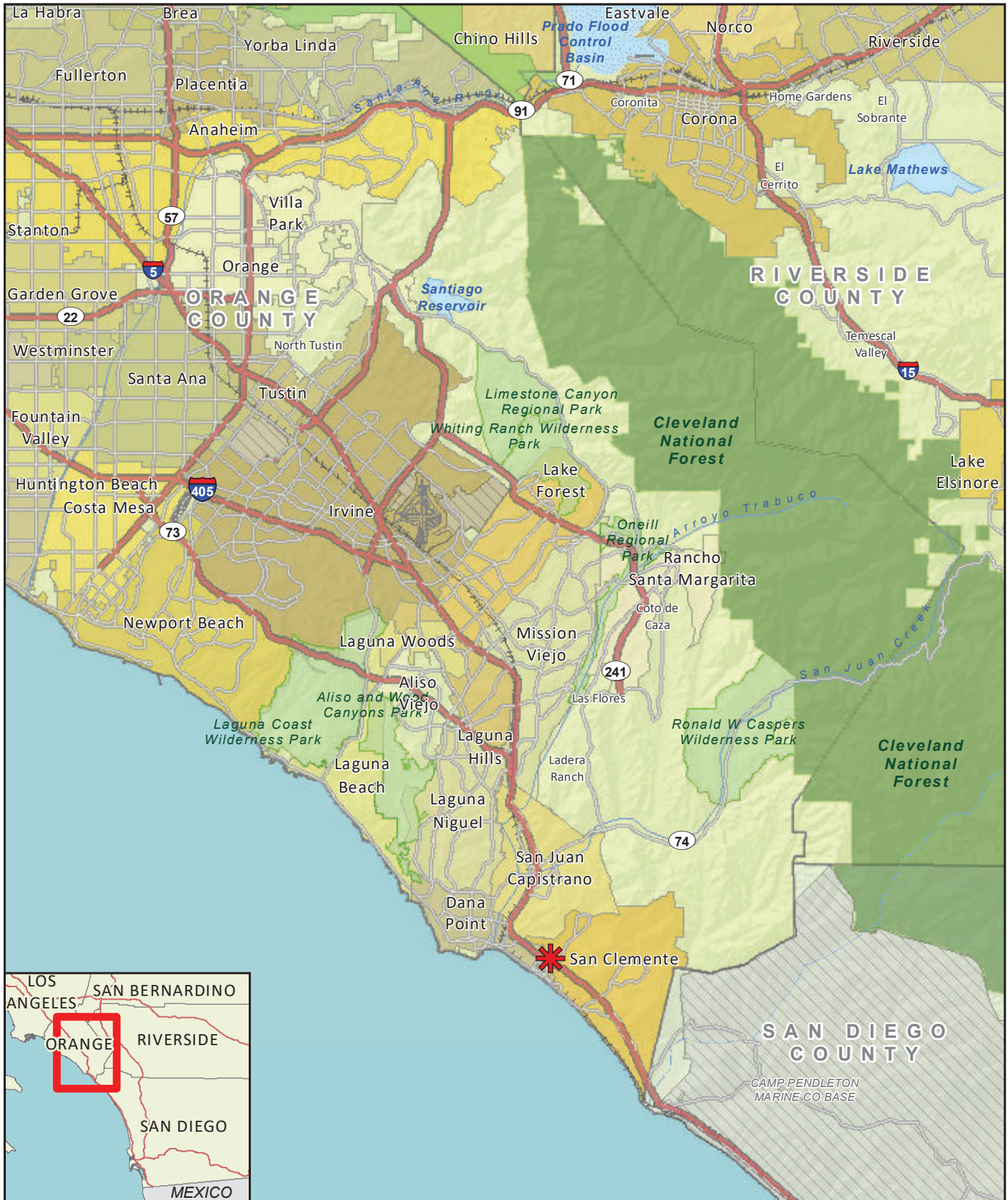
Based upon a review of the current project, none of the situations described in Section 15164 of the State CEQA Guidelines apply. No changes in circumstances have occurred, and no new information of substantial importance has manifested, which would result in new significant or substantially increased adverse impacts as a result of the project. Therefore, this Addendum has been prepared in accordance with Section 15164 of the State CEQA Guidelines. The Housing and Safety Elements Update PEIR has been incorporated by reference pursuant to CEQA Guidelines Section 15150. Public review of this Addendum is not required per CEQA.

Jennifer Savage
Signature

29 Sept. 2022
Date

Jennifer Savage, Assistant to the City Manager
Printed Name and Title

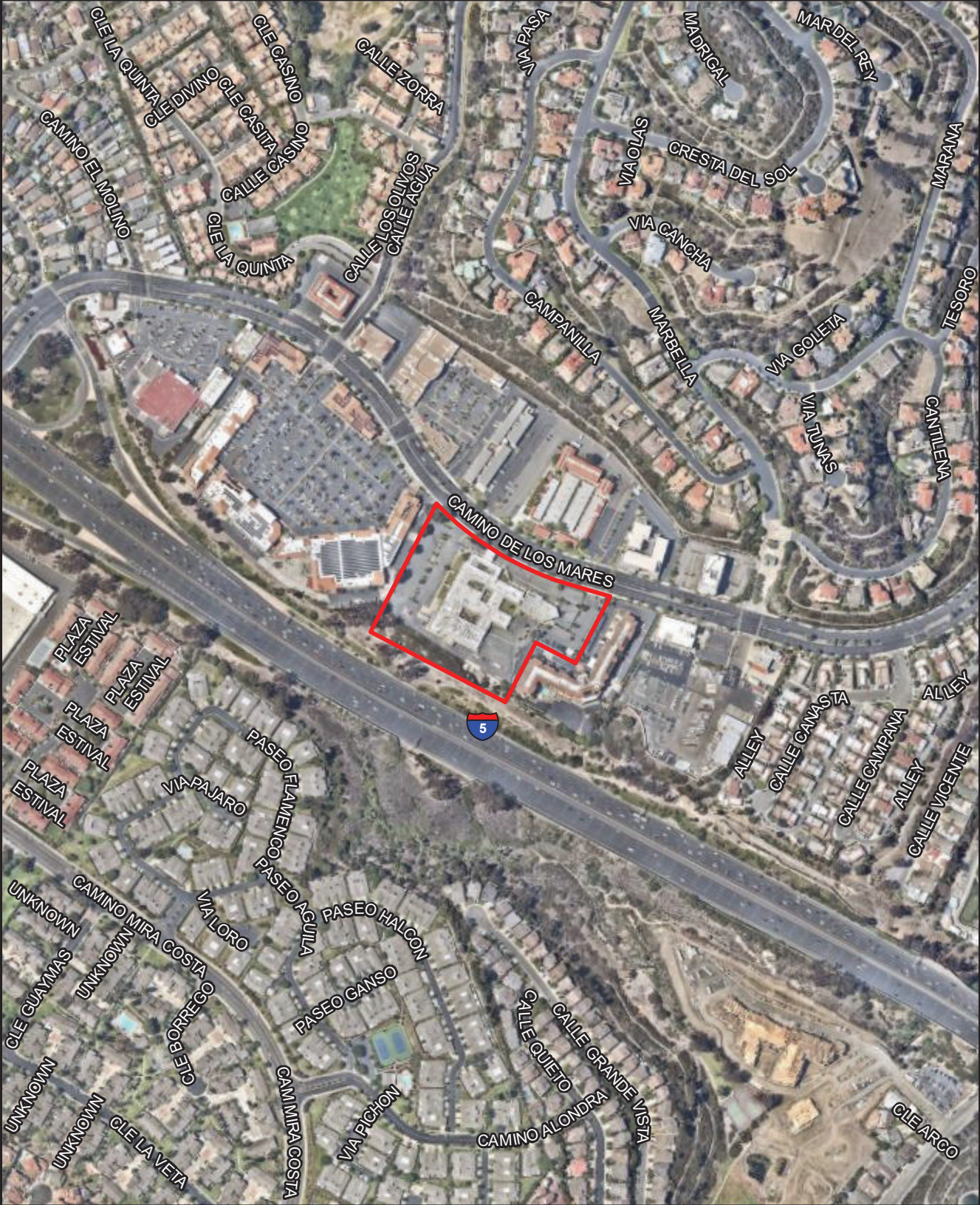
City of San Clemente
For



 Project Location

FIGURE 1
Regional Location

Image Source: NearMap (flown June 2022)



Project Boundary



FIGURE 2
Project Location on Aerial Photograph

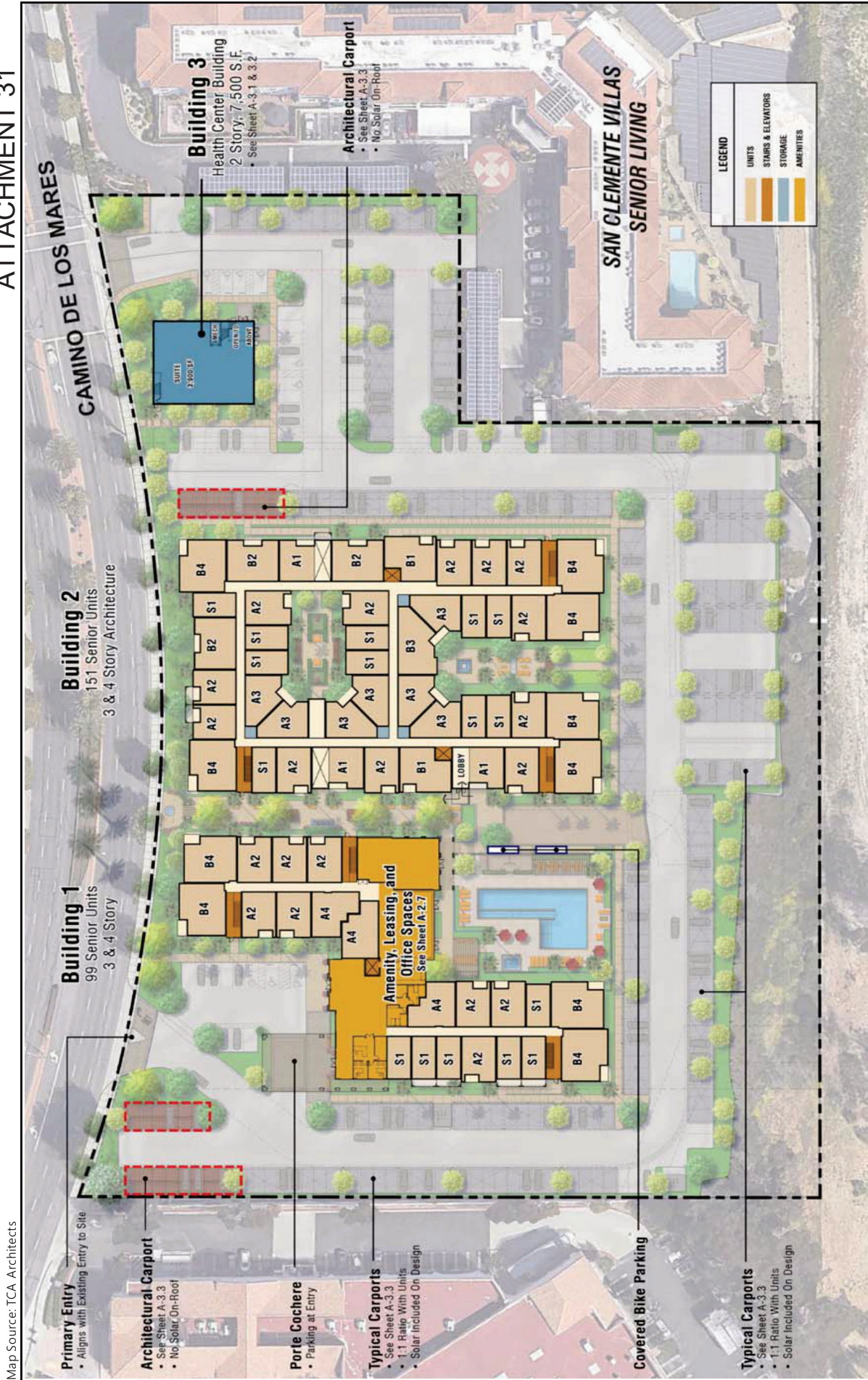


FIGURE 3
 Site Plan

15.1 Aesthetics

Scenic Vistas

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could have a substantial adverse effect on a scenic vista. The 2021 FEIR determined that adherence to regulatory requirements, including the San Clemente Municipal Code (SCMC), the design principles contained within the City's Design Guidelines, and applicable General Plan policies focused on preservation of scenic vistas and views, would ensure that future development of Housing Sites would not have a substantial adverse effect on a scenic vista, and impacts would be less than significant.

Project

The Visual, Light, Glare, Shade, and Shadow Memorandum (Visual Memo) completed for the project evaluated potential impacts related to aesthetics (Appendix A). A scenic vista is made up of three components: public viewing location; viewing corridor; and viewing scene. Review of Figures 4.1-1 and 4.1-2a of the 2021 FEIR determined that the project site is not visible from a City-Designated View Corridor. Although views of the Pacific Ocean and canyons do exist over the project site, implementation of the project would not block these view corridors, primarily because of the extensive landform and elevation changes north of the project site. With the exception of two or three private homes that would have a portion of their views of the Pacific Ocean obscured by the four-story height of the project, land areas to the north would continue to have public and private views over the project site. It should be noted that private views are not protected views under CEQA. Additionally, the project would not contrast with the viewing scene (the horizon, water body/ocean or other coastal visual resources). Therefore, the project would not have a new or more substantial adverse effect on a scenic vista than previously analyzed, and impacts would be less than significant. No new impact would occur.

Scenic Resources

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could substantially damage any scenic resources. The 2021 FEIR determined that adherence to regulatory requirements, including the SCMC, the City's provisions of the Master Landscape Plan for Scenic Corridors, and applicable General Plan policies, would ensure that future development of Housing Sites would not degrade scenic resources, and impacts would be less than significant.

Project

Views of a regionally significant viewing scene (the ocean, waterfront, and horizon line) exist from I-5, and would be considered as scenic vistas. I-5 has the potential for scenic designation from Caltrans if adopted by the City. Regardless of the status of designation, the project is located on the

north side of I-5, making it impossible to block motorist views of the ocean, canyons or other unique landforms.

The project site, although part of the broader viewing scene, is not itself the focus of views. The project would not remove scenic resources such as natural landforms, rock outcrops, natural areas, or other elements that make up the visual character and community character of the surrounding area. As described in Section 15.5 below, there are no designated historic buildings or designated historic resources located within or near the project site. Furthermore, the vacant hospital facility and supporting structures on-site that would be demolished do not qualify as historic resources. An Arborist Report was prepared for the project consistent with the requirements of the City's Trees Ordinances (Ord. 17.64.060 and 17.84.020(B)) (Appendix B). The Arborist Report documented that the project site currently possesses 175 ornamental landscape trees, 77 of which are in good condition, 69 are in fair condition, and 29 are in poor condition. All the tree species found on-site are common non-native ornamental landscape trees that are readily available at commercial nurseries. Most of the trees are growing in less-than-optimal conditions, and none would be required to be preserved on site. Furthermore, the project would be consistent with all City regulations, including installation of new landscaping with drought-tolerant plant material that would enhance the scenic quality of the project site. Therefore, the project would not result in new or more substantial damage to any scenic resources than previously analyzed, and impacts would be less than significant. No new impact would occur.

Visual Character and Quality

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could substantially degrade existing visual character or quality. The 2021 FEIR determined that adherence to applicable sections of the SCMC and the City's Design Guidelines, as well as land use plans that provide supplemental development regulations for those areas within the City's Focus Areas and/or Specific Plan Areas, would ensure that development of the Housing Sites would not substantially degrade the existing visual character or quality of public views of the site and its surroundings, and impacts would be less than significant.

Project

Visual quality is associated with the delicate balance of uniqueness and uniformity, as well as the organization of the visual environment into either a chaotic, bland, unique or highly intact compositional arrangement of natural and man-made features. If a project introduces chaotic elements or removes elements that contribute to the intactness of an area, then a potential visual quality impact can occur. The project's architecture would be a positive form and have aesthetically balanced detailing and materials. The project is designed to relate to the forms, materials, and colors of structures in the immediately surrounding area in terms of color, material, style, and scale. Project architecture and its forms would be aesthetically organized and simple, and are intended to enhance the City's character of "Spanish Village by The Sea."

The City is characterized by tall hills to the east with some ridgeline development, large slopes made up of mostly housing, bluffs and mesa tops on each side of the freeway, and ocean views to the

west. Land uses change from housing developments, to commercial complexes and strip commercial development with some business parks and employment centers are common to the eastern hills of the City. The materials, scale, architectural detailing, and color of the project's buildings would be consistent with the existing elements of the adjacent buildings, and would be consistent with much of the style and architectural treatments found throughout the viewshed. The project would have an overall low contrast with the existing setting. The overall architectural character of the immediate commercial and institutional community is that of Spanish revival, Spanish colonial, or mission style architecture. The common building materials of the adjacent community include mostly stucco with a high percentage of buildings using red clay tile roofing and heavy beam rafters.

The visual character of the existing and undeveloped portions of the project site are not considered to have a high or moderately high visual quality, are not part of a larger viewing scene or area that has high or moderate visual quality or community character associated with it. The project would not contrast with or dominate the visual character or visual quality of the adjacent areas, nor would the project change the visual character of the surrounding areas. Therefore, the project would not result in new or more substantial impacts relating to the existing visual character or quality of the site and its surroundings, and impacts would be less than significant. No new impact would occur.

Light and Glare

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could generate a substantial source of light or glare that would adversely affect day or nighttime views. The 2021 FEIR determined that development of the Housing Sites would be required to comply with SCMC standards related to light and glare (Chapter 17.24.130) and General Plan Policies NR-7.1, NR-7.2, and NR-7.3, which serve to minimize light pollution and trespass in order to preserve dark skies, and impacts would be less than significant.

Project

Glare can occur during both daytime and nighttime hours. Daytime glare is caused by the reflection of sunlight or artificial light from highly polished surfaces, such as window glass or reflective materials, and to a lesser degree, from broad expanses of light-colored surfaces. Daytime glare generation is common in urban areas and is typically associated with mid- to high-rise buildings with exterior façades largely or entirely comprised of highly reflective glass or mirror-like materials from which the sun can reflect, particularly following sunrise and prior to sunset. Daytime glare generation is typically related to sun angles, although glare resulting from reflected sunlight can occur regularly at certain times of the year. Glare can also be produced during evening and nighttime hours by artificial light directed or reflected toward a light-sensitive land use.

The City's standard of permitting indicates that all proposed glazing (e.g., glass exterior surfaces or windows) would be required to meet current building code requirements to minimize reflectivity in order to avoid creating glare in off-site locations. Additionally, building facade features would be required, such as window shades, stepped building setbacks, angled building sides, and other architectural features that would reduce direct sunlight onto the building surface and minimize glare. The project proposes to install solar panels on the carports, which can be a source of glare. However,

most solar panels are designed with anti-reflective glass front surface and only reflects about two percent of incoming light. Reflective Coating (AR Coating) is a technical means to reduce reflection that also increases light absorption of solar cells and thus increase its performance. The project would be required to utilize panels that follow these standards, and therefore would not create an impact to adjacent parcels or motorists. The project would not include any other reflective materials that could generate glare, such as polished surfaces, mirror like window films, or highly reflective gloss painting.

Outdoor lighting would be subject to the requirements of City's Lighting Ordinance (Section 17.24.130, which states the following:

Exterior lighting shall be energy-efficient and shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel, and shall be directed downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. All lighting fixtures shall be appropriate in scale, intensity and height to the use. Security lighting shall be provided at all entrances/exits.

The project has developed a lighting plan that would ensure consistency with the City's Lighting Ordinance described above, which would prevent light from spilling over onto adjacent properties. Additionally, the Visual Memo determined that project lighting would not affect nighttime views from surrounding properties. Therefore, the project would not create a new or more substantial source of light or glare that would adversely affect day or nighttime views in the area than previously analyzed, and impacts would be less than significant. No new impact would occur.

15.2 Agriculture Resources

2021 FEIR

Section 8.1 of the 2021 FEIR determined that the City does not possess any active farmland cultivation, zoning for agricultural use, or Williamson Act Contract. Additionally, no forest lands are present. Therefore, the 2021 FEIR found that the Housing and Safety Elements Update would not result in any impacts to agricultural or forestry resources.

Project

There is no change to the analysis provided in the 2021 FEIR. No agricultural resources are present and therefore, no new or more severe impacts would occur.

15.3 Air Quality

Consistency with Air Quality Plans

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could increase regional emissions. The 2021 FEIR determined that development of the Housing Sites would be inconsistent with the South Coast Air Quality

Management District (SCAQMD) 2016 Air Quality Management Plan (2016 AQMP), because buildout under the plan would exceed the population estimates assumed for the 2016 AQMP and would cumulatively contribute to the nonattainment designations of the South Coast Air Basin (Basin). No mitigation measures were available that would reduce impacts associated with the inconsistency with the 2016 AQMP, and impacts were determined to remain significant and unavoidable. Overriding considerations were prepared to support approval of the Housing Element Update notwithstanding the remaining significant impacts.

Project

The project is located within the Basin, which is under the jurisdiction of the SCAQMD. The Air Quality and Greenhouse Gas Analysis prepared for the project evaluated the project's consistency with the 2016 AQMP (Appendix C). Consistent with the 2021 FEIR, the project would require a General Plan amendment to change the land use designation from Regional Medical Facilities (RMF) to Community Commercial (CC4) to allow for development of the senior housing complex and medical office. Therefore, growth forecasting in the 2016 AQMP for the project site was based on the existing Regional Medical Facilities (RMF) land use designation, which has a higher trip generation rate than senior housing and medical office. Based on the former hospital use, the project site was estimated to generate approximately 1,405 average daily trips (ADT). The current project would generate 1,080 ADT, which would be 325 ADT fewer than the former hospital use. Consequently, the proposed senior housing complex and medical office would generate fewer vehicle trips compared to the hospital use used for growth forecasting in the 2016 AQMP, and thereby generate fewer emissions compared to what was assumed in the 2016 AQMP. Therefore, the project would result in fewer trips than what was considered in the 2016 AQMP and would not obstruct or conflict with implementation of the Regional Air Quality Strategy (RAQS). Although the FEIR determined conflicts with the RAQS to be significant, development at this particular site would be consistent with the RAQS for the reasons discussed above. Therefore, the project would not result in any new or more severe impacts compared to the 2021 FEIR analysis.

Cumulative Net Increases of Criteria Pollutants

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could violate air quality standards. The 2021 FEIR determined that development of the Housing Sites could generate short-term emissions that would exceed the SCAQMD's significance thresholds that could cumulatively contribute to the nonattainment designations of the Basin. Although implementation of 2021 FEIR mitigation measure AQ-1 would reduce criteria air pollutant emissions from construction-related activities to the extent feasible, the 2021 FEIR determined that impacts would remain significant and unavoidable.

Project

SCAQMD has established daily emissions thresholds for construction and operation of a project in the Basin. The emissions thresholds were established based on the attainment status of the Basin with regard to air quality standards for specific criteria pollutants. Because the concentration standards were set at a level that protects public health with an adequate margin of safety, these

emissions thresholds are regarded as conservative and would overstate an individual project's contribution to health risks.

Construction and operation air emissions were calculated using California Emissions Estimator Model (CalEEMod). Table 1 presents the total projected construction maximum daily emission levels for each criteria pollutant and compares emissions to the SCAQMD regional significance thresholds. As shown in Table 1, maximum daily construction emissions for each separate phase of construction of the project would not exceed the daily SCAQMD regional thresholds for all criteria pollutants. In addition to the construction period thresholds of significance, the project is required to comply with regional rules that assist in reducing short-term air pollutant emissions. SCAQMD Rule 403 requires that fugitive dust be controlled with best-available control measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. In addition, SCAQMD Rule 403 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance off-site.

Table 1 Project Construction Emissions in Pounds Per Day						
Project Construction	Maximum Pollutant Emissions (lbs/day)					
	VOC	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
Demolition	0.7	15.2	17.7	<0.1	2.4	0.9
Site Preparation and Grading	0.9	22.7	23.2	0.1	7.8	4.1
Building Construction	1.1	10.2	18.2	0.1	3.4	1.3
Architectural Coating	9.5	1.4	3.2	<0.1	0.6	0.2
Paving	1.3	11.3	17.7	<0.1	0.8	0.7
Maximum (lbs/day)	11.9	22.7	39.1	0.1	7.8	4.4
SCAQMD Thresholds	75.0	100.0	550.0	150	150.0	55.0
Exceeds Thresholds?	No	No	No	No	No	No
SOURCE: Appendix C.						
NOTE: Maximum emissions of volatile organic compounds and carbon monoxide occurred during the overlapping building construction, architectural coating, and paving phases.						
CO = carbon monoxide			PM ₁₀ = particulate matter less than 10 microns in size			
lbs/day = pounds per day			SCAQMD = South Coast Air Quality Management District			
NO _x = nitrogen oxides			SO _x = sulfur oxides			
PM _{2.5} = particulate matter less than 2.5 microns in size			VOC = Volatile organic compounds			

Table 2 presents the total projected operational emissions generated by the project. As shown in Table 2, operational emissions would not exceed any of the SCAQMD's regional thresholds for criteria pollutants.

Table 2 Project Operational Emissions in Pounds Per Day						
Source	Pollutant Emissions (lbs/day)					
	VOC	NO _x	CO	SO _x	PM ₁₀	PM _{2.5}
Area Sources	6.7	4.0	22.2	<0.1	0.4	0.4
Energy Sources	0.1	0.7	0.3	<0.1	0.1	0.1
Mobile Sources	2.8	2.9	27.2	0.1	7.4	2.0
Total Project Emissions	9.5	7.6	49.7	0.1	7.9	2.6
SCAQMD Thresholds	55.0	55.0	550.0	150.0	150.0	55.0
Exceeds Thresholds?	No	No	No	No	No	No

SOURCE: Appendix C.
 NOTE: Values may not add correctly due to rounding.
 CO = carbon monoxide
 lbs/day = pounds per day
 NO_x = nitrogen oxides
 PM_{2.5} = particulate matter less than 2.5 microns in size
 PM₁₀ = particulate matter less than 10 microns in size
 SCAQMD = South Coast Air Quality Management District
 SO_x = sulfur oxides
 VOC = Volatile organic compounds

The SCAQMD published its Final Localized Significance Threshold Methodology in July 2008, recommending that all air quality analyses include an assessment of air quality impacts to nearby sensitive receptors.¹ This guidance was used to analyze potential localized air quality impacts associated with construction of the project. Localized significance thresholds (LST) are developed based on the size or total area of the emission source, the ambient air quality in the source receptor area, and the distance to the project. Sensitive receptors include residences, schools, hospitals, and similar uses that are sensitive to adverse air quality.

LSTs are based on the ambient concentrations of that pollutant within the project Source Receptor Area (SRA) and the distance to the nearest sensitive receptor. For the project, the appropriate SRA for the LST is the nearby Capistrano Valley area (SRA 21). SCAQMD provides LST screening tables for 25, 50, 100, 200, and 500-meter source-receptor distances. As identified above, the closest sensitive receptors to the project site are the San Clemente Villas by the Sea, which are adjacent to the project site. In cases where receptors may be closer than 82 feet (25 meters), any distances within the 82-foot (25-meter) buffer zone can be used. As such, the minimum distance of 82 feet was used. Based on the anticipated construction equipment, it is assumed that the maximum daily disturbed acreage for the project would be 2.5 acres.²

Project construction and operation emissions were compared to the LST screening tables in SRA 21, based on a 25-meter source-receptor distance and a disturbed acreage of 2.5-acres. Table 3 compares construction emissions to the recommended LST thresholds. As shown in Table 3, construction emissions would not exceed any of the SCAQMD LST thresholds. Table 4 compares

¹South Coast Air Quality Management District. 2008b. *Final Localized Significance Threshold Methodology*. July.

²South Coast Air Quality Management District. n.d. *Fact Sheet for Applying CalEEMod to Localized Significance Thresholds*. Website: <http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/caleemod-guidance.pdf> (accessed July 2022).

operational emissions to the LST thresholds. As shown in Table 4, operational emissions would not exceed any of the SCAQMD LST thresholds.

Table 3 Project Localized Construction Emissions in Pounds Per Day				
Source	NO _x	CO	PM ₁₀	PM _{2.5}
On-Site Project Emissions	17.1	21.2	6.9	3.8
Localized Significance Threshold	142.0	1,128.0	7.0	4.7
Exceeds Threshold?	No	No	No	No
SOURCE: Appendix C. NOTE: Source Receptor Area 21, based on a 2.5-acre construction disturbance daily area, at a distance of 25 meters from the project boundary. CO= carbon monoxide PM _{2.5} = particulate matter less than 2.5 microns in size NO _x = nitrogen oxides PM ₁₀ = particulate matter less than 10 microns in size				

Table 4 Project Localized Operational Emissions in Pounds Per Day				
Source	NO _x	CO	PM ₁₀	PM _{2.5}
On-Site Project Emissions	4.1	23.6	<1.0	<1.0
Localized Significance Threshold	142.0	1,128.0	2.2	1.2
Exceeds Threshold?	No	No	No	No
SOURCE: Appendix C. NOTE: Source Receptor Area 21, based on a 2.5-acre construction disturbance daily area, at a distance of 25 meters from the project boundary. CO= carbon monoxide PM _{2.5} = particulate matter less than 2.5 microns in size NO _x = nitrogen oxides PM ₁₀ = particulate matter less than 10 microns in size				

Construction and operation of the project would not exceed SCAQMD thresholds related to construction or operational emissions. As shown in Tables 3 and 4, project specific construction and operational emissions would not exceed the LSTs. Therefore, the project would not result in a new or substantially greater cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment, and impacts would be less than significant. No new impact would occur.

Sensitive Receptors

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could generate substantial pollutant concentrations. The 2021 FEIR determined that development of the Housing Sites would not result in a carbon monoxide (CO) hot spot or expose sensitive receptors to TACs from construction activities, stationary sources, or mobile sources, and impacts would be less than significant.

Project

The Air Quality and Greenhouse Gas Analysis prepared for the project evaluated the project's potential to generate CO hotspots or generate health risks on nearby sensitive receptors (see Appendix C).

CO Hot Spot Analysis

Vehicular trips associated with the project would contribute to congestion at intersections and along roadway segments in the project vicinity. The primary mobile-source pollutant of local concern is CO, a direct function of vehicle idling time, and therefore of traffic flow conditions. CO transport is extremely limited; under normal meteorological conditions, CO disperses rapidly with distance from the source. However, under certain extreme meteorological conditions, CO concentrations near a congested roadway or intersection may reach unhealthful levels, affecting local sensitive receptors (e.g., residents, schoolchildren, the elderly, and hospital patients). Typically, high CO concentrations are associated with roadways or intersections operating at unacceptable levels of service or with extremely high traffic volumes. In areas with high ambient background CO concentrations, modeling is recommended to determine a project's effect on local CO levels.

An assessment of project-related impacts on localized ambient air quality requires that future ambient air quality levels be projected. Existing CO concentrations in the immediate project vicinity are not available. Ambient CO levels monitored at the Mission Viejo station (the closest stations to the project site) showed a highest recorded 1-hour concentration of 1.7 peak particulate matter (ppm; the State standard is 20 ppm) and a highest 8-hour concentration of 0.9 ppm (the State standard is 9 ppm) during the past 3 years. The highest CO concentrations would normally occur during peak traffic hours; hence, CO impacts calculated under peak traffic conditions represent a worst-case analysis.

The Air Quality and Greenhouse Gas Analysis documented that the project would generate 73 AM peak-hour trips and 92 PM peak-hour trips. The level of service evaluation completed in the Transportation Impact Analysis determined that the addition of the project traffic would not create any significant adverse impacts to nearby intersections (LSA 2022). Given the extremely low level of CO concentrations in the project area, and that the project would not result in any impacts related to LOS, project-related vehicles are not expected to contribute significantly to result in the CO concentrations exceeding the State or federal CO standards. The project would not result in a new or substantially greater CO concentration levels than previously analyzed, and impacts would be less than significant. No new or more severe impacts would occur compared to the 2021 FEIR.

Health Risk on Nearby Sensitive Receptors

Sensitive receptors are defined as people that have an increased sensitivity to air pollution or environmental contaminants. Sensitive receptor locations include schools, parks and playgrounds, day care centers, nursing homes, hospitals, and residential dwelling units. Land uses adjacent to the project site include residential and commercial uses. The nearby sensitive receptors to the project area include the residential area of San Clemente Villas by the Sea, which are located adjacent to the southeastern project boundary.

Construction of the project may expose surrounding sensitive receptors to airborne particulates and a small quantity of construction equipment pollutants (i.e., usually diesel-fueled vehicles and equipment). However, construction contractors would be required to implement measures to reduce or eliminate emissions by following SCAQMD rules for standard construction practices. As shown in Tables 1 through 4 above, the project would not exceed any of the local or regional emissions thresholds during construction or operation. Therefore, the project would not expose sensitive receptors to new or substantially greater pollutant concentrations than previously analyzed, and impacts would be less than significant. No new impact would occur.

Odors

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could generate odors. The 2021 FEIR determined that construction of the Housing Sites would generate emissions, such as diesel exhaust, and volatile organic compounds from architectural coatings and paving activities may generate odors; however, these odors would be temporary, intermittent, and not expected to affect a substantial number of people. Additionally, noxious odors would be confined to the immediate vicinity of construction equipment. By the time such emissions reach a receptor (e.g., people in residential units, day care centers, schools, nursing homes, etc.), they would be diluted to well below any level of air quality concern, and impacts would be less than significant. Once operational, the Housing Sites would not be a source of objectionable odors, and impacts would be less than significant.

Project

Odors associated with the project would be the same as that analyzed in the 2021 FEIR. During project construction, some odors may be present due to diesel exhaust. However, these odors would be temporary and limited to the construction period. Operation of the project would not include any activities or operations that would generate objectionable odors. Therefore, the project would not result in new or substantially greater impacts related to odors compared to the 2021 FEIR.

15.4 Biological Resources

Sensitive Species

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could impact any sensitive species. The 2021 FEIR determined that some of the Housing Sites would have the potential to impact sensitive species, which would be considered a significant impact. The 2021 FEIR found that implementation of the City's General Plan Mitigation Monitoring Program for future discretionary development, and implementation of 2021 FEIR Mitigation Framework BIO-1 for ministerial development, would reduce impacts to a level less than significant.

Project

Consistent with the City's General Plan Mitigation Monitoring Program (Measure 3-1) which was incorporated by reference into the 2021 FEIR, a Biology Assessment was completed for the project that included a literature review to assist in determining the existence or potential occurrence of sensitive plant and animal species on the project site (Appendix D). Database records for the San Clemente, and Dana Point, California United States Geological Survey 7.5-minute quadrangles were reviewed on August 1, 2022, using the California Department of Fish and Wildlife's California Natural Diversity Database and the California Native Plant Society Electronic Inventory. On May 9, 2022, LSA Biologists Leo Simone and Heather Monteleone conducted a general evaluation of the biological resources within and immediately adjacent to the project site to evaluate the existing conditions in the designated project area and to identify any existing or potential biological resource issues that would require additional study.

Vegetation within the immediate vicinity of project consists of non-native ornamental, all derived from commercial nursery stock. No native vegetation was observed on, or within, the immediate vicinity of the project site. The lack of native habitat is typical of urban land uses, and there is no high value habitat within or directly adjacent to the project site. The habitat of existing urban development is indicated by the low diversity of faunal species. The nearest native vegetation that would be considered high value habitat is more than three miles from the project site. Therefore, the project would not result in the loss of sensitive habitat or any special-status species. However, ornamental vegetation may provide nesting habitat for migratory birds protected under the federal Migratory Bird Treaty Act (MBTA). Consequently, vegetation removal during the avian nesting period, which typically extends between February and September would have the potential to impact nesting migratory birds protected under the MBTA, which would be considered a significant impact. Implementation of mitigation measure MM-BIO-1 would reduce impacts related to nesting migratory birds to a level less than significant. Mitigation measure MM-BIO-1 is consistent with the requirements of Measure 3-1 listed in the City's General Plan Mitigation Monitoring Program, which was incorporated by reference into the 2021 FEIR. Therefore, the project would not have a new or substantially greater adverse effect on any sensitive species than previously analyzed, and impacts would be less than significant. The 2021 FEIR Mitigation Framework BIO-1 would not apply to this project, as it is not being processed ministerially. No new impact would occur.

Mitigation Measures

MM-BIO-1: Nesting Migratory Birds

No direct impacts shall occur to any nesting birds, their eggs, chicks, or nests during the breeding season. If vegetation removal activities must occur during the bird breeding season of February 1 to September 15, then a pre-construction survey would be necessary to confirm the presence or absence of breeding birds within the temporary parking lot. If nests or breeding activities are located on-site, then an appropriate buffer area around the nesting site shall be maintained until the young have fledged. The width of the buffer would be determined by a qualified biologist and biological monitoring would be required during construction. If no nesting birds are detected during the pre-construction survey, no avoidance measures would be required.

Sensitive Vegetation Communities

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could impact riparian habitat or other sensitive natural communities. The 2021 FEIR determined that some sites proposed for development under the Housing Element Update would have the potential to impact riparian habitat or other sensitive natural communities, which would be considered a significant impact. The 2021 FEIR found that implementation of the City's General Plan Mitigation Monitoring Program for future discretionary development, and implementation of PEIR Mitigation Framework BIO-1 for ministerial development, would reduce impacts to a level less than significant.

Project

The project site is fully developed and does not possess any natural habitat, including riparian habitat. Therefore, the project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community than previously analyzed. Mitigation measure BIO-1 would not apply to this project as it is not being processed ministerially. No new impact would occur.

Wetlands

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could impact wetlands. The 2021 FEIR determined that some sites proposed for development under the Housing Element Update would have the potential to impact wetlands, which would be considered a significant impact. The 2021 FEIR found that implementation of the City's General Plan Mitigation Monitoring Program for future discretionary development, and implementation of 2021 FEIR Mitigation Framework BIO-2 for ministerial development, would reduce impacts to a level less than significant.

Project

The project site is fully developed and does not possess any federally protected wetlands, and no wetlands are located within proximity to the project site. Therefore, the project would not have a new or substantially greater adverse effect on state or federally protected wetlands than previously analyzed. Mitigation measure BIO-2 would not apply to this project as it is not being processed ministerially. No new impact would occur.

Wildlife Corridors

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could impact wildlife corridors or wildlife nursery sites. The 2021 FEIR determined that some sites proposed for development under the Housing Element Update would have the potential to impact wildlife corridors or wildlife nursery sites, which would be

considered a significant impact. The 2021 FEIR found that implementation of the City's General Plan Mitigation Monitoring Program for future discretionary development, and implementation of 2021 FEIR Mitigation Framework BIO-1 for ministerial development, would reduce impacts to a level less than significant.

Project

As described above, no native vegetation was observed on, or within, the immediate vicinity of the project site. The lack of native habitat is typical of urban land uses, and there is no high value habitat within or directly adjacent to the project site. The Biological Assessment determined there is no evidence that wildlife movement occurs within the project site, and the faunal carrying capacity is expected to be very low due to the project location and proximity to surrounding commercial development. As described above, vegetation removal during the avian nesting period, which typically extends between February and September would have the potential to impact nesting migratory birds protected under the MBTA, which would be considered a significant impact. Implementation of mitigation measure MM-BIO-1 described above would reduce impacts related to nesting migratory birds to a level less than significant. Mitigation measure MM-BIO-1 would be consistent with the requirements of Measure 3-1 listed in the City's General Plan Mitigation Monitoring Program, which is consistent with the requirements of the 2021 FEIR. Therefore, the project would not have a new or substantially greater adverse effect on wildlife corridors than previously analyzed. The 2021 FEIR Mitigation Framework BIO-1 would not apply to this project as it is not being processed ministerially. No new impact would occur.

Habitat Conservation Planning

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could conflict with the provisions of an adopted Habitat Conservation Plan (HCP), Natural Community Conservation Plan. The City is one of the signatories of the Southern Orange County Subregional HCP, but is not a participant receiving regulatory coverage for impacts to covered species. The 2021 FEIR determined that none of the Housing Sites are located within the HCP Reserve area which represents the areas needed for conservation to achieve the goals of the HCP. Therefore, the 2021 FEIR found that development at the Housing Sites would not conflict with the Southern Orange County Subregional HCP, and impacts would be less than significant.

Project

The project site is not located within HCP Reserve area which represents the areas needed for conservation to achieve the goals of the HCP. Therefore, the project would not result in a new or substantially greater conflict with the Southern Orange County Subregional HCP than previously analyzed. No new impact would occur.

Policies and Ordinances Protecting Biological Resources

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could conflict with any local policies or ordinances protecting biological resources. The 2021 FEIR determined that future discretionary development on Housing Sites would undergo an environmental review and would be subject to site specific mitigation measures to ensure impacts to biological resources are reduced to less than significant. Additionally, for future development that may proceed with a ministerial approval, implementation of 2021 FEIR Mitigation Framework BIO-1 and BIO-2 would ensure that the City applies applicable objective development standards to ensure consistency with City policies for the protection of biological resources. Therefore, the 2021 FEIR found that impacts related to policy and ordinance compliance To be

Project

The project would be required to be consistent with all relevant SCMC regulations and General Plan policies. An Arborist Report documented that the project site currently possesses 175 ornamental landscape trees, 77 of which are in good condition, 69 are in fair condition, and 29 are in poor condition. All the tree species found on-site are common non-native ornamental landscape trees that are readily available at commercial nurseries. Most of the trees are growing in less-than-optimal conditions, and none would be required to be preserved on-site. As described in above, impacts to all other biological resources would be less than significant or mitigated to a level less than significant. Therefore, the project would not conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance, to any greater degree than previously analyzed and impacts would be less than significant. The 2021 FEIR Mitigation Framework BIO-1 and BIO-2 would not apply to this project as it is not being processed ministerially. No new impact would occur.

15.5 Cultural Resources

Historic Resources

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could impact historic resources. The 2021 FEIR determined that adherence to applicable requirements of the City's Design Guidelines, Henry Lenny Architectural Design Guidelines, Architectural Overlay District and the SCMC would ensure impacts related to historic resources for both ministerial and discretionary projects developed under the Housing Element Update would be less than significant.

Project

Consistent with the City's General Plan Mitigation Monitoring Program (Measure 4-1) which was incorporated by reference into the 2021 FEIR, a Cultural Resources Records Search Results was completed for the project (Appendix E). This report included completion of a records search for the

project at the South Central Coastal Information Center (SCCIC) that identified two thematic historic districts, the Spanish Colonial Revival Thematic Historic District and the Ole Hanson/Spanish Village by the Sea Thematic Historic District (see Appendix E). However, thematic historic districts consist of a group of resources linked together by a specific set of characteristics rather than cluster of resources located within a specific geographic region. Consequently, these thematic historic districts are noncontiguous and consist of various resources scattered throughout the City. There are no designated historic buildings associated with these thematic historic districts, or any other designated historic resources, located within or near the project site. Furthermore, the vacant hospital facility and supporting structures onsite that would be demolished do not qualify as historic resources. Therefore, the project would not cause a new or substantially greater adverse change in the significance of an historical resource pursuant to §15064.5 than previously analyzed. No new impact would occur.

Archaeological Resources

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could impact archaeological resources. The 2021 FEIR determined that some sites proposed for development under the Housing Element Update would have the potential to encounter subsurface archaeological deposits, which could be considered a significant impact. The 2021 FEIR found that implementation of the City's General Plan Mitigation Monitoring Program for future discretionary development, and implementation of 2021 FEIR Mitigation Framework CUL-1 for ministerial development, would reduce impacts to a level less than significant.

Project

The Cultural Resources Records Search Results completed for the project at the SCCIC determined that 11 previous studies had been completed within one mile of the project site, two of which included portions of the project site. No previously identified archaeological resources were identified within the project site. However, the record search identified an expansive (15,600-square-meter) prehistoric artifact scatter was identified approximately 0.18-mile south of the project site. Furthermore, the prehistoric artifact scatter is located approximately 0.65 mile from the shoreline within the coastal corridor of a dense prehistoric habitation. Therefore, the presence of the prehistoric artifact scatter may be an indication that the project site may have moderate sensitivity for the presence of archaeological resources, which would be considered a significant impact. Implementation of the MM-CUL-1 would reduce impacts related to archaeological resources to a level less than significant. Mitigation measure MM-CUL-1 is consistent with the requirements of Measure 4-1 listed in the City's General Plan Mitigation Monitoring Program, which was incorporated by reference into the 2021 FEIR. Therefore, the project would not cause a new or substantially greater substantial adverse change in the significance of an archeological resource pursuant to §15064.5 than previously analyzed.

Mitigation Measures

MM-CUL-1: Archaeological Monitoring

A qualified archaeologist shall be retained for the project to conduct the following monitoring activities during construction:

- a. An archaeologist shall be on call during grading and other significant ground-disturbing activities.
- b. Should any cultural/scientific resources be discovered, no further grading shall occur in the area of the discovery until the Community Development Director concurs in writing that adequate provisions are in place to protect these resources.
- c. Unanticipated discoveries shall be evaluated for significance by an Orange County Certified Professional Archaeologist. If significance criteria are met, then the project shall be required to perform data recovery, professional identification, radiocarbon dates as applicable, and other special studies; submit materials to the California State University Fullerton or local archival facility, where available; and provide a comprehensive final report including appropriate records for the California Department of Parks and Recreation (Building, Structure, and Object Record; Archaeological Site Record; or District Record, as applicable).

Human Remains

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could impact human remains. The 2021 FEIR determined that in the unlikely event that human remains are discovered during future development at Housing Sites, adherence to California Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98, the California Native American Graves Protection and Repatriation Act (2001), the federal Native American Graves Protection and Repatriation Act (1990), as well as AB 52 early consultation requirements, would ensure that impacts would be less than significant.

Project

In the event human remains are encountered, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be Native American, the County Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD will have the opportunity to offer recommendations for the disposition of the remains. Adherence to these requirements is consistent with the 2021 FEIR analysis and would ensure no new or more substantial impacts on human remains would occur than previously analyzed in the 2021 FEIR.

Tribal Cultural Resources

2021 FEIR

As part of the 2021 FEIR, the City consulted with Native American Tribes. Although the City did not receive any requests for consultation or comments, the potential to uncover buried tribal cultural resources exists where development would disturb native soils. Therefore, the FEIR found that the potential for direct and/or indirect impacts to existing tribal cultural resources would be potentially significant.

Project

The City received one request for consultation on the subject Senior Housing and Medical Office project. The tribe has requested Native American monitoring during all ground disturbing activities. However, implementation of MM-CUL-1 described above would ensure that a Native American monitor would be present during all ground disturbing activities. No changes to the project evaluated in the 2021 FEIR are proposed that would affect conclusions related to tribal cultural resources.

15.6 Energy

Wasteful, Inefficient, or Unnecessary Consumption of Energy

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that would not result in any physical development that would consume energy. The 2021 FEIR determined that there are no conditions in the project areas of the Housing Sites that would require non-standard equipment or construction practices that would increase fuel-energy consumption above typical rates. Consistent with state requirements, all construction equipment would meet California Air Resources Board (CARB) Tier 3 In-Use Off-Road Diesel Engine Standards. Development of the Housing Sites would not result in any unusual characteristics that would result in excessive long-term operational building energy demand. Therefore, the 2021 FEIR found that the Housing and Safety Elements Update would not result in potentially significant environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources, and impacts would be less than significant.

Project

Construction-Related Energy Use

During construction, energy use would occur in two general categories: fuel use from vehicles used by workers commuting to and from the construction site, and fuel use by vehicles and other equipment to conduct construction activities. The construction equipment and worker trips required for the project were determined as a part of the Air Quality and Greenhouse Gas (GHG) Analysis prepared for the project (see Appendix C). Heavy-duty construction equipment is usually diesel powered.

Project construction activities would temporarily contribute additional vehicle trips on the local circulation system, and would generate up to 233 daily worker trips during an approximately 20-month period. Demolition hauling would generate up to 285 vehicle trips, soil hauling would generate up to 1,347 vehicle trips, and deliveries of construction materials would periodically generate up to 48 additional vehicle trips. Fuel consumption associated with on-road worker trips and delivery trips were calculated using the total trips, trip lengths calculated in the Air Quality and GHG Analysis, and EMFAC2021 fuel consumption rates (Appendix F). Fuel consumption associated with on-site construction equipment was calculated using the equipment quantities and phase lengths calculated in the Air Quality and GHG Analysis and CARB OFF-ROAD model (see Appendix F). Off-site and on-site fuel consumption that would occur over the entire construction period is summarized in Tables 5 and 6, respectively.

Table 5 Off-site Construction Vehicle Fuel Consumption				
Trip Type	Total Vehicle Miles Traveled	Total Fuel Consumption (gallons)		Electricity Consumption
		Gasoline	Diesel	kWh
Workers	1,380,845	49,483	1,231	196,673
Hauling	32,640	--	194,428	--
Deliveries	331	--	1,973	--
Total	1,413,816	49,483	197,632	196,673

Table 6 On-site Construction Equipment Fuel Consumption					
Phase	Phase Length (Days)	Equipment	Amount	Total Usage Hours	Total Diesel Fuel Consumption (gallons)
Demolition	20	Concrete Industrial Saws	1	160	221
		Excavator	1	160	501
		Rubber Tired Dozers	2	320	1,641
Site Preparation and Grading	35	Rubber Tired Dozers	2	560	2,871
		Tractors/Loaders/Backhoes	2	560	1,048
		Excavator	1	280	877
		Grader	1	280	1,114
Building Construction	360	Crane	1	2,520	8,680
		Forklifts	3	8,640	8,076
		Tractors/Loaders/Backhoes	3	7,560	14,147
Paving	10	Paver	2	160	446
		Paving Equipment	2	160	389
		Rollers	2	160	255
Architectural Coatings	180	Air Compressor	1	1,080	1,103
Total					39,500

Consistent with federal requirements, all equipment was assumed to meet CARB Tier 3 In-Use Off-Road Diesel Engine Standards. There are no known conditions in the project area that would require nonstandard equipment or construction practices that would increase fuel-energy consumption above typical rates. Therefore, the project would not result in the use of excessive amounts of fuel or other forms of energy during construction greater than previously analyzed, and impacts would be less than significant during construction. No new impacts would occur.

Operation-Related Energy Use

During operation, energy use would be associated with transportation-related fuel use (gasoline, diesel fuel, and electric vehicles), and building-related energy use (electricity and natural gas).

Transportation-Related Energy Use

Buildout of the project and occupation by residents would result in transportation energy use. Trips by individuals traveling to and from the project site would result from use of passenger vehicles or public transit. Passenger vehicles would be mostly powered by gasoline, with some fueled by diesel or electricity. Public transit would be powered by diesel or natural gas, and could potentially be fueled by electricity. The project is anticipated to generate 1,080 daily trips. Vehicle emission factors and fleet mix were based on regional averages from the CARB Emission Factors 2021 model. Based on CalEEMod Air Quality and GHG Analysis, the project would generate 3,468,235 annual vehicle miles traveled (VMT) which equals approximately 9,502 daily VMT. Total gasoline and diesel fuel consumption was calculated using EMFAC2021 fuel consumption rates and fleet data for light duty autos, light duty trucks, light heavy duty trucks, and motorcycles. The results are summarized in Table 7.

Table 7 Vehicle Fuel/Electricity Consumption					
	Gasoline	Diesel	Electric	Plug-In Hybrid	Total
VMT	8,974	187	403	196	9,760
Fuel Consumed (gallons)	256,891	4,208	0	11,860	272,958
Electricity Consumer (kWh)	0	0	1,042	648	1,690
kWh = kilowatt hour.					

The Orange County Transit Authority Bus Route 1 runs along Camino de los Mares immediately adjacent to the project site. This route operates between San Clemente and Long Beach and connects to the San Clemente Metrolink Station. The proximity of regional shopping and local bus routes would help reduce VMT generated by the project. In addition, project fuel consumption would decline over time beyond initial operational year of the project as a result of continued implementation of increased federal and state vehicle efficiency standards. There is no component of the project that would result in unusually high vehicle fuel use during operation. As such, operation of the project would not create a land use pattern that would result in new or substantially greater wasteful, inefficient, or unnecessary use of energy than previously analyzed, and impacts would be less than significant. No new impact would occur.

Non-Transportation-Related Energy Use

Non-transportation energy use would be associated with electricity and natural gas. The Renewables Portfolio Standard (RPS) promotes diversification of the state's electricity supply and decreased reliance on fossil fuel energy sources. Renewable energy includes (but is not limited to) wind, solar, geothermal, small hydroelectric, biomass, anaerobic digestion, and landfill gas. Originally adopted in 2002 with a goal to achieve a 20 percent renewable energy mix by 2020 (referred to as the "Initial RPS"), the goal has been accelerated and increased by Executive Orders (EOs) S-14-08 and S-21-09 to a goal of 33 percent by 2020. In April 2011, SB 2 (1X) codified California's 33 percent RPS goal. SB 350 (2015) increased California's renewable energy mix goal to 50 percent by year 2030. SB 100 (2018) further increased the standard set by SB 350 establishing the RPS goal of 44 percent by the end of 2024, 52 percent by the end of 2027, and 60 percent by 2030. Once operational, the project would be served by San Diego Gas & Electric (SDG&E). As of 2020, SDG&E had a 39 percent procurement of renewable energy (CPUC 2021).

The California Code of Regulations, Title 24, is referred to as the California Building Code. It consists of a compilation of several distinct standards and codes related to building construction, including plumbing, electrical, interior acoustics, energy efficiency, handicap accessibility, and so on. Of particular relevance to GHG reductions are the California Building Code's energy efficiency and green building standards as outlined below.

Title 24, Part 11 of the California Code of Regulations is CALGreen. Beginning in 2011, CALGreen instituted mandatory minimum environmental performance standards for all ground-up new construction of commercial and low-rise residential buildings, state-owned buildings, schools, and hospitals. It also includes voluntary tiers (I and II) with stricter environmental performance standards for these same categories of residential and non-residential buildings. Local jurisdictions must enforce the minimum mandatory requirements and may adopt CALGreen with amendments for stricter requirements.

The project would, at a minimum, be required to comply with the mandatory measures included in the current 2019 Energy Code (California Code of Regulations, Title 24, Part 6) and the 2019 CALGreen standards. The mandatory standards require:

- Solar on single- and multi-family residential buildings
- Outdoor water use requirements as outlined in local water efficient landscaping ordinances or current Model Water Efficient Landscape Ordinance standards, whichever is more stringent;
- Requirements for water conserving plumbing fixtures and fittings;
- 65 percent construction/demolition waste diverted from landfills;
- Inspections of energy systems to ensure optimal working efficiency;
- Low-pollutant emitting exterior and interior finish materials such as paints, carpets, vinyl flooring, and particle boards;
- Dedicated circuitry to facilitate installation of electric vehicle charging stations in newly constructed attached garages for single-family and duplex dwellings; and

- Installation of electric vehicle charging stations for at least three percent of the parking spaces for all new multi-family developments with 17 or more units.

Similar to the compliance reporting procedure for demonstrating Energy Code compliance in new buildings and major renovations, compliance with the CALGreen operational water reduction requirements must be demonstrated through completion of water use reporting forms for new low-rise residential and non-residential buildings. The water use compliance form must demonstrate a 20 percent reduction in indoor water use by either showing a 20 percent reduction in the overall baseline water use as identified in CALGreen or a reduced per-plumbing-fixture water use rate.

Electricity and natural gas service to the project site is provided by SDG&E. Once operational, the proposed residential units would use electricity and natural gas to run various appliances and equipment, including space and water heaters, air conditioners, ventilation equipment, lights, and numerous other devices. Generally, electricity use is higher in the warmer months due to increased air conditioning needs, and natural gas use is highest when the weather is colder as a result of high heating demand. As a part of the Air Quality and GHG Analysis prepared for the project (see Appendix C), CalEEMod was used to estimate the total operational electricity and natural gas consumption associated with the project. Table 8 summarizes the anticipated operational energy and natural gas use.

Table 8 Operational Electricity and Natural Gas Use	
	Total Use
Electricity	1,103,313 kWh/Year
Natural Gas	2,855,275 kBTU/Year
kWh = kilowatt hour; kBTU = 1,000 British thermal units	

Buildout of the project would result in an increase of operational electricity and natural gas usage when compared to the existing condition. The project would be required to meet the mandatory energy requirements of 2019 CALGreen and the California Energy Code (Title 24, Part 6 of the California Code of Regulations) and would benefit from the efficiencies associated with these regulations as they relate to building heating, ventilating, and air conditioning mechanical systems, water-heating systems, and lighting. The project would include solar panels. Further, electricity would be provided to the project by SDG&E, which currently has an energy mix that includes 39 percent renewables and is on track to achieve 60 percent by 2030 as required by RPS. Therefore, there are no project features that would result in new or a substantially greater use of excessive amounts of energy compared to what was evaluated in the FEIR. The project would not create unnecessary energy waste, or conflict with any adopted plan for renewable energy efficiency. New or more severe energy impacts would not occur. No new impact would occur.

Conflict with State or Local Energy Plans

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that would not result in any physical development that would consume energy. Future development associated with implementation of residential development at the Housing Sites would be subject to compliance

with the California Building Code (Title 24) which aims to reduce excessive and inefficient energy use. By locating housing at existing retail sites and developing retail uses along with multi-family residential uses on the potential Housing Sites, non-commute vehicle trips would be reduced. Future discretionary development would be reviewed for conformance with Mobility and Complete Streets Element policies that are intended to reduce VMT throughout the City. Furthermore, future development would, at a minimum, be required to comply with the mandatory measures included in the current 2019 Energy Code (California Code of Regulations, Title 24, Part 6) and the 2019 CALGreen standards. Therefore, the 2021 FEIR found that the Housing and Safety Elements Update would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency, and impacts would be less than significant.

Project

The applicable State plans that address renewable energy and energy efficiency are CALGreen, the California Energy Code, and RPS. As discussed above, the project would be required to meet the mandatory energy requirements of 2019 CALGreen and the 2019 California Energy Code. Therefore, the project would not result in new or substantially greater impacts related to conflicts with energy plans compared to the FEIR. The project would comply with all aspects of CALGreen and the California Energy Code. No new or more severe impacts would result compared to the FEIR.

15.7 Geology and Soils

Seismic Hazards and Unstable Geology

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that would not result in any physical development that that could be affected by seismic ground shaking, ground rupture, unstable soils, liquefaction, landslide, or collapse. The 2021 FEIR determined that adherence to regulatory requirements including the California Building Code (CBC) and SCMC requirements for soils engineering/ engineering geology reports and erosion control plans would ensure that development of the Housing Sites would not cause substantial adverse effects associated with seismic hazards and unstable geology, and impacts would be less than significant.

Project

No project changes have been identified that would affect the conclusion of the FEIR related to seismic hazards and unstable geology. As described in the Geologic and Seismic Hazards Review completed for the project (Appendix G), the project would be designed in accordance with all applicable current codes and standards utilizing the appropriate seismic design parameters to reduce seismic risk as defined by California Geological Survey (CGS) Chapter 2 of Special Publication 117a (CGS 2008), and the 2019 edition of the CBC, or the most current edition of the code at the time of project construction. The project would be required to comply with the SCMC.

The Geologic and Seismic Hazards Review completed for the project determined that the project site is not located within a liquefaction hazard zone based on the Seismic Hazard Zone Map for the Orange Quadrangle, nor is the site underlain by shallow groundwater or near-surface deposits of

non-cohesive soils prone to liquefaction. Therefore, the project would not cause new or substantially greater adverse effects involving liquefaction than previously analyzed.

The site is flat and mostly would not be susceptible to landslide except the southwestern portion of the project site may be susceptible to landslide. The project would implement the use of shear keys, flattening of the existing slope gradients, or assignments of structural setbacks behind top of slope areas in order to avoid landslides. Through these measures the project would ensure protection against landslides. The project would not cause new or substantially greater adverse effects involving strong seismic ground shaking, unstable geology, landslides, liquefaction or collapse than previously analyzed, and impacts would be less than significant. No new impact would occur.

Soil Erosion

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that would not result in any physical development that could cause soil erosion. The 2021 FEIR determined that adherence to regulatory requirements including preparation of a storm water pollution prevention plan (SWPPP) and SCMC Chapter 15.36 (Grading Ordinance) would ensure that both future ministerial and discretionary development within the Housing Sites would not result in substantial soil erosion or the loss of topsoil, and impacts would be less than significant.

Project

The Preliminary Water Quality Management Plan (Appendix H) completed for the project identifies potential best management practices (BMPs) to be included as design features to protect against soil erosion, such as temporary catchment basins and/or sandbagging which would control runoff and contain sediment transport within the project site during construction. Following completion of the project, the project site would be improved with structures, hardscape, landscaping and appropriate drainage infrastructure. Therefore, the project would not result in new or substantially greater soil erosion or loss of topsoil than previously analyzed, and impacts would be less than significant. No new impact would occur.

Expansive Soils

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that would not result in any physical development that would be susceptible to expansive soils. The 2021 FEIR determined that adherence to CBC requirements as adopted by the City (SCMC Section 15.36.180) would ensure that future ministerial and discretionary development would not create substantial direct or indirect risks associated with expansive soils, and impacts would be less than significant.

Project

The Geologic and Seismic Hazards Review completed for the project included expansion index testing of shallow soil samples that revealed a low to medium expansion potential. The report states that import material for replacement fill, if needed, should consist of soils with low expansion

potential, and implementation of standard engineering and earthwork construction practices, such as proper foundation design and controlled moisture conditioning or mixing with non-expansive soils, would reduce the risks associated with expansive soils (see Appendix G). The project would not create new or substantially greater direct or indirect risks to life or property associated with expansive soil than previously analyzed, and impacts would be less than significant. No new impact would occur.

Septic Systems

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that would not result in any physical development that would require wastewater services. The 2021 FEIR determined that none of the Housing Sites would utilize septic tanks or alternative wastewater disposal systems, and no impact would occur.

Project

The project would connect to existing wastewater services lines that traverse the project site and would not require the use of septic tanks or alternative wastewater disposal systems. No new or substantially greater impact would occur.

Paleontological Resources and Unique Geology

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that would not result in any physical development that could impact paleontological resources or unique geology. The 2021 FEIR found that implementation of the City's General Plan Mitigation Monitoring Program for future discretionary development, and implementation of 2021 FEIR Mitigation Framework PAL-1 for ministerial development, would, reduce impacts related to paleontological resources to a level less than significant.

Project

Consistent with the City's General Plan Mitigation Monitoring Program (Measure 4-2) which was incorporated by reference into the 2021 FEIR, a Paleontological Analysis was completed for the project (Appendix I). The project specific Paleontological Analysis determined that soils beneath the site consist of artificial fill and Capistrano Formation (see Appendix I). Artificial fill consists of sediments that have been removed from one location and transported to another location by human activity, rather than by natural means, and does not possess any paleontological sensitivity. The marine Capistrano Formation was deposited during the early Pliocene to late Miocene. Two facies that are distinguished by their depositional environments and corresponding compositions are located within the vicinity of the project. The turbidite facies formed in marine channel and sub-sea fan environments, and is composed of coarse-grained, poorly bedded, weakly cemented sandstone and conglomeratic sandstone. In contrast, the siltstone facies accumulated in deep shelf and slope environments and consists of white to pale gray, massive to poorly bedded, friable siltstone, mudstone, and diatomaceous shale. Only the siltstone facies are mapped within the project site. The

Capistrano Formation has produced abundant and diverse scientifically significant fossils, many of which come from the siltstone facies. Therefore, the Capistrano Foundation is considered to have high paleontological sensitivity. Although the fossil locality search did not identify any fossil localities within the boundaries of the project site, the search noted records of several fossil localities nearby from the Capistrano Formation. Therefore, project excavation within the Capistrano Foundation would have the potential to impact paleontological resources, which would be considered a significant impact, consistent with the FEIR. Implementation of mitigation measures MM-PAL-1 through MM-PAL-3 would reduce impacts related to paleontological resources to a level less than significant. Mitigation measures MM-PAL-1 through MM-PAL-3 are consistent with the requirements of Measure 4-2 listed in the City's General Plan Mitigation Monitoring Program, which was incorporated by reference into the 2021 FEIR. Therefore, the project would not cause a new or substantially greater adverse change in the significance of a unique paleontological resource or site or unique geologic feature than previously analyzed. No new or substantially more severe impact would occur.

Mitigation Measures

MM-PAL-1: Paleontological Resources Impact Mitigation Program

A paleontologist who meets the qualifications established by the Society of Vertebrate Paleontology (SVP) shall be retained to develop a Paleontological Resources Impact Mitigation Program (PRIMP) for this project. The PRIMP shall be consistent with the standards of the SVP and include the methods that will be used to protect paleontological resources that may exist within the project site, as well as procedures for monitoring, fossil preparation and identification, curation into a repository, and preparation of a report at the conclusion of grading.

MM-PAL-2: Paleontological Monitoring

Excavation and grading activities in deposits with high paleontological sensitivity (i.e., the Capistrano Formation) shall be monitored by a qualified paleontological monitor following a PRIMP. No monitoring is required for excavations in deposits with no paleontological sensitivity (i.e., Artificial Fill). If paleontological resources are encountered during the course of ground disturbance, the paleontological monitor shall have the authority to temporarily redirect construction away from the area of the find. In the event that paleontological resources are encountered when a paleontological monitor is not present, work in the immediate area of the find shall be redirected, and the paleontologist or paleontological monitor shall be contacted to assess the find for scientific significance. If determined to be scientifically significant, the fossil shall be collected from the field.

MM-PAL-3: Paleontological Resources Report

Collected resources shall be prepared to the point of identification, identified to the lowest taxonomic level possible, cataloged, and curated into the permanent collections of a museum repository. At the conclusion of the monitoring program, a report of findings shall be prepared to document the results of the monitoring program.

15.8 Greenhouse Gas Emissions

GHG Emissions

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that does not have the potential to add growth or population to the City, and therefore would not generate GHG emissions. The 2021 FEIR determined that adoption of the Housing Element sites inventory would result in an increase in GHG emissions that exceed the 2017 Scoping Plan efficiency metrics and would result in an increase in VMT, resulting in a significant impact. Although implementation of Mitigation Framework GHG-1 would support GHG reductions for future ministerial development, and despite the City's continued implementation of the City's Climate Action Plan (CAP) and Sustainability Action Plan (SAP), the 2021 FEIR found that impacts would remain significant and unavoidable.

Project

The Air Quality and Greenhouse Gas Analysis prepared for the project evaluated the potential for the project to emit GHG (see Appendix C). GHG emissions associated with the project would occur over the short-term from construction activities, consisting primarily of emissions from equipment exhaust. There would also be long-term GHG emissions associated with project-related vehicular trips. CalEEMod results were used to quantify GHG emissions generated by the project. To provide guidance to local lead agencies on determining significance for GHG emissions in their CEQA documents, SCAQMD has provided screening thresholds. Though the SCAQMD has not published a quantified threshold beyond 2020, the Air Quality and Greenhouse Gas Analysis utilized a threshold of 2,400 metric tons of carbon dioxide equivalent (CO₂e) per year or 3.8 metric tons of CO₂e per year per service population, which was calculated for the buildout year of 2025 based on the GHG reduction goals of Senate Bill (SB) 32 and Executive Order B-30-15.

Demolition and construction activities associated with the project would produce combustion emissions from various sources. During construction, GHGs would be emitted through the operation of construction equipment and from worker and builder supply vendor vehicles, each of which typically use fossil-based fuels to operate. The combustion of fossil-based fuels creates GHGs such as CO₂, CH₄, and N₂O. Furthermore, CH₄ is emitted during the fueling of heavy equipment. Exhaust emissions from on-site construction activities would vary daily as construction activity levels change.

Lead agencies are required to quantify and disclose GHG emissions that would occur during construction, and the SCAQMD requires the construction GHG emissions to be amortized over the life of the project, defined as 30 years, added to the operational emissions, and compared to the applicable interim GHG significance threshold tier. Using CalEEMod, it was estimated that the project would generate 950.8 metric tons of CO₂e during construction of the project. When annualized over the 30-year life of the project, annual emissions would be 31.7 metric tons CO₂e.

Long-term operational GHG emissions are typically associated with mobile, area, and stationary sources as well as indirect emissions from sources associated with energy consumption, waste sources, and water sources. Following guidance from the SCAQMD, GHG emissions were estimated using CalEEMod. Table 9 presents the calculated GHG emissions for the project. As shown in Table 9,

the project would generate 1,876.1 metric tons of CO₂e per year, which would be below the scaled numeric threshold of 2,400 metric tons of CO₂e per year. Therefore, the project’s contribution of GHG emissions would be below the SCAQMD threshold. Therefore, the project would not generate new or substantially greater GHG emissions than previously analyzed in the 2021 FEIR.

Table 9 Greenhouse Gas Emissions (metric tons per year)					
Emissions Source	Operational Emissions				Percentage of Total
	CO ₂	CH ₄	N ₂ O	CO ₂ e	
Area Sources	58.2	<0.1	<0.1	58.7	3
Energy Sources	422.6	<0.1	<0.1	424.5	23
Mobile Sources	1,083.6	<0.1	<0.1	1,098.6	60
Waste Sources	62.8	3.7	0.0	155.5	8
Water Sources	88.8	0.6	<0.1	107.1	6
Total Operational Emissions				1,844.4	100
Amortized Construction Emissions				31.7	-
Total Annual Emissions				1,876.1	-
SCAQMD Threshold				2,400	-
Exceeds Threshold?				No	-
SOURCE: Appendix C.					
CH ₄ = methane		N ₂ O = nitrous oxide			
CO ₂ = carbon dioxide		SCAQMD = South Coast Air Quality Management District			
CO ₂ e = carbon dioxide equivalent					

Policies, Plans and Regulations to Reduce GHG Emissions

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that does not have the potential to add growth or population to the City, and therefore would not generate GHG emissions. The 2021 FEIR determined that development of the Housing Sites would increase GHG emissions and VMT in the City. Although implementation of mitigation measure GHG-1 would support GHG reductions for future ministerial development, and despite the City’s continued implementation of the CAP and SAP, the 2021 FEIR found that impacts would remain significant and unavoidable.

Project

The City adopted a CAP in January 2014. The project would be consistent with the alternative transportation goal of the CAP by expanding pedestrian networks. The project would implement internal walkways linking the residential units with the amenity areas and surface parking areas, as well as providing connection to the Camino de los Mares parkway for access to the nearby transportation (bus stops), commercial centers, and the medical office building. This expansion of network would encourage people, including residents of the project site, to walk instead of drive. Further, the senior housing in proximity to the Medical Offices would support reductions in VMT and associated GHG emissions. Additionally, the project would be consistent with the CAP land use goal,

increasing the planting of new trees by incorporating landscaped courtyards in the residential community.

The project would also be consistent with the CAP goal of increasing energy efficiency in new buildings by complying with the latest California Building Code (Title 24), including the latest CALGreen standards for energy efficiency. The project would replace older buildings that were built with less efficient standard codes, improving the overall efficiency of the project site. Construction of the project would include a diversion of construction waste from landfills to recycling consistent with current local and State standards and CAP goals to increase diversion and reduction of waste. Therefore, the project would be consistent with applicable CAP goals.

The project was analyzed for consistency with the goals of Assembly Bill (AB) 32 and the AB 32 Scoping Plan, as well as Executive Order B-30-15, SB 32, and AB 197. The AB 32 Scoping Plan contains GHG reduction measures that work towards reducing GHG emissions, consistent with the targets set by AB 32, Executive Order B-30-15 and codified by SB 32 and AB 197. AB 32 aimed at reducing GHG emissions to 1990 levels by 2020 and required the CARB to prepare a Scoping Plan that outlines the main State strategies for meeting the 2020 deadline and to reduce GHGs that contribute to global climate change. Executive Order B-30-15 added the immediate target of reducing GHG emissions to 40 percent below 1990 levels by 2030. CARB released a second update to the Scoping Plan, the 2017 Scoping Plan,³ to reflect the 2030 target set by Executive Order B-30-15 and codified by SB 32. The companion bill to SB 32, AB 197, provides additional direction to the CARB related to the adoption of strategies to reduce GHG emissions. Additional direction in AB 197 intended to provide easier public access to air emissions data that are collected by CARB was posted in December 2016.

Overall, the AB 32 Scoping Plan contains GHG reduction measures that work towards reducing GHG emissions, consistent with the targets set by AB 32, Executive Order B-30-15 and codified by SB 32 and AB 197. The measures applicable to the project include energy efficiency measures, water conservation and efficiency measures, and transportation and motor vehicle measures. The project would comply with applicable energy measures through compliance with CALGreen energy conservation and green building standards. Compliance with CALGreen would also include measures related to the reduction of wastewater and water use. The project would also be required to comply with the California Model Water Efficient Landscape Ordinance. Therefore, the project would not conflict with any of the water conservation and efficiency measures. While specific regional emission targets for transportation emissions would not directly apply to the project, vehicles traveling to the project site would comply with the Pavley II (LEV III) Advanced Clean Cars Program. Therefore, the project would be consistent with the City's CAP goals and would not result in new or substantially greater conflicts with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of GHGs than previously analyzed in the 2021 FEIR.

³California Air Resources Board. 2017. *California's 2017 Climate Change Scoping Plan*. November.

15.9 Hazards and Hazardous Materials

Transport, Use, or Disposal of Hazardous Materials/Accidental Release/Emissions Near a School

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that may require the transport, use, disposal of hazardous materials, or accidental release of hazardous materials. The 2021 FEIR determined that both ministerial and discretionary development on Housing Sites would be subject to extensive regulatory requirements including SCMC Chapter 8.36 (Hazardous Materials), the California Accidental Release and Prevention program, and other federal and state regulations relating to hazardous materials management and the SCMC requirements for the preparation and filing of Material Safety Data Sheet consistent with state laws would reduce impacts to a level less than significant.

Project

Construction and operation of the project would be subject to the regulatory requirements described in the 2021 FEIR. The project residential and commercial uses are consistent with allowable uses envisioned in the zone as part of the 2021 FEIR. The nearest school is Palisades Elementary School located approximately 0.9-mile northwest of the project site, greater than one quarter of a mile. Therefore, project would not create a significant hazard to the public or the environment through routine transport, use, or disposal of hazardous materials, including within one-quarter mile of a school. No new or more severe impacts related to hazardous materials emissions or accidental release would occur.

Hazardous Materials Sites

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that may be located on a hazardous materials site. The 2021 FEIR determined that future discretionary development at Housing Sites would be subject to an environmental review under CEQA that would ensure site-specific evaluation of individual sites to ensure no hazardous conditions are present or if present, measures are taken to minimize risk. The 2021 FEIR determined that implementation of Mitigation Framework HAZ-1 would reduce impacts for ministerial projects to a level less than significant.

Project

A Phase I Environmental Site Assessment (ESA) was prepared for the project that evaluated whether the site is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 (Appendix J). The Phase I ESA conducted a record search for the project site which identified the following listings on hazardous materials databases:

- The project site is listed as active in the California Facility Index (CA FID) underground storage tank (UST) database. The project site is listed in the Emissions Inventory Data (EMI) system as producing one carbon monoxide ton per year and two oxides of nitrogen tons per year.

- The project site is listed in the Hazardous Waste Tracking System (HWTS) database with the inactive dates of 1999, 2000, 2001, 2005, and 2020.
- The project site is listed in the California Hazardous Waste Manifest (HAZNET) database maintained by the Department of Toxic Substances Control (DTSC) as having disposed of hazardous materials.
- The project site is listed in the Resource Conservation and Recovery Act Small Quantity Generator (RCRA-SQG) database. No violations were found.
- The project site is listed in the Facility Index System/Facility Registry System (FINDS) and Enforcement & Compliance History Information (ECHO) database as various healthcare facilities. The environmental interest type is listed as "other hazardous waste activities". No releases of hazardous substances are associated with the above listings.

Based on the review of database listings described above, the Phase I ESA determined that the project site does not qualify as a Recognized Environmental Conditions (REC). However, the Phase I ESA determined that the project site is listed in the UST database as having two USTs, one 550-gallon diesel UST and one 1,000-gallon product (not specified) UST. Both USTs are listed as active. The project site is listed in the California Environmental Reporting System (CERS) as a leaking underground storage tank (LUST) cleanup site. According to the Environmental Data Resources (EDR) Report, the leak was found on August 12, 1991, during inventory control. The cause of the leak is listed as corrosion. Approximately 190 gallons of diesel was leaked into the soils in the vicinity of the UST. The EDR Report lists that the leak was stopped by removing the contents of the UST. Furthermore, the Orange County Health Care Agency (OCHCA) provided documents summarizing the activities associated with the clean-up of a diesel release onsite. The site received case closure and a No Further Action (NFA) letter on March 11, 1992. Based on the issuance of a NFA letter by the OCHCA, the Phase I ESA determined that this onsite listing is considered a Historical Recognized Environmental Conditions (HREC), which is defined as "a previous release of hazardous substances or petroleum products affecting the subject property that has been addressed to the satisfaction of the applicable regulatory authority or authorities and meeting unrestricted use criteria established by the applicable regulatory authority or authorities without subjecting the subject property to any controls (for example, activity and use limitations or other property use limitation)." The Phase I ESA did not identify any surrounding properties listed as hazardous materials sites in any regulatory databases. Therefore, as the project site has been remediated and cleared by the OCHCA, the project is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. No new or substantially greater impacts associated with hazardous materials sites than previously analyzed in the 2021 FEIR would occur.

Airport Hazards

2021 FEIR

The 2021 FEIR determined that the City is not located within an Airport Land Use Compatibility Plan or within two miles of a public airport or public use airport. Therefore, the 2021 FEIR found that the Housing and Safety Elements Update would not result in an airport safety hazard or excessive noise for people residing or working in the project area.

Project

The project site is not located within an Airport Land Use Compatibility Plan or within two miles of a public airport or public use airport. Therefore, the project would not result in a new or substantially greater safety hazard or excessive noise for people residing or working in the project area than previously analyzed. No new or more severe impact would occur compared to what was evaluated in the 2021 FEIR.

Emergency Response**2021 FEIR**

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development, and the Housing Sites are located within existing developed areas and along major transportation corridors in the City that would allow for evacuation and response. Development at the Housing Sites would not physically interfere with any emergency response or evacuation plans because they would not include any features that would prevent continued implementation of these plans, and impacts would be less than significant.

Project

The project site is located within an urban environment along a developed transportation corridor that would allow for emergency evacuation. The project would utilize the existing driveway connections to Camino de los Mares. In order to reinforce the right-in and right-out turning movements at the western driveway, the project would make median improvements within Camino de Los Mares, and introduce signage and a center island at the driveway entrance to direct traffic. These changes would improve safety for turns into or out of the western driveway and support emergency evacuation and response. The project would not make any other changes to the existing circulation network. Therefore, the project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan beyond that previously analyzed, and no new or more severe impacts would occur compared to what was evaluated in the 2021 FEIR.

Wildland Fires**2021 FEIR**

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development, and implementation of Safety Element policies by the City focused on increasing wildfire safety through increased coordination with fire protection agencies, using the latest mapping to determine wildfire risks, and supporting efforts to evaluate wildfire evacuation and safety planning. The 2021 FEIR determined that development of the Housing Sites, especially within or adjacent to Very High Fire Hazard Severity Zone (VHFHSZ), could result in impacts related to wildfire. However, future ministerial and discretionary development at the Housing Sites would be required to adhere to all regulatory requirements in place to minimize wildfire hazards including applicable sections of the SCMC, fire and building codes, and requirements from the fire chief that would be identified during future building permit reviews. Additionally, implementation of General Plan Policies S-3.02 through S-3.06 in the City's General Plan Safety Element would further protect

land uses within the VHFHSZ and enhance wildfire safety. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not expose people or structures either directly or indirectly to a significant risk of loss, injury, or death involving wildland fires, and impacts would be less than significant.

Project

The project site is located in an urbanized area and is not within, or adjacent to, an area identified as a VHFHSZ. The project would not result in new or more severe impact related to exposure of people or structures to wildland fires.

15.10 Hydrology and Water Quality

Water Quality

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could impact water quality. The 2021 FEIR determined that development of the Housing Sites would be subject to federal, state, and local regulations aimed at controlling water quality impacts. Both discretionary and ministerial development would be required to adhere to regulatory requirements including MS4 requirements, SCMC Chapters 13.40 (Stormwater Runoff Control), and Chapter 15.36 (Grading Ordinance), which include requirements to ensure storm water runoff is captured and treated and erosion control measures are implemented. Adherence to these requirements would ensure that impacts associated with water quality would be less than significant.

Project

The Preliminary Water Quality Management Plan (PWQMP) prepared for the project determined that site is currently serviced by three existing storm drain lines (Appendix K). Runoff from the western portion of the project site is conveyed along the existing western drive aisle southerly to an existing inlet located in the southwestern portion of the site. Runoff is ultimately discharged to the existing storm drain line servicing Ocean View Plaza and conveyed southerly under I-5 to an existing wetland and natural drainage area, and then southeasterly through an existing golf course, prior to discharging to Prima Deshecha Canada and the Pacific Ocean to the south.

Runoff from the central and eastern portions of the project site are serviced by two existing storm drain lines located in the southeastern and the eastern portions of the site. These two storm drains convey flows to an existing storm drain line located within the existing apartment complex located east of the project site. Runoff is then conveyed easterly and then southerly under I-5, prior to discharging to an existing natural drainage and wetland and then southeasterly through an existing golf course, prior to discharging to Prima Deshecha Cañada and the Pacific Ocean to the south. The project does not receive run-on from off-site areas.

In the post-project condition, runoff from the site would be conveyed similar to pre-project conditions, with hydromodification controls employed to retain the site's pre-development runoff flow rates and volumes. To satisfy the project's requirement for Low Impact Development (LID) BMPs,

hydromodification, and treat storm water pollutants of concerns, the project has been divided into five Drainage Management Areas (DMAs) as follows:

- DMA 1 (1.674 acres): Consists of the western and northern segment of the project site. Runoff would be conveyed southwesterly to an infiltration well located at the western portion of the project site.
- DMA 2 (4.463 acres): Consists of the central and southern portion of the project site. Runoff would be conveyed southwesterly to an infiltration well for retention.
- DMA 3 (0.019 acre): Consists of existing landscaping, sidewalk and portion of the project's southern entrance that drain away from the project site to the existing gutter in Camino de los Mares. Runoff from this area is not hydrologically connected to the project's onsite DMAs. No improvements are proposed for this area. No treatment is proposed for this area.
- DMA 4 (0.448 acres): Consists of existing slopes and temporary disturbed areas (designated as 4-1 and 4-2) at the project's southwestern limits required for remedial grading that would be returned to natural state. No treatment is proposed.
- DMA 5 (0.064 acre): Consists of parkway and median improvements to Camion de los Mares. Runoff from this area would be discharged to Camino de los Mares and is not hydrologically connected to the project's onsite DMAs. Improvements within DMA would consist of the following:
 - DMA 5-1 (0.002 acres): Replace existing pavement with extended paved median. No BMPs are proposed.
 - DMA 5-2 (0.035 acres): Replace existing paved median and turn lane with landscaped median. Area is considered self-retaining as would consist almost entirely of depressed landscaping areas.
 - DMA 5-3 (0.027 acres): The project would add two feet of sidewalk width and extend sidewalk to reconfigure project's southern entrance. Runoff would be addressed via hydrologic source control BMP (HSC-3 Street Trees) designed to maximum extent practicable standards per U.S. Environmental Protection Agency's Green Streets Manual.

Implementation of the infiltration facilities listed above would include water quality treatment that would ensure that runoff in the post-project condition would not violate any water quality standards or waste discharge requirements. Therefore, the project would not result in new or substantially greater impact on water quality than previously analyzed, and impacts would be less than significant. No new impact would occur.

Groundwater

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could have an adverse effect related to groundwater. The 2021 FEIR stated that a majority of the City's water is sourced from imported and recycled water, with approximately 5 percent of the City's water supply portfolio for Fiscal Year 2019-2020 pumped for municipal use through two groundwater wells (wells #6 and #8). The 2021 FEIR determined that both

redevelopment and new development on vacant sites would be required to comply with applicable storm water management requirements that focus on retention and infiltration of waters on-site. Additionally, development at all Housing Sites would be required to comply with current stormwater regulations that prioritize infiltration and treatment of stormwater and generally require increased on-site infiltration and higher standards of water quality protection compared to water quality standards that would have been implemented on existing developed sites. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that they may impede sustainable groundwater management of the basin, and impacts would be less than significant.

Project

The project site was evaluated as a potential rezone site (Site V) in the Housing Element Update that would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. The project has been slightly revised compared to the Housing Element Update to develop 250 senior housing units and 7,500 square feet of medical offices. The redesigned residential component would not substantively increase demand for water supply compared to what was evaluated in the 2021 FEIR. In fact, residents in a senior housing development may have lower demand for water supply compared to residents in multi-family units. The project would not utilize a groundwater well and would be served through a standard connection to the City of San Clemente Water Utility, drawing water from the City's overall supply portfolio. As described above, the project would introduce two infiltrations wells on-site. These infiltration wells would increase infiltration compared to pre-project conditions, and therefore improve groundwater recharge onsite. Therefore, the project would not result in new or substantially greater impact on groundwater supplies or interference with groundwater recharge than previously analyzed, and impacts would be less than significant. No new impact would occur.

Drainage Patterns/Storm Water Runoff

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could result in impacts related to drainage patterns and storm water runoff. The 2021 FEIR determined that development of the Housing Sites would be subject to federal, state, and local regulations aimed at reducing polluted storm water and avoiding overloading the City's drainage system. Both ministerial and discretionary development would be required to adhere to regulatory requirements including SCMC Chapter 13.40 (Stormwater Runoff Control) which includes requirements for the elimination or reduction of storm water run-off. Impacts associated with drainage patterns and storm water runoff would be less than significant. Adherence to these requirements would ensure that impacts associated with drainage patterns and storm water runoff would be less than significant.

Project

The Hydrology Analysis completed for the project evaluated peak stormwater flows during the 2-, 20-, and 100-year storm events in the pre-project and post-project conditions. As shown in Table 10,

the project would reduce peak flows during 2-, 20-, and 100-year storm events in the post-project condition. Therefore, the project would not result in new or substantially greater impact related to drainage patterns or storm water runoff than previously analyzed, and impacts would be less than significant. No new impact would occur.

Table 10 Storm Water Flow Rates in Cubic Yards Per Second			
	Existing	Proposed	Change
West			
2-Year Storm Event	2.60	2.60	0.00
10-Year Storm Event	4.80	4.70	0.00
100-Year Storm Event	7.50	6.75	-0.75
Northeast			
2-Year Storm Event	2.90	2.90	0.00
10-Year Storm Event	5.30	5.20	-0.10
100-Year Storm Event	8.20	8.00	-0.20
Southeast			
2-Year Storm Event	4.20	4.20	0.00
10-Year Storm Event	7.70	7.70	0.00
100-Year Storm Event	11.80	8.24	-3.56

Flood Hazard/Tsunami Inundation

2021 FEIR

The 2021 FEIR determined that Policy S-2.03 of the Safety Element reinforces application of Federal Emergency Management Agency regulations prohibiting development within a flood zone unless adequate assurances are provided against flood hazards. The 2021 FEIR also determined that the Safety Element update includes policies supporting implantation of adaptation strategies of the Coastal Resiliency Plan and incorporates this future document and the City’s Sea Level Rise Vulnerability Assessment by reference. The 2021 FEIR determined that future development of the Housing Sites would be required to conform to applicable federal, state, and City regulatory standards to effectively avoid and/or address potential impacts associated with development in flood zones, and none of the Housing Sites are within areas anticipated to be affected by tsunami or future sea level rise scenarios. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update determined that impacts associated with flood hazards and tsunami inundation would be less than significant.

Project

The project would be constructed entirely with the footprint of Site V that was evaluated in the 2021 FEIR. Review of Figure 4.8-2 of the 2021 FEIR determined that Site V is not located within a flood hazard zone, and review of Figure 4.8-3 of the 2021 FEIR determined that Site V is not located within the 2021 Tsunami Hazard Area. Therefore, the project would not result in new or substantially greater impact related to flood hazards and tsunami than previously analyzed. No new impact would occur.

15.11 Land Use and Planning

Physically Divide an Established Community

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that would not result in any physical development, and none of the Housing Sites would require any new major infrastructure or improvements that could physically divide an established community. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not physically divide an established community, and impacts would be less than significant.

Project

There are no changes to the project that would affect the conclusions of the FEIR. The project site is located within an urban environment along a developed transportation corridor and was one of the sites evaluated for development in the PEIR. The project would redevelop a vacant hospital facility and supporting structures to a senior housing facility and medical office and would be constructed entirely within the project site without affecting adjacent properties. The project would utilize the existing driveway connections to Camino de los Mares and would not alter the existing circulation network. The project would connect to existing utilities that are already serving the surrounding development. Therefore, the project would not result in new or more severe impacts related to physical division of an established community compared to what was disclosed in the 2021 FEIR.

Conflicts with Plans and Policies

2021 FEIR

The 2021 FEIR determined that adoption of the Safety Element would ensure consistency with state law and provide additional policy in the City's General Plan for the purpose of avoiding environmental impacts related to wildfire and climate change including sea level rise. The 2021 FEIR determined that future discretionary projects under the Housing Element Update would be subject to implementation of the City's General Plan Mitigation Monitoring Requirements to ensure environmental impacts are minimized. However, future ministerial development would not be subject to an extensive policy review for consistency with General Plan policies and/or other applicable plans, and impacts related to policy inconsistency would remain significant and unavoidable.

Project

As described in Section 15.5 above, the project would mitigate all potential impacts to cultural resources to a level less than significant. As described in Section 15.7 above, the project would mitigate all potential impacts on paleontological resources to a level less than significant. As described in Section 15.8 above, the project would be consistent with the City's CAP. As demonstrated throughout this Addendum, all other environmental impacts not requiring mitigation would be less than significant or would have no impact. The project would not cause a new or substantially greater or more severe impacts related to conflicts with any land use plan, policy, or

regulation adopted for the purpose of avoiding or mitigating an environmental effect compared to what was previously analyzed.

15.12 Mineral Resources

2021 FEIR

The 2021 FEIR determined in Chapter 8.3 that the majority of land within the City is designated as MRZ-1, which is land where adequate geologic information indicates that no significant mineral deposits are present (8,464.95 acres). The remainder, located within the southwestern portion of the City (3,279.23 acres), is designated as MRZ-3, land for which the significance of mineral resources cannot be determined. Neither of these MRZ categories are considered significant mineral resources. The City's land use map does not delineate any mineral resource recovery sites or designate any land for mineral resource production. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not impact any known mineral resources that would be of value to the region, the state, or locally.

The 2021 FEIR determined that the City's land use map does not delineate any mineral resource recovery sites or designate any land for mineral resource production. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not impact any mineral resource recovery sites.

Project

The project site is located in an area designated as MRZ-3, which is not considered a significant mineral resource. The project site is not delineated as a mineral resource recovery site on any land use plans. Therefore, the project would not result in a new or substantially greater impact related to the loss of availability of a known mineral resource that would be of value to the region or residents of the state or the City, compared to what was previously analyzed.

15.13 Noise

Noise Standards

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could have an adverse effect related to noise standards. The 2021 FEIR determined that development of the Housing Sites would not result in any impacts related to vehicular ambient noise, railroad noise, or stationary noise. The 2021 FEIR determined that implementation of the City's General Plan Mitigation Monitoring Program for future discretionary development, and implementation of 2021 FEIR Mitigation Framework NOS-1 for ministerial development, would reduce impacts associated with land use noise compatibility to a level less than significant. However, the 2021 FEIR determined even after implementation of Final PEIR Mitigation Framework NOS-2 for ministerial development, impacts related to construction noise would remain significant and unavoidable.

Project

A site-specific Noise and Vibration Impact Analysis was prepared for the project (Appendix L). Two long-term noise measurements were recorded in the vicinity of the project site in order to calculate the average hourly equivalent level (L_{eq}) and community noise equivalent level (CNEL) at each location, which incorporate the evening and nighttime hours. Sources that dominate the existing noise environment include traffic on I-5, light traffic on Camino de los Mares, and occasional aircraft noise. Noise measurement data collected during the long-term noise monitoring are summarized in Table 11. Figure 4 presents the noise measurement locations.

Location	Description	Date	Daytime Noise Levels ¹ (dBA L_{eq})	Evening Noise Levels ² (dBA L_{eq})	Nighttime Noise Levels ³ (dBA L_{eq})	Daily Noise Level (CNEL)
LT-1	654 Camino de los Mares, on top of roof, near southwest corner of building, approximately 3 ft from edge of roof, 300 ft from I-5 centerline.	4/13/2022	66.9–68.0	65.2–67.0	59.4–66.8	71.0
LT-2	654 Camino de los Mares, north side of building facing Camino de los Mares, approximately 80 ft from Camino de los Mares centerline.	4/13/2022	61.8–62.9	59.3–61.4	46.6–60.7	64.1

SOURCE: Appendix L.



¹Daytime Noise Levels = noise levels during the hours from 7:00 a.m. to 7:00 p.m.
²Evening Noise Levels = noise levels during the hours from 7:00 p.m. to 10:00 a.m.
³Nighttime Noise Levels = noise levels during the hours from 10:00 p.m. to 7:00 a.m.
 CNEL = Community Noise Equivalent Level I-5 = Interstate 5
 dBA = A-weighted decibels L_{eq} = equivalent continuous sound level
 ft = foot/feet

Short-term Construction Impacts

Two types of short-term noise impacts would occur during project construction: (1) equipment delivery and construction worker commutes; and (2) project construction operations.

The first type of short-term construction noise would result from transport of construction equipment and materials to the project site and construction worker commutes. Based on the Air Quality and Greenhouse Gas Impact Analysis for the San Clemente Senior Housing Project, the project would generate an estimated total of 285 hauling truck trips over a 20-day demolition phase (14 trips per day) and an estimated total of 1,357 hauling truck trips over a 35-day grading phase (39 trips per day) (see Appendix C). These transportation activities would incrementally raise noise levels on access roads leading to the site. It is expected that larger trucks used in equipment delivery would generate higher noise impacts than trucks associated with worker commutes. The single-event noise from equipment trucks passing at a distance of 50 feet from a sensitive noise receptor would reach a



-  Project Boundary
-  Noise Measurement Location

0 Feet 200



FIGURE 4
Noise Measurement Locations

maximum level of 84 A-weighted decibels maximum sound level (dBA L_{max}). However, the pieces of heavy equipment for grading and construction activities would be moved on-site just one time and would remain on-site for the duration of each construction phase. This one-time trip, when heavy construction equipment is moved on- and off-site, would not add to the daily traffic noise in the project vicinity. The total number of daily vehicle trips would be minimal when compared to existing traffic volumes on the affected streets, and the long-term noise level change associated with these trips would not be perceptible. Therefore, equipment transport noise and construction-related worker commute impacts would be short-term and would not result in a significant off-site noise impact.

The second type of short-term noise impact is related to noise generated during demolition, site preparation, grading, building construction, architectural coatings, and paving on the project site. Construction is undertaken in discrete steps, each of which has its own mix of equipment, and, consequently, its own noise characteristics. These various sequential phases would change the character of the noise generated on the project site. Therefore, the noise levels vary as construction progresses. Composite noise level of each construction phase was calculated as presented in Table 12.

Table 12 Potential Construction Noise Impacts by Phase		
Phase	Equipment (Quantity)	Composite Noise Level at 50 feet (dBA L_{eq})
Demolition	Concrete Saw (1), Excavator (1), Dozer (2)	86
Site Preparation and Grading	Excavator (1), Grader (1), Dozer (2), Tractor (2)	87
Building Construction	Crane (1), Forklift (3), Tractor (2)	84
Paving	Paver (2), Paving Equipment (2), Roller (2)	86
Architectural Coating	Air Compressor (1)	74
SOURCE: Appendix L. dBA L_{eq} = average A-weighted hourly noise level		

Composite construction noise levels at a distance of 50 feet would range from 74 dBA L_{eq} to 87 dBA L_{eq} , with the highest noise levels occurring during the site preparation phase. The Noise and Vibration Analysis then adjusted noise levels based on distances to the nearest sensitive receptor. Table 13 shows the nearest sensitive uses that surround the project site, the distances of their respective property lines from the center of construction activities, which represents the acoustic center of construction noise, and the noise levels expected during site preparation and grading activities, which would generate the greatest noise levels. These noise level projections do not take into account intervening topography or barriers, and therefore can be considered conservative estimates.

Table 13 Potential Construction Noise Impacts During Site Preparation and Grading		
Receptor	Distance (feet)	Noise Level (dBA L_{eq})
San Clemente Villas Senior Living (Southeast)	260	73
Commercial (West and North)	350	70
SOURCE: Appendix L. dBA L_{eq} = average A-weighted hourly noise level		

While construction noise will vary, it is expected that composite noise levels during construction at the nearest off-site residential land uses to the southeast would reach 73 dBA L_{eq} during the site preparation phase. It is expected that composite noise levels during construction at the nearest commercial land uses to the west and north would reach 70 dBA L_{eq} . These predicted noise levels would only occur when all construction equipment is operating simultaneously at the closest point of construction, and therefore are assumed to be conservative in nature. While construction-related short-term noise levels have the potential to be higher than existing ambient noise levels in the project area under existing conditions, the noise impacts would no longer occur once project construction is completed.

Noise impacts associated with construction activities are regulated by the City's noise ordinance. The project would be required to comply with the construction hours specified in the City's Noise Ordinance, which states that construction activities are allowed between 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 8:00 a.m. and 6:00 p.m. on Saturday. Construction is not permitted outside of these hours, on a Sunday, or on a City-recognized holiday, unless a temporary waiver is granted by the development services director or his/her authorized representative, or in emergencies, including maintenance work on City rights-of-way.

As it relates to off-site uses, construction-related noise impacts would remain below the 80 dBA L_{eq} and 85 dBA L_{eq} construction noise level criteria, as established by the Federal Transit Authority (FTA) for residential and commercial land uses, respectively. Therefore, impacts associated with construction noise would be considered less than significant. To minimize noise impacts even further to the extent feasible, the project construction would utilize the following practices:

- All construction vehicles or equipment, fixed or mobile, operated within 1,000 ft of a dwelling shall be equipped with operating and maintained mufflers.
- Stockpiling and/or vehicle storage areas shall be located as far as practicable from and out of view of dwellings.

Therefore, the project would not result in a new or substantially greater impact related to construction noise compared to what was previously analyzed, and impacts would be less than significant. No new impact would occur.

Operational Traffic Noise Impacts on Off-Site Receivers

The project would generate 1,080 daily trips. The Noise and Vibration Analysis evaluated potential traffic noise impacts on off-site receivers based on a peak-hour traffic volume of 1,899 vehicle trips on Camino de los Mares. Assuming the ADT is ten times the peak-hour traffic, the ADT in the vicinity

of the project would be 18,990 vehicle trips. The addition of project-related vehicle trips would result in an increase of approximately 0.24 CNEL along Camino de los Mares. A noise level increase of less than 3 dBA would not be perceptible to the human ear. Therefore, the project would not result in a new or substantially greater impact related to traffic noise impacts on off-site receivers compared to what was previously analyzed, and impacts would be less than significant. No new impact would occur.

Operational On-Site Generated Noise

The project would include rooftop heating, ventilation, and air conditioning (HVAC) units. While Building 3 (Health Center Building) would contain rooftop HVAC equipment, noise impacts would only occur during daytime operational hours. For the proposed living units in Buildings 1 and 2, the HVAC equipment could operate 24 hours per day. The Noise and Vibration Analysis estimated that rooftop HVAC equipment for a single unit would generate a noise level of 66.6 dBA L_{eq} at 5 feet.

Table 14 presents the noise levels from HVAC equipment at the nearest noise-sensitive location. The closest off-site sensitive uses to the proposed location of an on-site HVAC unit would be located approximately 140 feet away. According to the site plan, 20 banks of HVAC units are proposed to be installed. Per the building plans, each building would have parapet walls to hide the mechanical equipment, which would reduce noise levels by a minimum of 5 dBA, resulting in a reference level of 72.4 dBA L_{eq} at 5 feet from each bank of HVAC units. After distance attenuation, noise generated from the four closest banks of HVAC equipment would be up to 48.0 dBA L_{eq} at the nearest sensitive use. This noise level would not exceed the City's exterior daytime (7:00 a.m. to 11:00 p.m.) and nighttime (11:00 p.m. to 7:00 a.m.) noise standards of 55 dBA L_{eq} and 50 dBA L_{eq} , respectively. Additionally, the projected noise level would be below the quietest existing ambient noise levels at the nearest off-site sensitive building façade. The other 16 banks of HVAC equipment would be further away and would receive greater noise reduction due to additional rooftop parapet shielding, and thus are not expected to contribute to the combined noise level. Therefore, the project would not result in a new or substantially greater impact related to operational on-site noise compared to what was previously analyzed, and impacts would be less than significant. No new impact would occur.

Table 14 Summary of HVAC Noise Levels						
Off-Site Land Use (Direction)	Distance from HVAC Units (ft)	Reference Noise Level for 1 Unit at 5 ft (dBA L_{eq})	Reference Noise for a Bank of 12 Units at 5 ft (dBA L_{eq}) ¹	Distance Attenuation (dBA)	Noise Level (dBA L_{eq})	Combined Noise Level (dBA L_{eq})
San Clemente Villas Senior Living (Southeast)	140	66.6	72.4	29	43.0	48.0
	150			30	43.0	
	190			32	41.0	
	195			32	41.0	

SOURCE: Appendix L.
¹Includes a minimum reduction of 5 dBA provided by rooftop parapet walls.
dBA = A-weighted decibel(s)
ft = foot/feet
HVAC = heating, ventilation, and air conditioning
 L_{eq} = equivalent continuous sound level

On-Site Land Use Compatibility

While impacts to the project site from the surrounding environment are not considered an impact related to CEQA, the following analysis assesses compliance with the local land use compatibility standards. The project is in an area where parcels to the east, west, and north are currently occupied and operational. For this reason, this analysis relies on the existing measured noise levels as well as future predicted noise levels to provide the most accurate description of the noise environment related to traffic noise impacts. The City's General Plan does not provide land use compatibility standards for future development. Therefore, for the purposes of this analysis, the County's exterior noise level standard of 65 CNEL was used to determine project compatibility. The interior noise level standard for residential uses is 45 CNEL.

Exterior Noise Assessment

As shown in Table 11 above, the existing measured noise levels at the project site range from approximately 64.1 CNEL on the northern portion of the site, close to Camino de los Mares, to 71.0 CNEL on the southern portion of the site, close to I-5.

To assess the exterior noise levels at the proposed pool area south of Building 1, the future noise levels were based on existing measured noise levels and an estimated noise increase based on future growth. The Noise and Vibration Impact Analysis determined that the annual average daily traffic (AADT) on I-5 in the vicinity of the project is 179,700. The estimated future AADT, assuming a time period of 20 years and a 1 percent growth rate, would be 215,640, resulting in a 0.8 dB increase. Therefore, the exterior noise levels at the recreational pool area closest to I-5 would approach 72 CNEL.

The project would include a six-foot-high combo masonry and glass pool barrier that would be located around the pool area at Building 1. Additionally, the project would include a six-foot-high combo stucco wall and glass safety and sound barrier that would be located at the perimeter of the

rooftop deck. Noise levels would be reduced by approximately 8 dBA at each location, resulting in a noise level of 64 CNEL. Noise levels at these locations would be below the County's 65 CNEL exterior noise level standard. Therefore, with the proposed barriers, no additional noise reduction features would be necessary to comply with land use compatibility standards.

The project would also include an additional outdoor recreation area in the form of the central courtyard in the northern portion of Building 2, which would be considered an exterior sensitive use. With future exterior noise levels approaching 64.4 CNEL (existing noise level of 64.1 CNEL + 0.3 CNEL growth from the project) and significant noise reduction provided by the building on all sides, the noise level would be well below the County's 65 CNEL exterior noise level standard. Therefore, no additional noise reduction features would be required. All other courtyard areas including those between Building 1 and Building 2, as well as the courtyard on the southern portion of Building 2 are not considered noise sensitive as they are points of access from the exterior sidewalks and interior units. Therefore, the project would not result in a new or substantially greater impact related to exterior noise compatibility compared to what was previously analyzed, and impacts would be less than significant. No new impact would occur.

Interior Noise Assessment

Per Title 24 of the California Code of Regulations, an interior noise level standard of 45 CNEL or less is required for all habitable rooms (i.e., rooms used for living, sleeping, eating, and cooking). Consistent with the 2021 FEIR, which incorporated by reference the City's General Plan Mitigation Monitoring Requirements, the Noise and Vibration Impact Analysis included a detailed analysis of the noise reduction requirements and needed noise insulation features in order to meet the interior noise standards (City's General Plan Mitigation Monitoring Program Measure 10-1). Based on the expected future exterior noise levels at the southern façades of Buildings 1 and 2 closest to I-5, noise levels would approach 72 CNEL and a minimum noise reduction of 27 dBA would be required. Because the project would include a form of mechanical ventilation, windows and doors could remain closed.

The Noise and Vibration Impact Analysis utilized previously completed sample interior noise calculations assume standard building construction and upgraded window assemblies. Based on reference information from transmission loss test reports for various Milgard windows, the southern, western, and eastern façades would require windows with sound transmission class (STC) ratings of approximately 30–35, depending on the glass-to-wall ratio at the façades with a view of I-5. For units facing Camino de los Mares, as well as units facing the center of the project buildings, interior noise levels of 45 CNEL or less would be achieved by using standard building construction along with standard windows (typically in the STC 25–28 range). Therefore, the project would not result in a new or substantially greater impact related to interior noise compared to what was previously analyzed, and impacts would be less than significant. No new impact would occur.

Groundborne Noise and Vibration

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could generate excessive groundborne vibration or groundborne

noise. The 2021 FEIR determined that implementation of the City's General Plan Mitigation Monitoring Program for future discretionary development, and implementation of 2021 FEIR Mitigation Framework NOS-3 for ministerial development, would reduce impacts associated with excessive groundborne vibration and groundborne noise to a level less than significant.

Project

An analysis of construction vibration using vibration levels in VdB for human annoyance and assessing the potential for building damages using vibration levels in PPV (in/sec). This is because vibration levels calculated in root-mean-square (RMS), representing an average condition, are best for characterizing human response to building vibration, while calculating vibration levels in PPV is best for characterizing the potential for damage representing maximum vibration conditions.

In order to determine the potential for annoyance, the distance between the nearest off-site buildings and the center of project construction is utilized to represent the average condition. To assess potential vibration damage, the distance of assessment is measured between the nearest off-site buildings and the project construction boundary (assuming the construction equipment would be used at or near the project setback line). Bulldozers and other heavy-tracked construction equipment (expected to be used for this project) would generate approximately 0.089 PPV in/sec or 87 VdB of groundborne vibration when measured at 25 feet, based on the FTA Manual.

As shown in Table 15, vibration levels are expected to approach 56 VdB at the closest residence located immediately southeast of the project site and 53 VdB at the closest commercial uses located west and north of the project site, which are below the 78 VdB and 84 VdB thresholds for annoyance, respectively.

The closest structure to the project site is the residence to the southeast of the site, approximately 25 ft from the limits of construction activity. As shown in Table 16, it is expected that vibration levels generated by dump trucks and other large equipment that would be as close as 25 ft from the property line would generate groundborne vibration levels of up to 0.089 PPV (in/sec) at the closest structure to the project site and would not exceed the 0.2 PPV (in/sec) threshold. All other structures are further away and would experience lower vibration levels. Because construction activities are regulated by the City's Municipal Code, which states that construction activities are only allowed between 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 8:00 a.m. and 6:00 p.m. on Saturday, vibration impacts would not occur during the more sensitive nighttime hours.

Table 15 Potential Construction Vibration Annoyance Impacts at Nearest Receptor			
Receptor (Location)	Reference Vibration Level (VdB) at 25 ft ¹	Distance (ft) ²	Vibration Level (VdB)
Residence (Southeast)	87	260	56
Commercial (West and North)		350	53
SOURCE: Appendix L. ¹ The reference vibration level is associated with a large bulldozer, which is expected to be representative of the heavy equipment used during construction. ² The reference distance is associated with the average condition, identified by the distance from the center of construction activities to surrounding uses. ft = foot/feet VdB = vibration velocity decibel(s)			

Table 16 Potential Construction Vibration Damage Impacts at Nearest Receptor			
Receptor (Location)	Reference Vibration Level (PPV) at 25 ft ¹	Distance (ft) ²	Vibration Level (PPV)
Residence (Southeast)	0.089	25	0.089
Commercial (West)		40	0.044
Commercial (North)		120	0.008
SOURCE: Appendix L. ¹ The reference vibration level is associated with a large bulldozer, which is expected to be representative of the heavy equipment used during construction. ² The reference distance is associated with the peak condition, identified by the distance from the perimeter of construction activities to surrounding structures. ft = foot/feet PPV = peak particle velocity			

The streets surrounding the project site are paved, smooth, and unlikely to cause significant groundborne vibration. Additionally, the rubber tires and suspension systems of buses and other on road vehicles make it unusual for on-road vehicles to cause groundborne noise or vibration problems. Additionally, once constructed, the project would not contain uses that would generate groundborne vibration. Therefore, the project would not result in a new or substantially greater impact related to vibration compared to what was previously analyzed, and impacts would be less than significant. No new impact would occur.

Aircraft Noise

2021 FEIR

The 2021 FEIR determined that no portions of the City are within the 65 CNEL noise contours of any airport and the Housing and Safety Elements Update would not expose people residing or working in the area to excessive noise levels.

Project

The project site is not located within 65 CNEL noise contours of any airport. Therefore, the project would not result in a new or substantially greater impact related to exposure of people to excessive airport noise levels compared to what was previously analyzed in the 2021 FEIR.

15.14 Population and Housing

Induce Unplanned Population Growth

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that does not have the potential to add growth or population to the City. The 2021 FEIR determined that the Housing Element Update would allow for development of residential units to meet the City's future housing needs identified in the 2020 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) and assist in the City's ability to meet its RHNA goals. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not induce substantial unplanned population growth in an area, either directly or indirectly, and impacts would be less than significant.

Project

The project site was evaluated as a potential rezone site (Site V) in the Housing Element Update that would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. The project has been slightly revised compared to the Housing Element Update to develop 250 senior housing units and 7,500 square feet of medical offices. The proposed residential component would be consistent with the zoning designation evaluated as part of the FEIR. The project would be growth accommodating based on the demand for housing in the region and would support the City's Housing Element RHNA goals. Therefore, the project would not induce new or substantially greater impacts related to unplanned population growth compared to what was previously analyzed in the 2021 FEIR.

Displace People or Housing

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that does not have the potential to redevelop existing housing. The 2021 FEIR determined that implementation of the Housing Element Update would result in an increase in housing units in the City. Although the Housing Element Update would displace residential uses at two rezone sites, replacement housing would expand opportunities for housing in the City by providing increased density at redeveloped sites. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not displace substantial numbers of existing housing or people, and impacts would be less than significant.

Project

The project site consists of a vacant hospital facility, does not possess any housing, and its redevelopment would not displace any residents. Therefore, the project would not result in new or substantially greater impacts relating to the displacement of existing people or housing compared to what was evaluated in the 2021 FEIR.

15.15 Public Services and Recreation

Fire Protection

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that does not have the potential to add growth or population to the City and would not, in itself have an impact on the need for new fire protection facilities. The 2021 FEIR determined that development at the Housing Sites would not directly result in sufficient demand to require construction of new fire facilities, since each incremental housing development would pay its fair share toward anticipated fire facility needs. Furthermore, construction of any future fire facilities would be under a separate environmental review and approval. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not result in substantial adverse physical impacts associated with the provision of new or physically altered fire protection facilities, and impacts would be less than significant.

Project

The project site was evaluated as a potential rezone site (Site V) in the Housing Element Update that would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. The project has been slightly revised compared to the Housing Element Update to develop 250 senior housing units and 7,500 square feet of medical offices. The redesigned residential component would still be consistent with the Housing Element Update goal of meeting the City's future housing needs identified in the 2020 RTP/SCS and comply with state law. Furthermore, the addition of 12 units compared to what was evaluated in the PEIR would not substantially increase demand for fire protection services. Therefore, the project would not result in a new or substantially greater need for new or altered public service facilities than previously analyzed, and impacts would be less than significant. No new impact would occur.

Police Protection

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that does not have the potential to add growth or population to the City and would not, in itself have an impact on the need for new police protection services. The 2021 FEIR determined that development at the Housing Sites would not directly result in sufficient demand to require construction of new police facilities, since each incremental housing development would pay its fair share toward anticipated police facility needs. Furthermore, construction of any future police facilities would be under a separate environmental review and approval. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not result in substantial adverse physical impacts associated with the

provision of new or physically altered police protection facilities, and impacts would be less than significant.

Project

The project site was evaluated as a potential rezone site (Site V) in the Housing Element Update that would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. The project has been slightly revised compared to the Housing Element Update to develop 250 senior housing units and 7,500 square feet of medical offices. The redesigned residential component would still be consistent with the Housing Element Update goal of meeting the City's future housing needs identified in the 2020 RTP/SCS and comply with state law. Furthermore, the addition of 12 units compared to what was evaluated in the 2021 FEIR would not substantially increase demand for police protection services. Therefore, the project would not result in a new or substantially greater need for new or altered police protection facilities than previously analyzed, and impacts would be less than significant. No new impact would occur.

Schools

2021 FEIR

The PEIR determined that the Safety Element Update is a policy document that does not have the potential to add growth or population to the City needing school services. The PEIR determined that development at the Housing Sites would not directly result in sufficient demand to require construction of new school facilities, since each incremental housing development would pay its fair share toward anticipated school facility needs. Furthermore, construction of any future school facilities would be under a separate environmental review and approval. Therefore, the PEIR determined that the Housing and Safety Elements Update would not result in substantial adverse physical impacts associated with the provision of new or physically altered school facilities, and impacts would be less than significant.

Project

The project site was evaluated as a potential rezone site (Site V) in the Housing Element Update that would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. The project has been slightly revised compared to the Housing Element Update to develop 250 senior housing units and 7,500 square feet of medical offices. The redesigned residential component would not serve families with school-aged children. Consequently, the project would not generate a new student population that would increase demand for school services. Therefore, the project would not result in the need for new or altered school facilities. No new impact would occur.

Library Services

2021 FEIR

The PEIR determined that the Safety Element Update is a policy document that does not have the potential to add growth or population to the City needing additional public services such as libraries. The PEIR determined that development at the Housing Sites would not directly result in sufficient demand to require construction of new public facilities such as libraries, since each incremental housing development would pay its fair share toward anticipated facility needs. Furthermore, construction of any future public facilities would be under a separate environmental review and

approval. Therefore, the PEIR determined that the Housing and Safety Elements Update would not result in substantial adverse physical impacts associated with the provision of new or physically altered public facilities such as libraries, and impacts would be less than significant.

Project

The project site was evaluated as a potential rezone site (Site V) in the Housing Element Update that would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. The project has been slightly revised compared to the Housing Element Update to develop 250 senior housing units and 7,500 square feet of medical offices. The redesigned residential component would not substantively increase demand for additional public services such as libraries compared to what was evaluated in the PEIR. Therefore, the project would not affect existing public facilities related to library services. No new impact would occur.

Parks and Recreation Facilities

2021 FEIR

The PEIR determined that the Safety Element Update is a policy document that does not have the potential to add growth or population to the City needing park services. The PEIR determined that development at the Housing Sites would not directly result in sufficient demand to require construction of new park facilities, since each incremental housing development would pay its fair share toward anticipated park facility needs. Furthermore, construction of any future park facilities would be under a separate environmental review and approval. Therefore, the PEIR determined that the Housing and Safety Elements Update would not result in substantial adverse physical impacts associated with the provision of new or physically altered park facilities, and impacts would be less than significant.

The 2021 FEIR determined that development of the Housing Sites would increase use of existing park facilities and increase demand for additional park and recreation facilities. However, future residential units developed under the project would be required to pay in-lieu fees consistent with the Quimby Act to pay for additional park facilities within the City. Payment of such fees would allow the City to continue to implement numerous General Plan policies in place to maintain park and recreation facilities within the City. Furthermore, construction of any future park facilities would be under a separate environmental review and approval. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated, and impacts would be less than significant.

Project

The project site was evaluated as a potential rezone site (Site V) in the Housing Element Update that would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. The project has been slightly revised compared to the Housing Element Update to develop 250 senior housing units and 7,500 square feet of medical offices. The redesigned residential component would not substantively increase demand for parkland and recreational services compared to what was evaluated in the PEIR. Furthermore, the project would be required to pay park-in-lieu fees that would fund City public park facilities based on forecasted City-wide park

demand. The project also proposes both indoor and outdoor amenities for the residents, including a common clubroom, fitness center, roof-top deck, resort style pool deck, landscaped courtyards, and central paseo walkway. These amenities would be located entirely within the project footprint. The project park demands would be consistent with what was analyzed in the 2021 FEIR. No new or more severe impacts related to park and recreation facilities would result compared to what was analyzed in the 2021 FEIR. The project would not result in any new impacts or a substantial increase in severity of impacts related to parkland deterioration or provision of recreational facilities compared to what was evaluated in the 2021 FEIR.

15.16 Transportation

Circulation System

2021 FEIR

The 2021 FEIR determined that adoption of the Housing and Safety Elements Update would not physically impact any existing roadway, pedestrian, bicycle, or transit facilities. Future site-specific projects at Housing Sites would be subject to an engineering and design review that would ensure consistency with applicable policies related to transit, roadway, bicycle, and pedestrian facilities. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not conflict with a plan, ordinance, or policy addressing the circulation system, and impacts would be less than significant.

Project

The project would be consistent with the City's General Plan Mobility and Complete Streets Element because it would continue to provide safe access to the site for all users. Sidewalks are provided to access adjacent uses (e.g., Ocean View Plaza), consistent with the policies outlined in the City's Bicycle and Pedestrian Master Plan. The project would also be consistent with Policy M-2.07 because it would provide a mix of senior housing and medical office uses, and is located along an existing transit route (Orange County Transit Authority Route 1, Long Beach to San Clemente) on Camino de los Mares. The project would not alter any existing transportation facilities adjacent to and surrounding the project site (e.g., vehicular, transit, bicycle, or pedestrian). The project would utilize the existing driveway connections to Camino de los Mares. In order to reinforce the right-in and right-out turning movements at the western driveway, the project would make median improvements within Camino de Los Mares, and introduce signage and a center island at the driveway entrance to direct traffic. These changes would improve safety for turns into or out of the western driveway. The project would not make any other changes to the existing circulation network. Similarly, the project would not preclude implementation of a Class 3 Bike Route along Camino de los Mares as recommended in the City's Bicycle and Pedestrian Master Plan. Therefore, the project would not result in a new or substantially greater conflict with a plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities than previously analyzed, and impacts would be less than significant. No new impact would occur.

Vehicle Miles Traveled

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that does not have the potential to add growth or population to the City that would increase VMT. The 2021 FEIR determined that development of the Housing Sites in conjunction with buildout of the City's General Plan land use map and transportation network would result in a VMT efficiency representing 158 percent of the regional average for Orange County. This would be a significant impact. Implementation of 2021 FEIR Mitigation Framework TRA-1 would ensure that future ministerial development implements applicable General Plan policies that promote reduction in VMT, including the implementation of Transportation Demand Management programs. However, the effectiveness of VMT reducing measures is context-sensitive and would vary depending on the site-specific project site. Therefore, impacts associated with VMT would remain significant and unavoidable.

Project

A Vehicle Miles Traveled Analysis was prepared for the project to identify whether the project's VMT generation would be consistent with the assumptions used in the 2021 FEIR for the project site (Appendix M). The project site was evaluated as a potential rezone site (Site V) in the 2021 FEIR. The 2021 FEIR analysis assumed the site would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. Compared to the 2021 FEIR analysis for the site, the project has been slightly revised to propose 250 senior housing units and 7,500 square feet of medical offices.

Table 17 presents a comparison of trip generation based on the land uses assumed in the 2021 FEIR compared to the current project. The current project consists of senior housing units rather than typical multi-family dwelling units that were evaluated in the 2021 FEIR. Similarly, the current project consists of medical office use rather than commercial (general office) use which was used as the basis for trip generation in the 2021 FEIR. As shown in Table 17, Site V was estimated to generate 1,162 ADT, and the current project is estimated to generate 1,080 ADT based on trip rates referenced from the Institute of Transportation Engineers Trip Generation Manual, 11th Edition. Overall, trip generation would decrease compared to the 2021 FEIR.

Table 17 Project Trip Generation Comparison			
	Development Assumptions	Trip Rate (ADT/Unit or TSF)	Average Daily Trips
2021 FEIR Trip Generation			
Multi-family Housing (Mid-Rise)	238 DU	4.54	1,081
General Office Building	7.500 TSF	10.84	81
Total 2021 FEIR Trip Generation			1,162
Project Trip Generation			
Senior Adult Housing – Multi-family	250 DU	3.24	810
Medical-Dental Office Building –Stand-Alone	7.500 SF	36.00	270
Total Current Project Trip Generation			1,080
Net Trip Generation (Project – 2021 FEIR)			(82)
SOURCE: Appendix M. ADT = average daily trips TSF = thousand square feet DU = dwelling unit			

In addition to the reduced average daily trips, the land uses proposed by the current project land would generate trips with shorter trip lengths than the uses previously analyzed in the 2021 FEIR, because the senior housing units would not be associated with a home-work commute for most units. Additionally, the medical office building would likely be used by the adjacent senior housing residents, reducing the distance of potential trips for medical needs. The proposed medical office building would offer other residential uses in the City a more convenient location than existing medical offices farther away.

Internal trip capture reductions were calculated between the proposed uses due to the interaction between the senior housing and medical office uses on site. Internal trip capture reductions were estimated using the National Cooperative Highway Research Program (NCHRP) 684 Trip Capture Estimation Tool, which is referenced in the ITE Trip Generation Handbook, 3rd Edition (2017). Based on the NCHRP 684 Trip Capture Estimation Tool, 3 percent of the senior housing outbound trips and 6 percent of the medical office inbound trips would occur internally during the AM peak-hour. Four percent of the senior housing outbound trips and 11 percent of the medical office inbound trips would occur internally during the PM peak-hour. The internal trip capture concept could also be applied to the senior housing use east of the project site (San Clemente Villas by the Sea), as those residents would be able to walk to the proposed medical office building rather than driving to other medical office buildings in San Clemente or beyond.

Furthermore, the project site is immediately east of Ocean View Plaza with a variety of uses including restaurant, retail, bank, supermarket, and drugstore. The future senior housing residents would be able to walk to these nearby uses rather than driving to similar uses in the City and beyond, which would result in a reduction in VMT. Due to the combination of lower trip generation and reduced trip length, the current project would generate less VMT compared to the previous project that was evaluated in the 2021 FEIR. Therefore, the project would not result in a new or substantially greater impact related to VMT than previously analyzed.

The 2021 FEIR concluded impacts related to VMT would be significant and unavoidable because VMT/capita would exceed the regional average for Orange County. The 2021 FEIR referenced consistency with Mobility Element Policy 1.21 as a means to reduce single-occupant vehicles and encourage alternative modes of transportation. The project, as discussed above is VMT reducing as it would locate senior housing in proximity to a medical office building and in proximity to other services within walking distance. The project incorporates pedestrian access to facilitate and encourage walking. The project has demonstrated consistency with City policy related to VMT reduction to the extent feasible. Implementation of the project would result in reduced VMT compared to what was analyzed in the 2021 FEIR. No new impacts or more severe impacts related to VMT would occur.

Hazards Due to a Design Feature

2021 FEIR

The 2021 FEIR determined that the Housing and Safety Elements Update did not propose any changes to the existing roadway network, and future site-specific development would be designed consistent with established roadway design standards. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not substantially increase hazards, and impacts would be less than significant.

Project

The project would utilize the existing driveway connections to Camino de los Mares. In order to reinforce the right-in and right-out turning movements at the western driveway, the project would make median improvements within Camino de Los Mares, and introduce signage and a center island at the driveway entrance to direct traffic. These changes would improve safety for turns into or out of the western driveway. The project would not make any other changes to the existing circulation network. Any modifications to the existing connections to Camino de los Mares would be completed consistent with applicable safety standards. Therefore, the project would not result in a new or substantially greater increase hazards due to a geometric design feature or incompatible use than previously analyzed, and impacts would be less than significant. No new impact would occur.

Emergency Access

2021 FEIR

The 2021 FEIR determined that the Housing and Safety Elements Update did not propose any changes to the existing roadway network, and access for future site-specific development to the existing roadway network would be configured consistent with established roadway design standards that would allow for emergency access. The City would continue to implement the Multi-Hazard Emergency Plan to ensure adequate emergency access within the City. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not result in inadequate emergency access, and impacts would be less than significant.

Project

The project site is located within an urban environment along a developed transportation corridor that would allow for emergency access. The project would utilize the existing driveway connections to Camino de los Mares. In order to reinforce the right-in and right-out turning movements at the western driveway, the project would make median improvements within Camino de Los Mares, and introduce signage and a center island at the driveway entrance to direct traffic. These changes would improve safety for turns into or out of the western driveway and support emergency access. The project would not make any other changes to the existing circulation network. Any modifications to the existing connections to Camino de los Mares would be completed consistent with applicable safety standards related to emergency access. Therefore, the project would not result in new or substantially greater inadequate emergency access than previously analyzed, and impacts would be less than significant. No new impact would occur.

15.17 Utilities and Service Systems

Utility Infrastructure

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that is a policy document that would not result in any physical development that would require utility services. The 2021 FEIR determined that future development at the Housing Sites would be located within existing developed areas with access to utility infrastructure. Utility infrastructure improvements and relocations associated with the future Housing Sites would be evaluated in their respective subsequent environmental documents for discretionary projects, or as part of the ministerial review that will be implemented through an overlay zone that includes objective standards and requirements to reduce physical impacts to the extent feasible, and impacts would be less than significant.

Project

Existing utility services are available adjacent to the site, and improvements would be limited to extension of pipelines onto the project site. Consequently, potential impacts associated with proposed on-site utility facilities have been considered within this environmental document. The project site was evaluated as a potential rezone site (Site V) in the Housing Element Update that would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. The project has been slightly revised compared to the Housing Element Update to develop 250 senior housing units and 7,500 square feet of medical offices. The redesigned residential component would not substantively increase demand for utility services compared to what was evaluated in the 2021 FEIR. In fact, residents in a senior housing development may have lower utility demand compared to residents in multi-family units. Therefore, the project would not result in a new or substantially greater increase in demand for utility services than previously analyzed, and impacts would be less than significant. No new impact would occur.

Water Supply

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that would increase demand for water supply. The City's UWMP anticipated that it would be able to acquire necessary water supplies to meet demand through 2045. Future residential uses anticipated in the Housing Element sites inventory and potential rezone sites would accommodate future population growth within the City anticipated by SCAG and would not introduce additional housing beyond what is projected. The 2021 FEIR determined that the Housing Sites have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years, and impacts would be less than significant.

Project

The project site was evaluated as a potential rezone site (Site V) in the Housing Element Update that would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. The project has been slightly revised compared to the Housing Element Update to develop 250 senior housing units and 7,500 square feet of medical offices. The redesigned residential component would not substantively increase demand for water supply compared to what was evaluated in the 2021 FEIR. In fact, residents in a senior housing development may have lower demand for water supply compared to residents in multi-family units. Therefore, the project would not result in a new or substantially greater increase in demand for water supply than previously analyzed, and impacts would be less than significant. No new impact would occur.

Wastewater Treatment

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that would increase demand for wastewater treatment. Development at the Housing Sites would accommodate future population growth within the City anticipated by SCAG. Therefore, the project would not introduce additional housing that is not anticipated within the City, and would not increase demand for wastewater treatment beyond what has been planned and is anticipated by the City's service providers, and impacts would be less than significant.

Project

The project site was evaluated as a potential rezone site (Site V) in the Housing Element Update that would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. The project has been slightly revised compared to the Housing Element Update to develop 250 senior housing units and 7,500 square feet of medical offices. The redesigned residential component would not substantively increase demand for wastewater treatment compared to what was evaluated in the 2021 FEIR. In fact, residents in a senior housing development may have lower demand for wastewater treatment compared to residents in multi-family units. Therefore, the project would not result in a new or substantially greater increase in demand for wastewater treatment than previously analyzed, and impacts would be less than significant. No new impact would occur.

Solid Waste

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that would generate solid waste. The 2021 FEIR determined that adequate landfill capacity exists to serve development of the Housing Sites, and impacts would be less than significant. The 2021 FEIR additionally determined that the project would comply federal, state, and local management and reduction statutes related to solid waste, and impacts would be less than significant.

Project

The project site was evaluated as a potential rezone site (Site V) in the Housing Element Update that would be redeveloped with 238 multi-family residential units and 7,500 square feet of commercial space. The project has been slightly revised compared to the Housing Element Update to develop 250 senior housing units and 7,500 square feet of medical offices. The redesigned residential component would not substantively increase solid waste generation compared to what was evaluated in the 2021 FEIR. Therefore, the project would not result in a new impact or substantial increase in severity of impacts related to solid waste generation.

Regarding consistency with regulations and policies, the City would continue to implement General Plan policies to reduce amount of material disposed at landfills, and the project would be subject to the same requirements. Therefore, the project would not result in a new or substantially greater impact related to conflicts with statutes and regulations related to solid waste compared to what was analyzed in the 2021 FEIR.

15.18 Wildfire

Emergency Response Plans

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that would not result in any physical development, and the Housing Sites are located within existing developed areas and along major transportation corridors in the City that would allow for evacuation and response. Development at the Housing Sites would not physically interfere with any emergency response or evacuation plans because they would not include any features that would prevent continued implementation of these plans, and impacts would be less than significant.

Project

The project site is located within an urban environment along a developed transportation corridor that would allow for emergency evacuation. The project would utilize the existing driveway connections to Camino de los Mares. In order to reinforce the right-in and right-out turning movements at the western driveway, the project would make median improvements within Camino de Los Mares, and introduce signage and a center island at the driveway entrance to direct traffic. These changes would improve safety for turns into or out of the western driveway and support

emergency response and evacuation. The project would not make any other changes to the existing circulation network. Therefore, the project would not result in any new impacts or substantially increase the severity of impacts related to emergency response plans or emergency evacuation plans beyond what was previously analyzed in the 2021 FEIR.

Wildfire

2021 FEIR

The 2021 FEIR determined that the Safety Element is a policy document that would not result in any physical development, and implementation of Safety Element policies by the City focused on increasing wildfire safety through increased coordination with fire protection agencies, using the latest mapping to determine wildfire risks, and supporting efforts to evaluate wildfire evacuation and safety planning. The 2021 FEIR determined that development of the Housing Sites, especially within or adjacent to VHFHSZ, could result in impacts related to wildfire. However, future ministerial and discretionary development at the Housing Sites would be required to adhere to all regulatory requirements in place to minimize wildfire hazards including applicable sections of the SCMC, fire and building codes, and requirements from the fire chief that would be identified during future building permit reviews. Additionally, implementation of General Plan Policies S-3.02 through S-3.06 in the City's General Plan Safety Element would further protect land uses within the VHFHSZ and enhance wildfire safety. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not expose people or structures either directly or indirectly to a significant risk of loss, injury, or death involving wildland fires, and impacts would be less than significant.

Project

The project site is located in an urbanized area and is not within, or adjacent to, an area identified as a VHFHSZ. Therefore, the project would not result in new impact or substantially increase the severity of an impact related to exposure of people or structures to a significant risk of loss, injury, or death involving wildland fires compared to what was previously analyzed in the 2021 FEIR.

Infrastructure

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could result in fire risk. The 2021 FEIR determined that future ministerial and discretionary development at Housing Sites and associated infrastructure would be required to adhere to all regulatory requirements in place to minimize wildfire hazards including applicable sections of the SCMC, fire and building codes, and requirements from the fire chief that would be identified during future building permit reviews. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment, and impacts would be less than significant.

Project

As described in Section 15.19.a above, existing utility services are available adjacent to the site, and improvements would be limited to extension of pipelines onto the project site. Furthermore, the project would not increase demand for utility services beyond what was analyzed in the 2021 FEIR. Consequently, the project would not construct any infrastructure facilities. Therefore, the project would not require the installation or maintenance of associated infrastructure that may a new or substantially greater fire risk than previously analyzed, and impacts would be less than significant. No new impact would occur.

Flooding and Landslides

2021 FEIR

The 2021 FEIR determined that the Safety Element Update is a policy document that would not result in any physical development that could result in fire risk. The 2021 FEIR determined that development of future Housing Sites would be required to comply with applicable regulations and policies related to flooding, drainage patterns, and landslides. Therefore, the 2021 FEIR determined that the Housing and Safety Elements Update would not expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes, and impacts would be less than significant.

Project

Review of Figure 4.8-2 of the 2021 FEIR determined that the project site is not located within a flood hazard zone. As described in Section 4.7. above, the Geologic and Seismic Hazards Review completed for the project determined that the majority of the project site is flat and would not be subject to landslides. Implementation of measures identified in the Geologic and Seismic Hazards Review would ensure protection against landslides. Therefore, the project would not expose people or structures to a new impact or a substantial increase in the severity of impacts related to downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage compared to what was previously analyzed in the 2021 FEIR.

16.0 Mitigation Monitoring and Reporting Program Incorporated into the project

The project shall be required to comply with the applicable mitigation measures outlined within the MMRP of the previously certified PEIR, including measures incorporated by reference from the City's General Plan Mitigation Monitoring Program, and those identified with the project-specific subsequent technical studies. The following MMRP presented in Table 18 below identifies measures that specifically apply to this project.

Table 18 Mitigation, Monitoring, and Reporting Program Incorporated into the Project			
Mitigation Measure	Timing of Verification	Responsible for Verification	Status/ Date/ Initials
Biological Resources			
<p>MM -BIO-1: Nesting Migratory Birds</p> <p>No direct impacts shall occur to any nesting birds, their eggs, chicks, or nests during the breeding season. If vegetation removal activities must occur during the bird breeding season of February 1 to September 15, then a pre-construction survey would be necessary to confirm the presence or absence of breeding birds within the temporary parking lot. If nests or breeding activities are located on-site, then an appropriate buffer area around the nesting site shall be maintained until the young have fledged. The width of the buffer would be determined by a qualified biologist and biological monitoring would be required during construction. If no nesting birds are detected during the pre-construction survey, no avoidance measures would be required.</p>	During Construction	City of San Clemente/ Qualified Biologist	
Cultural Resources			
<p>MM-CUL-1: Archaeological Monitoring</p> <p>A qualified archaeologist shall be retained for the project to conduct the following monitoring activities during construction:</p> <ul style="list-style-type: none"> a. An archaeologist shall be on call during grading and other significant ground-disturbing activities. b. Should any cultural/scientific resources be discovered, no further grading shall occur in the area of the discovery until the Community Development Director concurs in writing that adequate provisions are in place to protect these resources. c. Unanticipated discoveries shall be evaluated for significance by an Orange County Certified Professional Archaeologist. If significance criteria are met, then the project shall be required to perform data recovery, professional identification, radiocarbon dates as applicable, and other special studies; submit materials to the California State University Fullerton or local archival facility, where available; and provide a comprehensive final report including appropriate records for the California Department of Parks and Recreation (Building, Structure, and Object Record; Archaeological Site Record; or District Record, as applicable). 	During Construction	City of San Clemente/ Qualified Archaeologist	

Table 18 Mitigation, Monitoring, and Reporting Program Incorporated into the Project			
Mitigation Measure	Timing of Verification	Responsible for Verification	Status/Date/Initials
Geology and Soils			
<p>MM-PAL-1: Paleontological Resources Impact Mitigation Program</p> <p>A paleontologist who meets the qualifications established by the Society of Vertebrate Paleontology (SVP) shall be retained to develop a Paleontological Resources Impact Mitigation Program (PRIMP) for this project. The PRIMP shall be consistent with the standards of the SVP and include the methods that will be used to protect paleontological resources that may exist within the project site, as well as procedures for monitoring, fossil preparation and identification, curation into a repository, and preparation of a report at the conclusion of grading.</p>	Prior to and during Construction	City of San Clemente/ Qualified Paleontologist	
<p>MM-PAL-2: Paleontological Monitoring</p> <p>Excavation and grading activities in deposits with high paleontological sensitivity (i.e., the Capistrano Formation) shall be monitored by a qualified paleontological monitor following a PRIMP. No monitoring is required for excavations in deposits with no paleontological sensitivity (i.e., Artificial Fill). If paleontological resources are encountered during the course of ground disturbance, the paleontological monitor shall have the authority to temporarily redirect construction away from the area of the find. In the event that paleontological resources are encountered when a paleontological monitor is not present, work in the immediate area of the find shall be redirected, and the paleontologist or paleontological monitor shall be contacted to assess the find for scientific significance. If determined to be scientifically significant, the fossil shall be collected from the field.</p>	During Construction	City of San Clemente/ Qualified Paleontologist	
<p>MM-PAL-3: Paleontological Resources Report</p> <p>Collected resources shall be prepared to the point of identification, identified to the lowest taxonomic level possible, cataloged, and curated into the permanent collections of a museum repository. At the conclusion of the monitoring program, a report of findings shall be prepared to document the results of the monitoring program.</p>	During Construction	City of San Clemente/ Qualified Paleontologist	