

2.A TOPICAL RESPONSES TO COMMENTS

TR-1: CIELO VISTA AND ESPERANZA HILLS PROJECTS: PIECEMEALING-SEGMENTATION

Several commenters suggest that the Esperanza Hills development is a *component* of the Cielo Vista Project and that both developments should be considered together in a single Environmental Impact Report (EIR). By way of background, the Esperanza Hills development is a residential project consisting of 340 single family residential units on 468.9 acres of land located adjacent to, and east of, the Cielo Vista project site. The applicants are Gary Lamb and Douglas Wymore of Yorba Linda Estates, LLC. The County of Orange has prepared a Draft EIR for the Esperanza Hills Project, which was circulated for public review and comment between December 4, 2013 and February 3, 2014. The County Board of Supervisors' adopted the Esperanza Hills Specific Plan and its other entitlements on June 2, 2015 and certified its Final EIR on March 10, 2015. By contrast, the Cielo Vista Project is wholly unrelated to, and completely independent from, the Esperanza Hills development. Cielo Vista proposes to develop a maximum of 112 single-family dwellings and associated infrastructure on an 84-acre site located adjacent to, and west of, the Esperanza Hills development. The applicant is Sage Community Group, Inc. The County of Orange has prepared a Draft EIR for the Cielo Vista Project, which was circulated for public review and comment between November 7, 2013 and January 22, 2014.

Although the Cielo Vista property is a portion of the area commonly referred to as the "Murdock Property" in the City of Yorba Linda General Plan,¹ the Esperanza Hills development is not a component of the Cielo Vista Project, and CEQA does not require that both developments be considered together in a single EIR because the projects are independently owned and not related in any way except by adjacency, which does not constitute a requirement for combining the two project sites into a single project/environmental analysis. Other nearby or adjacent properties, including Bridal Hills and Yorba Linda Land are likewise not included in the Cielo Vista development proposal. Chapter 2.0 of the Cielo Vista Draft EIR (Project Description) clearly identifies and describes each development component proposed by the applicant and adequately analyzes potentially significant impacts and prescribes project-specific mitigation measures where such impacts are identified. In addition, the EIR also analyzes potential cumulative impacts, as required by CEQA. The Esperanza Hills Project is included along with 17 other approved, proposed or probable future projects as "related projects" in Table 3-1 of the Draft EIR, which are the basis of the cumulative impacts analysis prepared for each environmental issue analyzed in the Draft EIR. Growth-inducing impacts of the proposed Cielo Vista Project are also analyzed in Chapter 6.0.

According to *Laurel Heights Improvement Ass'n v. Regents of the Univ. of Cal.*, "an EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects. Absent these two circumstances, the future expansion need not be considered in the EIR for the proposed project." (*Laurel Heights Improvement Ass'n v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 396.) The Esperanza Hills Project fails the two part Laurel Heights test for determining what activities are included within the definition of a "project" under CEQA. It is not a reasonably foreseeable consequence of the Cielo Vista

¹ In addition to the Cielo Vista property, the Murdock Property also includes the Esperanza Hills, Bridal Hills, and Yorba Linda Land properties; however, each property is separately owned and controlled by different parties.

Project. Approval of Cielo Vista does not commit the County to approving Esperanza Hills. (*Lake County Energy Council v. County of Lake* (1977) 70 Cal.App.3d 851, 856.) Esperanza Hills is thus speculative, like the project in *Lake County Energy Council*, where the court stated that:

While it is clear that the requirements of CEQA “cannot be avoided by chopping up proposed projects into bite-size pieces” which, when taken individually, may have no significant adverse effect on the environment [citation omitted], it is also true that where future development is unspecified and uncertain, no purpose can be served by requiring an EIR to engage in sheer speculation as to future environmental consequences. [citation omitted]

(*Lake County Energy Council* 70 Cal.App.3d at 854-855.) Because the two-part *Laurel Heights* test requires both elements to be true, and because the Project does not satisfy the first element, there is no need to analyze the second prong, which asks whether the future expansion will be significant in that it will change the scope or nature of the initial project. Rather than considering the Esperanza Hills Project as *part of* the Cielo Vista Project and in the Cielo Vista EIR, the EIR properly considered the potential environmental impacts associated with Esperanza Hills as a related project for cumulative impacts purposes (See Cielo Vista EIR Chapter 3.0 and Table 3-1) and in the EIR’s analysis of growth inducing impacts (See Cielo Vista EIR Chapter 6.0) given that the two projects may share and benefit from some of the same infrastructure improvements.

Therefore, because the County of Orange has the discretion to approve or deny one of the projects and not the other and, furthermore, because the individual properties comprising the “Murdock Property” are not related either by ownership or in any other way except adjacency, “piecemealing” or segmentation as defined in CEQA and the CEQA Guidelines has not occurred and the Cielo Vista Draft EIR has adequately and accurately analyzed the potential impacts of the proposed Project as required by CEQA.

TR-2 WATER INFRASTRUCTURE

The potable water infrastructure for the Project is described in Chapter 2.0, *Project Description*, and Section 4.15, *Utilities and Service Systems*, in the Draft EIR. As noted in those sections, the project site is within the service area of the Yorba Linda Water District (YLWD), and would require a pre-annexation agreement and subsequent annexation into the District (see page 4.15-14 of the Draft EIR). The Draft EIR identified two thresholds of significance in its evaluation of water infrastructure and water supply. With respect to water infrastructure, the Draft EIR addressed whether the Project would require or result in the construction of new water facilities, or the expansion of existing facilities, the construction of which could cause significant environmental effects.

The YLWD has completed a study to identify the water infrastructure improvements and/or upgrades for the service area that includes the project site and the adjacent proposed Esperanza Hills Project. That study is referred to as the Northeast Area Planning Study (NEAPS). (Yorba Linda Water District, Final Report Northeast Area Planning Study, Job No. 2010-11B, prepared by Carollo, dated March 2013.) As set forth in the NEAPS:

The purpose of the Northeast Area Planning Study is to evaluate the capacity of existing distribution system facilities and size new infrastructure required to provide water under anticipated operational conditions for future demands. ... This Northeast Area Planning Study is primarily limited to the system evaluation surrounding the new Esperanza Hills/Sage [the Cielo Vista Project] developments and the FPS [the District's Fairmont Pump Station]. (NEAPS at ES-1 and ES-3.)

The NEAPS was a detailed study of the existing water infrastructure, an evaluation of the water demands of the proposed Project and the adjacent proposed Esperanza Hills Project, and an analysis of what additional storage and associated facilities would be required to meet the water demands, including fire flow, of the proposed Project. The conclusions in the NEAPS were based upon an analysis of a variety of factors, such as the storage capacity of existing zones, storage capacity in existing reservoirs, and a calculation of the water demands for three components (operational, fire and emergency). The conclusions and recommendations of the NEAPS were based upon substantial evidence-including quantitative analysis--documented in the report.

The NEAPS estimated that the two proposed developments would require approximately 1.3 million gallons (MG) of new storage facilities, and identified as its preferred option that the 1.3 MG storage be located within both development areas. (NEAPS at ES-1.) A detailed discussion of the facilities, the storage requirements to address fire flow requirements (both projects would require 0.18 MG of dedicated fire flow storage each), the infrastructure facilities to support the projects, and potential additional offsite improvements for water infrastructure storage and delivery were addressed in Section 4.15 of the Draft EIR on page 4.15-18. According to the NEAPS, the infrastructure required for its preferred option includes: two pump stations (one for pressure zone 1200 and the other for pressure zone 1390), two storage tanks with a combined capacity of 1.3 MG, a pressure reducing station if the upper tank in zone 1390 is sized to meet some demands in zone 1200, in-tract pipelines, and increase to firm capacity of Fairmont Pump Station, and additional off-site improvements including additional well capacity and pipeline upgrades to be determined by YLWD. (NEAPS at pages 14-15.)

The Esperanza Hills Project intends to construct the two water storage tanks that are described in the NEAPS. As described in the certified Esperanza Hills Draft EIR (November 2013), "The water improvements

proposed will be designed and constructed in accordance with the YLWD standards and specifications. Two on-site underground reservoirs have been proposed and identified as 1200 Zone Reservoir and the 1390 Zone Reservoir.” As both of the water storage facilities will be underground, as well as the pipelines, no view impacts from these facilities are anticipated. Because these two underground reservoirs are being constructed as part of the development of the Esperanza Hills Project, the environmental impacts of the facilities were considered as part of the Esperanza Hills Draft EIR. The pipeline infrastructure that will be needed for the delivery of the water within the Cielo Vista Project has been considered as part of the environmental analysis in the Draft EIR for the Cielo Vista Project. Because some of the location and operational characteristics of some water infrastructure facilities have not yet been identified by YLWD, it would require speculation to determine where and what those facilities may be; therefore at such time as the facilities are identified by YLWD, the environmental impacts of those facilities would be evaluated by YLWD at that time.

The Esperanza Hills Project proposes to construct the facilities at a size sufficient to address the demands of its project for a total storage capacity of 1.1 MG. NEAPS described the recommended storage capacity of 1.3 MG to provide capacity for both projects. Mitigation Measure 4.15-1 has been identified to require the Cielo Vista Project to pay its fair share costs to the YLWD for the infrastructure improvements described in the NEAPS to support the Cielo Vista Project. As described previously, as the Esperanza Hills Project intends to construct 1.1 MG of storage and the YLWD has identified the need for 1.3 MG of storage capacity, Cielo Vista will pay its fair share to YLWD to provide for the additional 0.2 MG of storage capacity to implement the infrastructure system described in the NEAPS to adequately serve both projects. To ensure that the water storage facilities are constructed before development of Cielo Vista occurs, Mitigation Measure 4.15-1 further provides that no grading permits can be issued for the Cielo Vista project until adequate water storage facilities and related improvements are implemented by YLWD and operation to the satisfaction of the Orange County Fire Authority, unless otherwise determined acceptable by YLWD and the Orange County Fire Authority. Therefore, in addition to paying its fair share to implement the infrastructure improvements identified in the NEAPS for its project, until those facilities are constructed and the water storage facilities become available, grading permits for Cielo Vista cannot be issued.

A number of comments were received regarding the water infrastructure needed to address both the potable water demands of the Cielo Vista Project as well as the fire flow demands. As described above, the NEAPS prepared by the YLWD addressed storage criteria for three storage components: operational storage (i.e., the daily water demands of the YLWD customers (the Cielo Vista Project); fire flow storage; and emergency storage (e.g., water contamination, power outages, transmission pipeline ruptures, earthquakes, etc.). The 1.3 MG storage capacity identified in the NEAPS addressed all three storage components.

With respect to the question of water supply, the Cielo Vista Project does not meet the adopted size thresholds to require a water supply assessment and water supply verification under the provisions of Senate Bill (SB) 610 and SB 221, respectively. Even if combined with the development of Esperanza Hills (340 units) and Bridal Hills (38 units), the projected number of homes remains below the 500-unit minimum threshold for preparation of the SB 610/SB 221 study, which must be included in any environmental documentation for certain projects subject to CEQA.¹ As indicated below, the YLWD Water Master Plan, which estimates that water supply is adequate up to the year 2035, is the equivalent of a water supply assessment for purposes of water supply verification.

¹ As defined in Water Code §10912(a).

The Draft EIR threshold of significance requires consideration of whether sufficient water supplies are available to serve the project or whether new or expanded water supply entitlements were required. The Draft EIR at pages 4.15-3 to 4.15-9 described the water supplies available to the YLWD based upon the YLWD's 2010 Urban Water Management Plan, prepared by Malcolm Pirnie, Inc., dated May 2011. Based upon its existing water supplies, the Draft EIR stated that the YLWD is "capable of meeting the water demands of its customers in normal, single dry, and multiple dry years between 2015 and 2035." YLWD also provided a conditional will serve letter for the Cielo Vista Project.

This page intentionally blank.

TR-3 EMERGENCY EVACUATION

This response is provided to address topical issues that were identified within the comment letters on the Draft EIR. Reference to this Topical Response is noted in appropriate individual comment letters on this topic.

Community Evacuation Planning

Law enforcement agencies do not have the legal authority to force residents to evacuate. However, they may impose restrictions on people entering evacuation areas. It is incumbent upon the residents in the area to adhere to evacuation plans and advance warning systems at the earliest possible time, not only in the Cielo Vista community, but in the existing residential neighborhoods as well, in order to avoid harm.

Following the Freeway Complex Fire in 2008, several steps have been taken with respect to emergency evacuation planning, including the following:

- The Orange County Sheriff's Department (OCSA) and the City of Yorba Linda have prepared a Community Evacuation Plan. The OCSA evacuation plan focuses on moving vehicles off Yorba Linda Boulevard and through local neighborhoods in order to reduce the volume of traffic on Yorba Linda Boulevard and lessen the severe congestion experienced in 2008 when an evacuation plan was not in place.
- The Orange County Fire Authority (OCFA) has adopted the "Ready, Set, Go!" program, which provides information and education for residents related to preparation and early evacuation.
- Alert OC is now in place to alert residents of emergency evacuation events.

In addition to evaluating the 2008 Freeway Complex Fire, local agencies have evaluated other fire response and evacuation plans enacted for wildfires throughout southern California. As a result, more coordinated efforts have been developed between agencies to effectuate faster responses and to move people out of harm's way using plans designed through inter-agency cooperation. The recent San Diego fire in May 2014 has shown that such efforts are not only effective, but provide a model for other communities. The coordinated efforts between OCFA, OCSA and the City of Yorba Linda have resulted in plans that will evacuate areas much more quickly and efficiently than the evacuation effort during the Freeway Complex Fire in 2008. The addition of the measures proposed for Cielo Vista will support and enhance the evacuation plans through resident information and preparedness training.

EMERGENCY ACCESS ROADS FOR EMERGENCY VEHICLES

The Project would include internal roads and improvements to Aspen Way and Via del Agua at the project access points. All traffic improvements would be reviewed by the OCFA, the Orange County Department of Public Works Road Division, and the City of Yorba Linda (as necessary) in order to ensure consistency with the applicable County and City building, fire and safety codes regarding access for vehicles and equipment for fire, ambulance, and police personnel. According to the OCFA Guidelines B-09, Fire Master Plans for Commercial and Residential Development, the number of fire apparatus access roads required for a residential development is limited to one if the development contains less than 150 residential units. The portion of the Project taking access from Via del Agua proposes 95 residential units while the portion taking

access from Aspen Way proposes 17 residential units, both of which are below the 150 unit threshold. As such, the Project has been designed such that both portions of the Project (located off of Aspen Way and off of Via del Agua) would comply with Guideline B-09 for fire apparatus access.

In conjunction with the Evacuation Plan designed by OCSD and the City for the immediate surrounding area, and the County's Evacuation Plan adopted by the Orange County Office of Emergency Services, an evacuation plan has been designed for the Project and the adjacent Esperanza Hills project. The recommended triggers for Project site evacuation plan are:

- Red Flag Warning Period – During a Red Flag Warning Period, if there is an active wildfire burning west of the SR-71 Freeway and north of the SR-91 Freeway and south of Highway 142 (Carbon Canyon Road) the community will conduct an evacuation out of the area or a partial on-site relocation if directed by fire/law officials.
- Non-Red Flag Warning days – When there is an active wildfire burning within a 2.5-mile sphere of the community, an evacuation out of the area or a partial relocation will occur if directed by fire/law officials.

The above triggers are recommendations only. The actual triggers will be determined by fire and law officials.

FIRE EVACUATION ANALYSIS

Linscott, Law & Greenspan, Engineers (LLG) prepared a Fire Evacuation Analysis (Analysis) for the Esperanza Hills project addressing the theoretical duration it would take to evacuate that development and the existing and proposed residential developments in the vicinity of that development, including the proposed 112-unit Project and 11 approved but unbuilt homes in Casino Ridge. Evacuation routes are consistent with the emergency access plans contained in the Esperanza Hills Traffic Impact Analysis (TIA) prepared by LLG (March 18, 2013) and included in the Esperanza Hills Draft EIR as Appendix O (Figures 11-2: Option 1 and Figure 17-2: Option 2). The following general assumptions were used in LLG's analysis.

- Existing development in the Project vicinity considered in the Analysis consists of 771 homes.
- Based on the average daily traffic (ADT) on Via del Agua, San Antonio Road, and Stonehaven Drive, the following evacuation pattern is assumed for existing residential units:
 - Approximately 87 existing homes will evacuate via Via del Agua
 - 410 existing homes will evacuate via San Antonio Road
 - 56 existing homes will evacuate via Dorinda Road
 - 218 existing homes will evacuate via Stonehaven Drive (not including the proposed Project)
- Cielo Vista's proposed 112 single-family homes would evacuate as follows:
 - 95 homes directed to Stonehaven Drive
 - 17 homes directed to San Antonio Road via Aspen Way
- 11 potential future single-family homes (approved but unbuilt) in Casino Ridge are assumed in the analysis and are directed to San Antonio Road.

- Each home will evacuate with two vehicles, which assumes every home is occupied at the time of evacuation notice.
- Each resident is directed to depart their home (evacuate) at the same time.
- Lane capacity of 1,600 vehicles per hour per lane (vphpl) with 75% green time at the intersections with Yorba Linda Boulevard (effective capacity of 1,200 vphpl, which is based on 1,600 vphpl x 0.75 (green light 75% of the time)).
- Manned traffic control at the intersections of Via del Agua, San Antonio Road, Dorinda Road, and Stonehaven Drive with Yorba Linda Boulevard (police personnel directing traffic per the Orange County Sheriff's Department/City traffic control evacuation plan).

In addition to the general assumptions above, the following assumptions relate to Esperanza Hills' Option 1:

- Option 1 - The evacuation path would be via the main Project access to Stonehaven Drive and via the secondary emergency access to Via del Agua approximately 130 feet northeast of Via de la Roca.
- Of the 378 theoretical homes within the Esperanza Hills and Bridal Hills projects, 246 (65%) will evacuate via Via del Agua and 132 (35%) via Stonehaven Drive (Option 1).

In addition to the general assumptions above, the following assumptions relate to Esperanza Hills' Options 2, 2A and 2B:

- Option 2 - The evacuation path would be via the main Project access to Aspen Way/San Antonio Road and via the secondary emergency access to Stonehaven Drive (Figure 3 and Figure 4 in the updated Analysis and Figure 17-2 in the Traffic Impact Analysis).
- Of the 378 theoretical homes within the Esperanza Hills and Bridal Hills projects, 246 (65%) will evacuate via San Antonio Road, 91 (24%) will evacuate via Via del Agua, and 41 (11%) will evacuate via Stonehaven Drive (Option 2, Option 2A, and Option 2B).

Figure 5 in the Analysis presents the fire evacuation traffic volumes and the estimated evacuation time to clear every vehicle to Yorba Linda Boulevard under existing conditions. As presented in Figure 5, based on an effective roadway capacity of 1,200 vphpl on Via Del Agua, San Antonio Road, Dorinda Road, and Stonehaven Drive, all of the approximately 771 existing homes in the study area could optimally evacuate to Yorba Linda Boulevard within 45 minutes. However, assuming that all residents depart their homes within the first 30 minutes, which results in a peak hour factor of 0.50, full evacuation of the study area may practically take up to 90 minutes.

Figure 6 in the Analysis presents the fire evacuation traffic volumes and the estimated evacuation time to clear every vehicle to Yorba Linda Boulevard under the proposed Esperanza Hills' Option 1 development access scenario, which directs traffic to Via del Agua and Stonehaven Drive only. Based on an effective roadway capacity of 1,200 vphpl on Via del Agua, San Antonio Road, Dorinda Road, and Stonehaven Drive, all of the approximately 1,272 homes in the study area (including Cielo Vista) could optimally evacuate to Yorba Linda Boulevard within 45 minutes. However, assuming that all residents depart their home within the first 30 minutes, full evacuation of the study area may take up to 90 minutes.

Figure 7 in the Analysis presents the fire evacuation traffic volumes and the estimated evacuation time to clear every vehicle to Yorba Linda Boulevard under the proposed Esperanza Hills' Option 2, Option 2A, and

Option 2B scenarios, which directs traffic to San Antonio Road, Via del Agua, and Stonehaven Drive. Based on an effective roadway capacity of 1,200 vphpl on Via del Agua, San Antonio Road, Dorinda Road, and Stonehaven Drive, all of the approximately 1,272 homes in the study area (including Cielo Vista) could optimally evacuate to Yorba Linda Boulevard within 75 minutes. However, assuming that all residents depart their homes within the first 30 minutes, full evacuation of the study area may practically take up to 2.5 hours via San Antonio Road and up to 60 minutes via Stonehaven Drive. Approximately 85% of the Cielo Vista trips would utilize Via Del Agua and Stonehaven to evacuate to Yorba Linda Boulevard. Evacuation of Via Del Agua and Stonehaven, standing alone, would take 30 minutes under optimum conditions, and may practically take 60 minutes.

EVACUATION NOTIFICATION

Notification of residents will be via Alert OC, radio and television news sources, or through direct notification by OCSD on-site through site patrols. Once aware of a fire, the community's pre-planned and practiced emergency response would be initiated.

The Cielo Vista Project includes design features and recommendations that will ensure all feasible steps will be taken to provide a safety factor to area residents, which do not currently exist. Four fuel modification zones will be implemented along the open space/residential boundary to help suppress wildland fires in accordance with OCFA guidelines. In addition, construction methods that reduce possible ember-related fires will be implemented. A traffic control evacuation plan approved by OCSD and the City is designed to assist in traffic flow and relieve congestion for evacuees. Resident adherence to evacuation plans will provide the greatest measure of safety to ensure safe and orderly egress from the Project and the adjacent neighborhoods. The measures proposed in the Draft EIR have been provided in consultation with OCFA, YLWD, the City, and OCSD to ensure compliance with all codes and requirements.

TR-4 GEOLOGY/SOILS: SEISMIC AND GEOLOGIC STABILITY HAZARDS

The Project's potential impacts related to geology and soils, including with respect to fault rupture, seismic hazards, ground shaking, liquefaction, soil erosion or the loss of topsoil, expansive soils, and landform/landslides, were thoroughly analyzed in Section 4.5, *Geology and Soils*, of the Draft EIR. To adequately assess all potential impacts, the Draft EIR includes and incorporates information contained in specific studies, specifically a *Geotechnical Feasibility Study* (dated March 1, 2013 as revised on June 30, 2015) and additional reports (*Proposed Development of Tentative Tract Map No. 17341, County of Orange, California, Geologic and Geotechnical Evaluation*) prepared by licensed geotechnical and soil engineers. These reports are included in Appendix E, *Geology Study*, of the Draft EIR. The *Geotechnical Feasibility Study* was subsequently refined by two letter reports prepared by LGC Geotechnical, Inc. Those letter reports are the result of the on-going "subsurface geotechnical evaluation" discussed in the *Geotechnical Feasibility Study* and are incorporated into the Final EIR (included in Appendix B of this Final EIR):

Location of Whittier Faults, Cielo Vista, Tentative Tract Map No. 17341, County of Orange, California, dated July 31, 2014

Discussion of Potential Implications of Subsurface Geological Features in the Southern Portion of Cielo Vista, Tentative Tract Map No. 17341, County of Orange, California, dated August 1, 2014.

With respect to potential fault rupture and the construction of residential dwelling units at the project site, the Draft EIR notes that the Whittier Fault crosses the central portion of the project site in a northwest orientation, as identified on the State Fault Rupture Hazard Zone Map for the Yorba Linda Quadrangle. For a detailed discussion of the environmental setting and potential hazards associated with constructing residences near the Whittier Fault and fault rupture, please see pages 4.5-9 through 4.5-14 of the Draft EIR. The Whittier Fault is considered to be "active" by the State of California. As described in the Draft EIR and Appendix E, specifically in the *Geotechnical Feasibility Study*, a dominant structural feature of the project site is the presence of the Whittier Fault trace through the center of the project site. To determine the location of the Whittier Fault, geological maps and geotechnical documents for the subject site were reviewed and fault trenches were excavated on the southern portion of the Fault Rupture Hazard Zone, the boundaries of which are depicted on Figure 4.5-1 of the Draft EIR. LGC Geotechnical did not conduct fault trenching on the northern portion of the Fault Rupture Hazard Zone due to the presence of deep saturated alluvium, a drainage channel, and landslide areas. However, a review of fault trenching performed east and west of the northern Fault Rupture Hazard Zone revealed the absence of active faulting projecting towards this area. The *Geologic and Geotechnical Evaluation* was likewise based upon past maps, excavation of fault trenches, and preliminary site investigations.

These studies, taken together with the letter reports provided by LGC Geotechnical, constitute substantial evidence of the location of the Whittier Fault. "For purposes of CEQA, substantial evidence 'means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached.'" (*Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 486; CEQA Guidelines § 15384(a)) It includes "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." (CEQA Guidelines § 15384(b); Pub. Res. Code §21080(e)(1).)

The Draft EIR also prescribes Mitigation Measure 4.5-1, which requires the Project applicant to submit a site-specific, design-level geotechnical investigation prior to the issuance of precise grading permits. The geotechnical investigation required by Mitigation Measure 4.5-1 will include subsurface investigation consisting of trenching to refine the location of the Whittier Fault. The text of Mitigation Measure 4.5-1 has been revised in order to reflect the two letter reports prepared by LGC Geotechnical. Mitigation Measure 4.5-1, as revised, reads as follows:

Mitigation Measure 4.5-1 Prior to the issuance of precise grading permits, unless noted as otherwise below or otherwise agreed to by County's engineering geologist, the Project applicant/developer shall submit a final site specific, design-level geotechnical investigation prepared by a California-licensed professional engineering geologist to the County of Orange Public Works Manager, Subdivision and Grading, or his/her designee and the County's engineering geologist for review, approval and implementation pursuant to the final site specific, design-level geotechnical investigation as outlined below. The investigation shall comply with all applicable State and local code requirements, including the current building code in effect at the time of precise grading permit issuance, and shall provide the following:

- a) As set forth in the letter from Tim Lawson, LGC Geotechnical, Inc. to Larry Netherton re Location of Whittier Fault, Cielo Vista, Tentative Tract Map No. 17341, County of Orange, California, dated July 31, 2014, the primary trace of the Whittier Fault is well-defined as a narrow fault zone less than approximately 15 feet-wide along the east-west drainage in the central portion of the Cielo Vista site. The geotechnical investigation required by this mitigation measure shall evaluate the potential for additional fault traces south of this zone and determine if any additional fault traces are "active" (i.e., a fault that has ruptured the ground surface within the Holocene Age (approximately the last 11,000 years)) by subsurface investigations consisting of trenching activities. Based on the results of this geotechnical investigation, the Project's proposed residences shall be set back from the fault trace in accordance with State setback requirements. The investigation shall comply with the Alquist-Priolo Earthquake Fault Zone Act.
- b) Conduct additional fault trenching as necessary and as recommended in the letter from Tim Lawson, LGC Geotechnical, Inc. to Larry Netherton re Discussion of Potential Implications of Subsurface Geological Features in the Southern Portion of Cielo Vista, Tentative Tract Map No. 17341, County of Orange, California, dated August 1, 2014, to confirm that the fault traces identified in the area of FT-1 and FT-4 are not active. Should this area not be determined to be active, a 75-foot setback zone would be recommended for those lots along the south side of the active Whittier Fault as delineated per subsection (a), above, and, on the north side of the active Whittier Fault, a setback zone ranging from 50 feet on the west side of the site to approximately 120 feet on the east side of the site. In addition, a 10-foot overexcavation and recompaction below pad grade for the proposed structures in Lots 18 to 56 is recommended as well as post-tensioned foundations. If faults observed in FT-1 and FT-4 are determined to be active, precise grading permits for Lots 20-52, 66-70, 83-89, 96-98 and 109-112 shall not be issued unless additional studies are prepared and approved by the County's registered engineering geologist confirming that some or all of these lots are suitable for residential construction.

- c) Include a stability analysis consisting of down-hole logging of large-diameter borings in the areas of suspected landslides and other areas of potential slope stability issues to characterize the slopes and engineering analysis to determine what, if any, stabilization measures are necessary. For potential global and local slope failures, a factor of safety for slope stability of equal to or greater than 1.5 and 1.1 for static and seismic loading conditions, respectively, is the generally accepted minimum for new residential construction. Where existing and/or proposed slopes are found to have a factor of safety lower than these minimum requirements, the development shall either need to be setback from, or mitigation methods implemented to improve the stability of, the slopes to these minimum levels. Slopes with less than the minimum factor of safety must be sufficiently setback so that at the location of the proposed residential structures, at least the minimum required factor of safety is achieved. Potential methods of mitigation against slope stability issues related to potentially unstable existing and proposed slopes, including existing landslides, typically include partial or complete landslide removal, excavation and construction of earthen buttresses, and/or shear keys. Landslide removal requirements, as well as the locations, depths, widths, and lengths of the buttresses/shear keys, shall be determined via geotechnical investigation and analysis during the design phase of the Project and confirmed during site grading.
- d) Conduct representative sampling and laboratory testing of the onsite soils to identify the locations of on-site expansive or compressible soils. Where unsuitable soils are found, site-specific design criteria (i.e., foundation design parameters) and remedial grading techniques (i.e., primarily removal, moisture conditions and recompaction of unsuitable soils) shall be identified in the design-level geotechnical report to remove and/or mitigate unsuitable soils that could create geotechnical stability hazards to the Project.
- e) Determine structural design requirements as prescribed by the most current version of the California Building Code, including applicable County amendments, to ensure that structures and infrastructure can withstand ground accelerations expected from known active faults.
- f) Project plans for foundation design, earthwork, and site preparation shall incorporate all of the mitigations in the site-specific investigations. The County's registered engineering geologist shall review the site-specific investigations, provide any additional necessary measures to meet Building Code requirements, and incorporate all applicable recommendations from the investigation in the design plans and shall ensure that all plans for the Project meet current Building Code requirements.

The Draft EIR acknowledges that the Alquist-Priolo Earthquake Fault Zoning Act seeks to prevent the hazard of surface faulting to structures for human occupancy and, therefore, prohibits the construction of buildings for human occupancy across active faults. The Alquist-Priolo Act further mandates that before a project can be permitted, a geologic report defining and delineating any hazard or surface fault rupture must be prepared. As discussed above, geologic and geotechnical studies were prepared and included in the Draft EIR, Appendix E, and supplementary reports included in the Final EIR. Additional geotechnical investigation is required by revised Mitigation Measure 4.5-1.

The Draft EIR specifically states that potential residential structures would be located at a distance from active faulting which complies with the requirements of the Alquist-Priolo Act. That residential structures

are located the appropriate distance from the Whittier Fault would be assured by refinement of the location of the active trace of the Whittier Fault, as is required by revised Mitigation Measure 4.5-1. Thus, with the implementation of Mitigation Measure 4.5-1, which requires further site-specific geotechnical evaluation and compliance with the regulatory provisions of the Alquist-Priolo Act, impacts associated with potential fault rupture would be reduced to a less than significant level. A condition requiring compliance with regulations is a common and reasonable mitigation measure, and may be proper where it is reasonable to expect compliance. (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 904; *Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1060 [CEQA specifically recognizes that mitigation measures requiring adherence to regulatory requirements or other performance criteria are permitted].) Here, the Draft EIR contains substantial evidence of regulatory compliance because it describes applicable local, state and federal regulations, standards used to ensure compliance with such regulations, and the process used to ensure the standards are achieved.

Likewise, the Draft EIR thoroughly discusses the other potential seismic hazards associated with the Project, including seismic ground shaking, ground failure, and landslides/slope stability. Please see Section 4.5, *Geology and Soils*, for individual analyses of such potential hazards. With respect to seismic ground shaking, for example, the Draft EIR states that the project site is located in a seismically active region and there is a potential for significant ground shaking during a strong seismic event. The Draft EIR also notes that if possible ground acceleration was not taken into account during building project design, damage to buildings and improvements could result. While this information constitutes sufficient information for informed decisionmaking and public participation, the site-specific geotechnical investigation required by Mitigation Measure 4.5-1 would further ensure that potentially significant grounds shaking impacts would be identified. Also, Mitigation Measure 4.5-1 requires compliance with all applicable local and state ordinances and policies regarding construction in seismic hazard zones. The 2010 California Building Code, for instance, requires structural design that can accommodate maximum ground accelerations expected from known faults.

Mitigation Measure 4.5-1 does not constitute deferral of mitigation. CEQA generally prohibits the deferral of the formation of mitigation until after project approval. However, when a public agency has evaluated the potential significant impacts of a project and has identified measures that will mitigate those impacts, the agency does not have to commit to a particular mitigation measure as long as it commits to mitigating the significant impacts of the project. (*City of Maywood v. Los Angeles Unified School District* (2012) 208 Cal.App.4th 362, 410.) Moreover, the details of exactly how mitigation will be achieved under the identified measures can be deferred pending completion of a future study. (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906 [a mitigation measure that requires additional geotechnical investigation to consider the particular project designs is proper and in accord with CEQA].) Mitigation Measure 4.5-1 mandates, prior to the issuance of precise grading permits, the Project Applicant to submit a final site-specific, design-level geotechnical investigation to confirm and supplement the substantial evidence already contained in the Draft EIR. If faults observed in FT-1 and FT-4 are determined to be active, precise grading permits for Lots 20-52, 66-70, 83-89, 96-98 and 109-112 will not be issued unless additional studies are prepared and approved by the County's registered engineering geologist confirming that some or all of these lots are suitable for residential construction. Mitigation Measure 4.5-1 also mandates specific design standards (see stability analysis for landslides) and requires that development of the project site be in accordance with all applicable regulations for seismic and geologic stability, including the Alquist-Priolo Act and the California Building Code. "[A] condition requiring compliance with regulations is a common and reasonable mitigation measure...." (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884,

906; *Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1060.) Here, the Draft EIR includes significant information regarding potential geologic impacts associated with the Project, a mitigation measure that requires additional site-specific analysis, and specific design standards and mandates compliance with all applicable regulations. It does not improperly defer mitigation.

The Draft EIR evaluated all impacts related to the Project, including with respect to development and grading activities. These activities will not contribute to seismic activity at either the Project site or the surrounding area but could, without mitigation, result in geologic hazards such as landslides, potentially compressible and expansive soils at the Project site. Currently, the Project's proposed grading would avoid most areas suspected to be underlain by landslides or susceptible to slope stability hazards. The Project's grading activities would be conducted in compliance with applicable regulatory requirements pertaining to grading, including the County's Grading Ordinance. While compliance with applicable regulations would be expected to minimize the potential for landslides and/or slope stability hazards, Mitigation Measure 4.5-1 further mitigates any potential impact by requiring site-specific stability analysis consisting of down-hole logging of large-diameter borings at possibly hazardous locations. With implementation of Mitigation Measure 4.5-1, seismic-related impacts from grading would be reduced to a less than significant level at the project site and the surrounding area. The Project's other potential impacts from grading activities, including air quality, noise, and traffic were evaluated throughout the Draft EIR and were determined to be less than significant.

Potential environmental impacts associated with Mitigation Measure 4.5-1 have also been evaluated. Implementation of the Mitigation Measure 4.5-1, including short-term ground disturbing activities, would result in short-term impacts. No new roads are anticipated to be constructed during the geotechnical investigation. Noise from the use of machinery during the geotechnical investigation activities would be temporary, intermittent and of short duration, and would not present any long-term impacts. The use of such equipment would comply with the applicable provisions of the Noise Ordinance of the Codified Ordinances of the County of Orange to ensure that noise impacts to surrounding noise sensitive uses are less than significant. As discussed in Section 4.4, *Cultural Resources*, in the Draft EIR, no archaeological resources are known to occur on the site or in immediate proximity to the site. The overall sensitivity and potential for discovery of surface archaeological resources is considered to be low. No known paleontological resources occur on the site. The site does, however, include geological formations conducive to retaining paleontological resources. The extent of excavation activities into deeper soils would be minimal and as such, the likelihood of encountering any cultural resources would be minimal. Nonetheless, the geotechnical consultant would implement a program consistent with the mitigation measures presented in Section 4.4, or as otherwise determined appropriate through consultation with a qualified archaeologist and/or paleontologist, as necessary, to ensure that impacts to unknown cultural resources are less than significant. As noted in Mitigation Measure 4.5-1, the investigation would comply with all applicable State and local code requirements. For example, ground disturbing activities and use of machinery would be required to comply with applicable South Coast Air Quality Management District (SCAQMD) air quality regulations (see Section 4.2, *Air Quality*) and County and Santa Ana Regional Water Quality Control Board (SARWQCB) water quality and discharge requirements (see Section 4.8, *Hydrology and Water Quality*) to ensure that air quality and water quality impacts are less than significant, respectively. In addition, the geotechnical consultant would consult with a qualified biologist prior to conducting any geotechnical investigations. The geotechnical investigation(s) would first seek avoidance of sensitive biological resources, including sensitive plant communities/habitats and jurisdictional features, as described in Section 4.3, *Biological Resources*, of the Draft EIR. However, in the event that any such biological resources could not be avoided, the activities would

be required to comply with applicable regulatory and permitting requirements such as the those pertaining to the Federal Endangered Species Act (FESA), Federal Clean Water Act (CWA) (Section 401 and 404), Migratory Bird Treaty Act and Section 1602 of the State of California Fish and Game Code, all of which are discussed in Section 4.3 of the Draft EIR. Overall, by complying with applicable regulatory and permitting requirements as discussed in the applicable sections of the Draft EIR, the geotechnical investigation's short-term impacts, including ground disturbing activities, would not result in significant adverse environmental impacts.

Although there are no specific Project Design Features (PDFs) that relate solely to potential geology and soils impacts, as discussed above, Mitigation Measure 4.5-1 and compliance with applicable regulations will ensure that all potential geology and soils impacts are reduced to a less than significant level. PDFs outlined in Section 4.8, *Hydrology and Water Quality*, would ensure that potential impacts associated with soil erosion or loss of topsoil would be lessened to less than significant.

The Project is not anticipated to result in any off-site grading on the Esperanza Hills project site. It is acknowledged that on page 2-23 of the Draft EIR that the Project would include minor improvements within the right-of-way in Via Del Agua and Aspen Way near the Project entrances to provide access to the Project site.

The Project would be consistent with the County of Orange General Plan and potentially consistent with the City of Yorba Linda General Plan. With respect to the County's General Plan, the Draft EIR includes substantial analysis and evidence throughout Section 4.5, *Geology and Soils*, Appendix E, *Geology Study*, and the Final EIR, which supports the consistency determination contained in the Draft EIR. The Project would be potentially consistent with the City's General Plan. The Draft EIR uses the term "potentially consistent" because the determination of consistency ultimately rests with the City. However, the consistency analysis is, like the analysis for the County General Plan, supported by substantial evidence contained in Section 4.5, *Geology and Soils*, Appendix E, *Geology Study*, and the Final EIR.

Please see Topical Response No. 1 for a discussion of how the Project and Esperanza Hills Project are separate and not required to be analyzed as a single project. The Draft EIR is comprised of multiple sources of geologic information and analysis, including the *Geotechnical Feasibility Study*, and analyzed cumulative geologic and soil impacts. Moreover, the Final EIR includes a letter report which supplemented the *Geotechnical Feasibility Study* and specified that LGC Geotechnical reviewed the fault studies for the properties immediately adjacent to the east (Esperanza Hills Project) and west of the project site. Also, please see Topical Response 3 for a discussion of emergency access to the project site.

After review of this Topical Response *TR-4 Geology/Soils: Seismic and Geologic Stability Hazards*, including the two letter reports prepared by LGC Geotechnical, the County finds that no "significant new information" has been added to the Draft EIR since it was circulated for public review, as that term is defined in State CEQA Guidelines Section 15088.5. Section 15088.5, excerpted below, identifies the criteria whereby an EIR is required to be recirculated.

- (a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section,

the term “information” can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement. “Significant new information” requiring recirculation includes, for example, a disclosure showing that:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
 2. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
 3. A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project’s proponents decline to adopt it.
 4. The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)
- (b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.
- (e) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.

In the case of the Draft EIR, the project description has not changed since it was circulated to the public and the corrections and additions identified in the Final EIR do not change the conclusions in the impact analysis, but rather substantiate and clarify the Draft EIR’s conclusions. The public comments to the Draft EIR did not disclose any new impacts resulting from the Project or a substantial increase in any previously-identified impacts, or identify new feasible alternatives or new feasible mitigation measures that the Project proponent has declined to adopt. The responses to the submitted information set forth in Chapter 2.0 clarify and provide additional information in support of the analysis previously provided in the Draft EIR, and together with the Draft EIR provide substantial evidence for the determination that recirculation of the Draft EIR was not required under CEQA Guidelines Section 15088.5.

This page intentionally blank.

TR-5 ALTERNATIVES: MODIFIED PLANNING AREA 1 ONLY ALTERNATIVE

1. INTRODUCTION

Based on public comments received during the public review period for the Cielo Vista Draft EIR, including those pertaining to density under the Yorba Linda General Plan, and the County's June 2, 2015 approval of the adjacent Esperanza Hills Project, Section 1 of Chapter 3.0, *Corrections and Additions to the Draft EIR*, includes a new alternative, the Modified Planning Area 1 Only Alternative (Alternative 5). As further described in Chapter 3.0, similar to the Planning Area 1 Only Alternative (Alternative 2) included in the Draft EIR, Alternative 5 does not include any development within Planning Area 2 of the Cielo Vista project site. However, where Alternative 2 increased the density of residential development within Planning Area 1, Alternative 5 would develop Planning Area 1 with 83 single-family residential lots and associated improvements. The circulation system in Planning Area 1 under Alternative 5 would be the same as the Project, with the reduction in the number of lots occurring because of wider residential lots. Below is an overview of the alternatives evaluated in the Draft EIR, summaries of project-level and cumulative impacts of Alternative 5 compared to the Project, and the CEQA implications of implementing Alternative 5. As further described in subsection 5 below, incorporation and evaluation of Alternative 5 in the Final EIR does not constitute "significant new information" as that term is used in CEQA Guidelines Section 15088.5 therefore recirculation of the Draft EIR is not required.

2. ALTERNATIVES EVALUATED IN THE DRAFT EIR

The Draft EIR in Chapter 5.0, *Alternatives*, considered and discussed alternatives to the Project as required by CEQA Guidelines Section 15126. CEQA Guidelines Section 15126.6(a) provides that EIRs "shall describe a range of reasonable alternatives to the project, or to the location of the project." An EIR is required to include an alternatives analysis regardless of whether the underlying project would result in any significant and unavoidable environmental impacts, as is the case with the proposed Project (*Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.*, (1988) 47 Cal. 3d 376). With respect to the alternatives carried forward for analysis in the Draft EIR, the Draft EIR considered four alternatives to the Project: the No Project Alternative, the Planning Area 1 Only Alternative, the Large Lot/Reduced Grading Alternative, and the Contested Easement Alternative. The Draft EIR also considered and rejected two additional alternatives: Alternative Location and Alternative Land Use. The "Alternative Location" Alternative was rejected since another site in the general vicinity of the project would not substantially reduce significant environmental effects and the project proponent does not own other properties in the nearby local vicinity. The "Alternative Land Use" Alternative was rejected due to compatibility issues with existing neighboring single-family uses and inability to meet the objectives of the Project to provide single-family housing on the project site. The No Project Alternative is required by CEQA Guidelines Section 15126.6(e)(1) and was therefore included in the Draft EIR. The three other alternatives selected for analysis were chosen to comply with CEQA Guidelines Section 15126.6(a), in that they all could feasibly attain most of the basic objectives of the project and avoid or substantially lessen certain of the significant environmental effects of the project. Each alternative also includes the types of residential uses currently permitted on the site, which would be compatible with the existing single-family uses to the north, west and south of the site.

The Draft EIR considered a reasonable range of alternatives sufficient to permit a reasonable choice of alternatives so far as environmental aspects are concerned. (*Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal.App.3d 1022, 1029.) The range of four alternatives stated above represents enough variation to allow informed decisionmaking. (*Mann v. Community Redevelopment Agency* (1991) 233 Cal.App.3d 1143, 1151.) Nonetheless, in response to public comments and the County's June 2, 2015 approval of the Esperanza Hills Project, the range of alternatives considered has been expanded to include analysis of Alternative 5, the impacts of which are summarize below.

3. PROJECT IMPACTS OF ALTERNATIVE 5: THE MODIFIED PLANNING AREA 1 ONLY ALTERNATIVE

Alternative 5, the Modified Planning Area 1 Only Alternative, would not develop Planning Area 2, but similar to the proposed Project would develop Planning Area 1 with 83 single-family residential lots and associated improvements. As compared to the proposed Project, the elimination of Planning Area 2 and the reduction in density in Planning Area 1 would result in 29 fewer units, would reduce the development area by 6.4 acres to 41.3 acres, and would increase permanent open space by 6.4 acres to 42.7 acres.

A detailed description of Alternative 5 along with an analysis of the potential impacts that would result from its implementation are included in Chapter 3.0 of this Final EIR. A table is also provided therein, which updates Table 3-1 in the Draft EIR, and comprehensively compares the impacts of each of the proposed alternatives, on a threshold-by-threshold basis, against the proposed Project. As shown in this revised Table 3-1, with the exception of impacts related to emergency response/evacuation and wildland fires, all impacts under this Alternative would be less than or similar to the Project due to the proportionate decrease in the number of residential units and development footprint impact area. Generally, impacts under Alternative 5 that would be "less than significant" and less than the Project include the following: aesthetics, air quality (odors), Greenhouse Gases (GHG) (emissions), water quality, land use, noise (construction and operation), and utilities (wastewater, stormwater and landfills). Impacts under Alternative 5 that would be "less than significant" and similar to the Project include: air quality (operational emissions and Air Quality Management Plan consistency), GHG (GHG Plan(s) consistency), hazardous materials (use/disposal/transport), hydrology (drainage and groundwater supplies), noise (vibration), population/housing, and traffic (Congestion Management Plan consistency, design hazards, emergency access, and alternative transportation). Impacts under Alternative 5 that would be "less than significant with mitigation" and less than the Project include: air quality (construction emissions), biological resources, cultural resources, geology/soils, public services, recreation, traffic and utilities (water supply). Impacts under Alternative 5 that would be "less than significant with mitigation" and similar to the Project include hazardous materials impacts related to upset/accident conditions and hazardous material site conditions.

Regarding emergency response/evacuation, despite the proportionate decrease in traffic, the fact that Alternative 5 has a lower extent of fuel modification (provided to off-site residents to the west of the site) compared to the Project leads to the conclusion that impacts regarding emergency response/evacuation would be incrementally greater under this Alternative than under the Project, with impacts being "less than significant" for both the Project and this Alternative. Further, because this Alternative does not provide fuel modification for off-site residents to the west of the site, it would have a reduced beneficial impact compared to the Project, with impacts being "less than significant with mitigation" for both the Project and this Alternative.

Based on the evaluation of impacts presented in the Alternatives analysis in the Draft EIR and in Chapter 3.0 of this Final EIR, Alternative 5, the Modified Planning Area 1 Only Alternative, is determined to be the environmentally superior alternative. While the No Project Alternative (Alternative 1) would result in “no impacts” for the vast majority of all environmental issues areas, it would fail to meet any of the Project Objectives. As summarized in Table 3-1 in Chapter 3.0, of Alternatives 2 through 5, the Modified Planning Area 1 Only Alternative (Alternative 5) would result in the most reduced (or less) impacts when compared to the Project. This is primarily due to its proportionate decrease in units and development footprint associated with the elimination of Planning Area 2 compared to the Project. Alternative 5 would result in reduced (or less) impacts in 13 of the 15 issue areas evaluated in the Draft EIR. The next closest alternative in reducing impacts, Alternative 3, would reduce impacts in 8 of the 15 issue areas evaluated in the Draft EIR. Also, the Modified Planning Area 1 Only Alternative would fully meet the Project Objectives similar to the Project.

4. CUMULATIVE IMPACTS OF MODIFIED PLANNING AREA 1 ONLY ALTERNATIVE

The Alternative 5 impact analysis in Chapter 3.0 reflects the County Board of Supervisors’ adoption of the Esperanza Hills Specific Plan and other entitlements on June 2, 2015 and its certification of its Final EIR on March 10, 2015. The approved Specific Plan identifies two potential access configurations. A third potential access configuration which would have provided access from Stonehaven Drive (referred to in the Esperanza Hills Draft EIR as Option 1) was removed from the Esperanza Hills Specific Plan by the County Board of Supervisors on June 2, 2016.

The first access configuration approved in the Esperanza Hills Specific Plan is described and depicted in the Esperanza Hills certified Final EIR as Alternative 3 - Access Option 2B. This configuration would include an east-west access primary access corridor across the Cielo Vista site just north of Planning Area 1, and would continue west through City open space connecting with San Antonio Road approximately 1,850 feet south of Aspen way. A separate ingress/egress road for secondary and emergency purposes would exit south from the project site to Stonehaven Drive.

The second access configuration approved in the Esperanza Hills Specific Plan is referred to as the “Modified Option 2” access configuration, or the “Aspen Way Drive Access Configuration.” Under this configuration, the Esperanza Hills Project would provide a primary connection going west from the project to Aspen Way, connecting into San Antonio Road. A separate ingress/egress road for secondary and emergency purposes would exit south from the project site to Stonehaven Drive.

The Cielo Vista Draft EIR currently provides a cumulative impact analysis for each environmental issue evaluated in Chapter 4.0. With Planning Area 2 removed as part of Alternative 5 and the corresponding reduction in units and development footprint, the Project’s cumulative impacts as presented in the Cielo Vista Draft EIR would generally be proportionately reduced under Alternative 5. The cumulative impact assessments provided in Chapter 4.0 of the Cielo Vista Draft EIR remain in large part applicable to the cumulative impacts associated with Alternative 5 in relation to the Esperanza Hills Alternative 3–Access Option 2B and the “Modified Option 2” access configuration (noting again the decrease in impacts of Alternative 5 compared to the Project). Therefore, with this understanding and in consideration of the potential access corridor through the Cielo Vista project site per Esperanza Hills Alternative 3 - Access Option 2B and the “Modified Option 2” access configuration, the impact analysis for Alternative 5 in Chapter 3.0 also provides a separate impact analysis of this “potential access corridor” (under both the Alternative 3

–Access Option 2B and the “Modified Option 2” access configurations) through and within the Cielo Vista site for each issue evaluated in Chapter 4.0 of the Cielo Vista Draft EIR. As discussed therein, there would be generally similar or less cumulative impacts associated with the related projects, and similar or less combined cumulative impacts with Alternative 5. Thus, under Alternative 5, cumulative impacts would generally be less than significant, as with the Project, with numerous issues resulting in impacts that are somewhat reduced.

5. CEQA IMPLICATIONS

CEQA contains provisions for circumstances where new information can be included in a Final EIR without recirculation of the Draft EIR. In order to give a degree of finality to EIR documentation, CEQA only requires recirculation of a Draft EIR when “significant new information” is added to a Draft EIR after public notice of the availability of the Draft EIR has occurred (refer to California Public Resources Code Section 21092.1 and CEQA Guidelines Section 15088.5), but before the EIR is certified. Section 15088.5 of the CEQA Guidelines states: “New information added to an EIR is not ‘significant’ unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement. ‘Significant new information’ requiring recirculation includes, for example, a disclosure showing that at least one of the criteria below is met:

- 1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented. (Criteria 1)
- 2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted to reduce the impact to a level of insignificance. (Criteria 2)
- 3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it. (Criteria 3)
- 4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.” (Criteria 4)

CEQA Guidelines Section 15088.5 also provides that “[r]ecirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR... A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.”

In light of the above CEQA guidance, and the impact analysis of Alternative 5 provided in Chapter 3.0, the addition of Alternative 5 would not result in a new significant impact (see Criteria 1) or in a substantial increase in the severity of significant impacts identified for the Project in the Draft EIR (see Criteria 2). As indicated above, Alternative 5 would result in reduced (or less) impacts in 13 of the 15 issue areas evaluated for the Project in the Draft EIR. This is primarily due to its proportionate decrease in units and development footprint associated with the elimination of Planning Area 2 compared to the Project. Because of its reduced impacts, Alternative 5 would represent an environmentally superior alternative to the Project.

With regards to Criteria 3, Alternative 5 was included based on public comments received during the public review period for the Cielo Vista Draft EIR, including those pertaining to density under the Yorba Linda General Plan, and the County's June 2, 2015 approval of the Esperanza Hills Project. The courts in *North Coast Rivers Alliance v. Marin Municipal Water District Board of Directors* and *South County Citizens for Smart Growth v. County of Nevada* both succinctly summarized the rule with respect to recirculation when a new alternative is added to an EIR. For an alternative to be considered significant new information, it must (1) be feasible, (2) be considerably different from other alternatives previously analyzed, (3) must clearly lessen the significant impacts of the project, and (4) the project proponents must decline to adopt it. *North Coast Rivers Alliance v. Marin Municipal Water District Board of Directors* (2013) 216 Cal.App.4th 614, 654-655 [an alternative that combined conservation measures and construction of a pipeline to deliver water to a district was not "considerably different" than other alternatives when there was an alternative that considered piping water and a separate alternative that considered conservation measures]. Here, the Cielo Vista Draft EIR included separate alternatives that proposed (1) development of Planning Area 1 only (Planning Area 1 Only Alternative) and (2) larger lots and reduced density (Large Lot/Reduced Grading Alternative). The Modified Planning Area 1 Only Alternative primarily incorporates both of these components. Therefore, the Modified Planning Area 1 Only Alternative, like the alternative added in *North Coast Rivers Alliance v. Marin Municipal Water District Board of Directors*, is not considerably different than the alternatives already included in the Cielo Vista Draft EIR. Moreover, the Project proponent has not declined to adopt the alternative. As a result, recirculation is not required pursuant to CEQA Guidelines Section 15088.5(a)(3) or Criteria 3, above.

Furthermore, the Draft EIR provided a comprehensive analysis of environmental issues determined to have potentially significant impacts following completion of the project's Initial Study and EIR scoping process. Technical analysis was provided by experts in their respective fields for those issues evaluated in the Draft EIR, where necessary. Responses have been provided in Chapter 2.0 of this Final EIR to all public and agency comments on the Draft EIR, which clarify information and analysis presented in the Draft EIR, with corrections and additions provided in Chapter 3.0. All responses have prepared in accordance with Section 15088 of the CEQA Guidelines. The impact conclusions in the Draft EIR remain valid and unchanged in light of the comments/responses and corrections/additions provided in Chapters 2 and 3 of this Final EIR, respectively. Therefore, Draft EIR was fundamentally adequate for assessing environmental impacts and allowed for meaningful public review and comments (see Criteria 4).

Based on the above, recirculation of the Draft EIR is not required.

This page intentionally blank.