#### SECTION 1.0: INTRODUCTION

## 1.1 Purpose

The City of Orange Community Development Department, Planning Division (City), as the Lead Agency under the California Environmental Quality Act (CEQA), has prepared a Final Environmental Impact Report (Final EIR) for the proposed Ridgeline Equestrian Estates (State Clearinghouse No. 2007091107) within the City. The Final EIR contains all of the required contents as outlined in Section 15132 of the State CEQA Guidelines, including the following:

- The Draft EIR or a revision of the Draft EIR.
- Comments and recommendations received on the Draft EIR either verbatim or in summary.
- A list of persons, organizations, and public agencies commenting on the Draft EIR.
- The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- Any other information added by the Lead Agency.

This volume of the Final EIR consists of the public and agency comments on the Draft EIR, City responses, and a Mitigation Monitoring and Compliance Program. Pursuant to Section 15088 of the State CEQA Guidelines, the City has reviewed all comments received on the Draft EIR. Responses to these comments are presented in Chapter 2.0, *Master Responses* and Chapter 3.0, *Comments and Responses*, of this volume of the Final EIR. Any revisions to the Draft EIR based on these comments are contained in Chapter 4.0, *Errata to the Draft EIR*, of this volume of the Final EIR in revision mode text (i.e., deletions are shown with *strikethrough* and additions are shown with *italics*).

Public and agency comments on the Draft EIR and City responses to these comments are an important part of the CEQA process because they allow:

- Agencies and the public the opportunity to review and comment on the methods and analyses contained in the Draft EIR.
- The ability to detect any omissions that may have occurred during the preparation of the Draft EIR.
- The ability to check for accuracy of the analysis of the Draft EIR.
- The ability to discover and respond to public concerns.

In responding to public and agency comments, information has been added to clarify and expand upon the impact discussions contained in the Draft EIR. In some cases mitigation measures have been added or revised.

In light of the information provided in response to public review comments, the City considered the need to recirculate the EIR pursuant to CEQA. CEQA Section 15088.5(e) requires that an EIR which has been made available for public review, but not yet certified, be recirculated whenever significant new information has been added to the EIR. The entire document need not be recirculated, if revisions are limited to specific portions of the document. The recirculated portions or document must be sent to responsible and trustee agencies for consultation and fresh public notice must be given in the manner provided for a draft EIR. New information is not presumed to be significant simply because it is new. Indeed, pursuant to State CEQA Guidelines Section 15088.5:

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 . . . that the project's proponents have declined to implement.

State CEQA Guidelines, § 15088.5(a):

In order to be "significant," the new information must constitute one of the following:

- (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 other previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponent 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.

(State CEQA Guidelines, §15088.5(a)(1)-(4); Laurel Heights II, 6 Cal.4th at 1120.)

Neither the additional analyses provided in the Section 2.0, *Master Responses*, and Section 3.0, *Response to Comment*, nor any mitigation measures discussed or amplified in the responses to comments results in new or substantially increased significant impacts, and therefore no recirculation is required. It is common, and in most cases necessary, for responses to comments to amplify and elaborate on the analysis of an EIR. Such amplification, however, does not constitute significant new "information" unless it triggers one of the four categories described in State CEQA Guidelines

Section 15088.5(a). State CEQA Guidelines Section 15088.5(b) provides that "recirculation is *not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications* in an adequate EIR." [emphasis added]. The responses to comments and associated analysis properly fall within State CEQA Guidelines Section 15088.5(b) and do not implicate State CEQA Guidelines Section 15088.5(a).

Some commentors expressed the opinion that recirculation of the Draft EIR was required based on the fact that mitigation measures and Best Management Practices (BMP's) were "added" to Biology and Air Quality sections of the Draft EIR and in the Biology section new information was added regarding the Merlin, Loggerhead Shrike, and White-Tailed Kite, etc. However, the discussions in each of those sections merely serve to clarify or slightly modify the mitigation that was already explicitly or implicitly implemented in the Draft EIR. For example, in the Air Quality Master Response, section 2.2.1 notes that "The Draft EIR Air Quality Section was prepared based on the assumption that the Project Applicant would follow all relevant rules and regulations, including Rule 403 . . . However, in order to clarify that these additional measures would be implemented, they would be incorporated into the EIR." This type of clarification is exactly what State CEQA Guidelines Section 15088.5(b) contemplates when it states that no recirculation is required when the new information "merely clarifies" the analysis of the EIR.

Similarly, the Biology Master Responses provide clarification and amplification of the analysis in the EIR. Master Response 2.3.1 includes an expanded discussion of species present on-site (e.g., Merlin, Shrike, White Tailed Kite) and in one instance, with respect to the Kite, notes that a correction must be made to the analysis. Importantly, no new impacts were identified, no new species were analyzed, and none of the triggers of State CEQA Guidelines Section 15088.5(a) were implicated. These topics are discussed in the Draft EIR (see page 5.2-27 second paragraph and Table 5.3-4 Sensitive Wildlife Species), and within Appendix C, Biology Report. The discussion in the master responses to comments merely serves to provide greater clarity and detail to the analysis that was included in the Draft EIR.

The responses to comments also discuss certain changes to the Biology mitigation measures. Again, none of these changes implication State CEQA Guidelines Section 15088.5. As noted on Page 2-9, mitigation measures Bio-1 and Bio-2 were combined because they were found to be redundant. A new mitigation measure, Bio-2, was added to ensure that offsite replacement of riparian habitat and wetlands will be required. Page 2-10 explains that Bio-5 and Bio-6 were re-written into a single mitigation measures. None of these changes result in significant new impacts or an increase in the severity of an impact already identified.

Similarly, the master responses discussion of Handy Creek notes that Bio-6 has been re-written and mitigation measures Bio-7 through Bio-9 have been added. City Staff expressed concern that these new measures could be construed as "significant new information" requiring recirculation. However, simply adding mitigation measures does not trigger recirculation. Instead, the test is whether new information added to an EIR changes the document in a way that deprives the public of a meaningful

opportunity to comment upon a substantial adverse environmental effect of the project. None of the mitigation measures or the analysis in the responses to comments comes close to meeting that standard. Therefore, recirculation is not required.

Concern was expressed about the Draft EIR's consistency with the City's General Plan in light of the fact that in March 2010 the City adopted a Resolution updating its General Plan ("General Plan Update"). However, subsequent to the adoption of the General Plan Update, the City required the authors of the Draft EIR to undertake a thorough comparison of the General Plan Consistency analysis that was performed in the Draft EIR overlaid with the General Plan Update. The full analysis will be submitted as will be provided as an attachment to the City Staff Report. The General Plan Update does not change the conclusions of the Draft EIR that the proposed project is consistent with the City's General Plan goals and polices and in many cases furthers them. Although the General Plan Update—the culmination of many years of work—is certainly significant for the City, its revised goals and policies do not constitute significant new information as to the proposed project and therefore, recirculation is not required.

### 1.2 Process

As the Lead Agency for the project, the City took several steps to ensure that all interested parties had an opportunity to comment on the Draft EIR, in accordance with Article 7, EIR Process, of the State CEQA Guidelines (Section 15087 et. seq.). The Draft EIR was submitted to the Governor's Office of Planning and Research, State Clearinghouse, which established a 45-day public review period from September 24, 2009, to November 8, 2009. The DEIR made available at that time inadvertently did not include Section 5.4, *Cultural Resources*. Due to this clerical error, the comment period was extended to November 23, 2009. The Draft EIR and its Appendices were available for public review online at http://www.cityoforange.org/depts/commdev and at the following locations during the public review period:

City of Orange Community Development Department, Planning Division 300 E. Chapman Avenue Orange, CA 92866

City of Orange City Clerk 300 E. Chapman Avenue Orange, CA 92866

Orange Public Library 101 N. Center Street Orange, CA 92866

El Modena Branch Library 380 S. Hewes Street Orange, CA 92866 Charles P. Taft Branch Library 740 E. Taft Avenue Orange, CA 92866

The Notice of Availability (NOA) of the Draft EIR was posted at the City of Orange Clerk's office during the public review period. The NOA was mailed to various agencies and organizations and to individuals that had previously requested such a notice. Additionally, the NOA was published in the following newspapers and/or local publication on the following dates:

Orange City News September 24, 2009

October 15, 2009

Orange County Register October 9, 2009

# 1.3 Organization of the EIR

The contents of this volume of the EIR include the information required to be in compliance with CEQA. In addition to this Introduction section, the remainder of the document is organized into the following main sections individually described below. This document contains the following chapters:

### **Chapter 2.0: Master Responses**

This Section contains master responses to comments received during the public/agency review period.

# **Chapter 3.0: Comments and Responses**

This section contains comments and responses to comments received during the public/agency review period.

#### Section 4.0: Errata to the Draft EIR

This section identifies changes to the Draft EIR as a result of comments or corrections.

### **Section 5.0: Mitigation Monitoring and Compliance Program**

This section provides the mitigation program that may be adopted by the City Council as part of the Final EIR, pursuant to Public Resources Code Section 21081.6.

1.0	Introduction

This page is intentionally left blank.