CALIFORNIA ENVIRONMENTAL QUALITY ACT
STATEMENT OF FINDINGS

The Department of Toxic Substances Control (DTSC) has issued Findings for this project pursuant to the California Environmental Quality Act (CEQA; California Public Resources Code, Division 13, Section 21081) and implementing Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15091 et seq.)

A. PROJECT SUBJECT TO DTSC APPROVAL

PROJECT TITLE: Former Fred Moiola Elementary School; Moiola Park Residences Housing Project Response Plan		SITE CODING: 401893
PROJECT ADDRESS: 9790 Finch Avenue	CITY: Fountain Valley	COUNTY: Orange
PROJECT SPONSOR: Brookfield Homes Southern California, LLC	CONTACT: Nicole Burdette	PHONE/ EMAIL: 714-427-6868 Nicole.burdette@brookfieldrp.com

Approval Action Under Consideration by DTSC:

☐ Removal Action Workplan ☐ Interim Removal ☐ Initial Permit Issuance ☐ Permit Re-Issuance
☐ Corrective Measure Study/Statement of Basis ☐ Permit Modification ☐ Closure Plan
☐ Remedial Action Plan ☐ Regulations
☒ Other (specify): Response Action

STATUTORY AUTHORITY:

☐ California H&SC, Chap. 6.5 ☒ California H&SC, Chap. 6.8 ☐ Other (specify):

PROJECT DESCRIPTION: Environmental investigations conducted at the former Fred Moiola Elementary School located at the southwest corner of Brookhurst Street and Ellis Avenue (Site) in 2019 indicated elevated levels of volatile organic compounds (VOCs) in soil gas and groundwater in the northeaster portion of the Site. Based on the Report of Findings (Leighton and Associates, Inc., August 7, 2020), DTSC determined that a response action is required at the Site to address elevated levels of VOCs. The response plan (RP) proposes sub-slab liner and passive venting system with performance monitoring and a land use covenant.

Background: The 13-acre Site was used for agricultural purposes from at least 1936 through the 1960's. The school was constructed in 1972 and was vacated in 2013. The project applicant, Brookfield Homes Southern California, LLC, proposes to develop a residential project with up to 74 new single-family residences, on-site roadways with sidewalks, and an approximately 1.12-acre park.

Project Activities: Soil vapor and groundwater at the Site contain VOCs at the levels that exceed regulatory limits. The proposed RP involves the installation of a vapor mitigation system, including a vapor barrier and passive venting beneath structures where contaminants exceed health protective regulatory limits. A Land Use Covenant will be recorded as an institutional control to ensure disclosure of the risks, restrictions, and requirements of the vapor mitigation system to future buyers and occupants. A long-term vapor monitoring program will be implemented to document that the mitigation system is operating as designed.

DTSC utilized information and analysis in the Moiola Park Residences Mitigated Negative Declaration (MND) for the Site to support a final determination about the type of environmental document required to be prepared for the RP as provided by Sections 15162, 15163, and 15164 of the CEQA Guidelines. Specifically, the MND analyzed potential impacts related to contaminated soils, including soil vapor, in Section 4.3.9 (Hazards and Hazardous Materials) and potential impacts related to grading and construction in Section 4.3.3 (Air Quality), Section 4.3.4 (Biological Resources), Section 4.3.5 (Cultural Resources), Section 4.3.7 (Geology and Soils), Section 4.3.8 (Greenhouse Gas Emissions), Section 4.3.10 (Hydrology and Water Quality), Section 4.3.13 (Noise), Section 4.3.17 (Transportation/Traffic), and Section 4.3.18 (Tribal Cultural Resources).

B. LEAD AGENCY ENVIRONMENTAL DOCUMENT REVIEWED

Lead Agency: City of Fountain Valley
Lead Agency's Environmental Document: Moiola Park Residences Mitigated Negative Declaration
Date Certified: March 18, 2021
State Clearinghouse Number: 2020120041

C. STATEMENT OF FINDINGS AND FACTS FOR ADEQUACY OF LEAD AGENCY ENVIRONMENTAL DOCUMENT

Using its independent judgment, DTSC makes the following findings:

☒ The Lead Agency Final Environmental Document includes a description of the Project now before DTSC for decision

☒ The Lead Agency Final Environmental Document adequately analyzed impacts associated with the Project before DTSC for decision.

☒ DTSC concurs with the findings made by the Lead Agency Final Environmental Document relating to the Project before DTSC for decision.

☒ Mitigation measures are included in the Lead Agency Final Environmental Document for the following resources that would potentially be affected by the DTSC project.

☐ Aesthetics	Mitigation Measure: None
☐ Agricultural Resources	Mitigation Measure: None
☐ Air Quality	Mitigation Measure: None
☐ Agricultural Resources	Mitigation Measure: None
☐ Biological Resources	Mitigation Measure: None
☒ Cultural Resources	Mitigation Measure: CUL-1 (refer to Moiola Park Residences Initial Study/Mitigated Negative Declaration (December 2020), see Attachment A)
☐ Energy	Mitigation Measure: None
☒ Geology / Soils	Mitigation Measure: PAL-1 (refer to the Moiola Park Residences Initial Study/Mitigated Negative Declaration (December 2020), see Attachment A)
☐ Greenhouse Gas Emissions	Mitigation Measure: None
☒ Hazards / Hazardous Materials	Mitigation Measures: HAZ-1, HAZ-2 (refer to the Moiola Park Residences Initial Study/Mitigated Negative Declaration (December 2020), see Attachment A)
☐ Hydrology / Water Quality	Mitigation Measure: None
☐ Land Use / Planning	Mitigation Measure: None
☐ Mineral Resources	Mitigation Measure: None
☐ Noise	Mitigation Measure: None
☐ Population / Housing	Mitigation Measure: None
☐ Public Services	Mitigation Measure: None
☐ Recreation	Mitigation Measure: None
☐Transportation / Traffic	Mitigation Measure: None

☒ Tribal Cultural Resources	Mitigation Measures: TCR-1 (refer to the Moiola Park Residences Initial Study/Mitigated Negative Declaration (December 2020), see Attachment A)
☐ Utilities / Service Systems	Mitigation Measure: None
☐ Wildfire	Mitigation Measure: None

☒ Mitigation measures identified in the Lead Agency Final Environmental Document have been adopted by DTSC for this Project and will be implemented to avoid, reduce, or substantially lessen the project impacts. No additional mitigation measures are necessary, and no additional mitigation monitoring plan is required pursuant to CEQA.

For each significant environmental effect identified for the Project:

☒ Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effects as identified in the Lead Agency Final Environmental Document.

☒ Such changes or alterations are within the responsibility and jurisdiction of the City of Fountain Valley not DTSC.

☒ Such changes have been adopted by this public agency or can and should be adopted by this public agency.

☐ Mitigation measures included in the Lead Agency Final Environmental Document are infeasible, and therefore, will not be incorporated into the DTSC Project for the following reasons: N/A

BASED ON THE ABOVE FINDINGS, DTSC CONCLUDES:

☒ The proposed Project will not result in significant and unavoidable effects to the environment.

☐ The proposed Project will result in significant and unavoidable effects to the following environmental resources:

☐ Air Quality
☐ Agricultural Resources
☐ Biological Resources
☐ Cultural Resources
☐ Energy
☐ Geology/ Soils
☐ Greenhouse Gas Emissions
☐ Hazards/Hazardous Materials
☐ Hydrology/ Water Quality
☐ Mineral Resources
☐ Noise
☐ Population/Housing
☐ Public Services
☐ Recreation
☐ Transportation/Traffic
☐ Tribal Cultural Resources
☐ Utilities/ Service Systems
☐ Wildfire

Impacts to these resources would remain significant even after applying mitigation measures described in the Lead Agency Final Environmental Document, or there is no feasible mitigation available.

In accordance with Cal. Code of Regs., title 14, section 15093, a Statement of Overriding Considerations was adopted by the Lead Agency for these resources. DTSC adopts a Statement of Overriding Considerations for these resources having determined that the DTSC Project benefits outweigh the significant environmental effects for the following reasons: The

DTSC remedial actions reduce the exposure of contaminated soil, soil gas, and groundwater in order to render it safe for Site occupants. The DTSC remedial project also serves to protect human health and the environment, which are DTSC's responsibilities under the California Health and Safety Code.

☒ None of the conditions requiring a subsequent EIR or Negative Declaration pursuant to Cal. Code Regs., tit. 14 Section 15162 exist.

☒ In accordance with Cal. Code of Regs., title 14, section 15093, a Notice of Determination indicating the results of said Findings will be filed with the Governor's Office of Planning and Research / State Clearinghouse.

D. CERTIFICATION

Aslam Shareef	4/9/2021
Project Manager's Signature	Date

Aslam Shareef	Hazardous Substances Engineer	714-484-5472
Project Manager's Name	Title	Phone #

Javier Hinojosa	4/12/2021
Branch Chief's Signature	Date

Javier Hinojosa	Branch Chief	714-484-5484
Branch Chief's Name	Title	Phone #

Attachment A

The following mitigation measures are included in the Lead Agency Final Environmental Document would potentially be affected by the DTSC project.

CUL-1: Archaeological Resources. Prior to the issuance of the first grading permit, the applicant shall provide a letter to the City Planning Department, or designee, from a qualified professional archeologist meeting the Secretary of Interior's Professional Qualifications for Archaeology as defined at 36 CFR Part 61, Appendix A stating that the archeologists have been retained to provide archeological resources spot-check monitoring of all ground disturbance activity. The archeologist shall be present at the pre-grading conference to establish procedures for archeological resource surveillance. In addition, the developer shall provide an executed pre-excavation agreement for a Native American monitor during grading, protocols for treatment of Native American human remains, and the repatriation of Native American sacred items and artifacts.

In the event a previously unrecorded archaeological deposit is encountered during construction, all activity within 50 feet of the area of discovery shall cease and the City shall be immediately notified. The archeologist shall flag the area in the field and shall determine if the archaeological deposits meet the CEQA definition of historical (State CEQA Guidelines 15064.5(a)) and/or unique archaeological resource (Public Resources Code 21083.2(g)).

If the find is considered a "resource" the archaeologist in coordination with the Native American monitor shall pursue either protection in place or recovery, salvage and treatment of the deposits. Recovery, salvage and treatment protocols shall be developed in accordance with applicable provisions of Public Resource Code Section 21083.2 and State CEQA Guidelines 15064.5 and 15126.4 in consultation with the City. Per CEQA Guidelines Section 15126.4(b)(3), preservation in place shall be the preferred means to avoid impacts to archaeological resources qualifying as historical resources. All recovered and salvaged resources shall be prepared to the point of identification and permanent preservation by the archaeologist. Resources shall be identified and curated into an established accredited professional repository. The archaeologist shall have a repository agreement in hand prior to initiating recovery of the resource. If unique archaeological resources cannot be preserved in place or left in an undisturbed state, recovery, salvage and treatment shall be required at the developer/applicant's expense.

PAL-1: Paleontological Resources. A paleontologist selected from the roll of qualified paleontologists maintained by the City or the County shall be retained to provide spot-check monitoring services for the project. The paleontologist shall develop a Paleontological Resources Impact Mitigation Plan (PRIMP) to mitigate the potential impacts to unknown buried paleontological resources that may exist onsite. The PRIMP shall require that the paleontologist be present at the pre-grading conference to establish procedures for paleontological resource surveillance. The PRIMP shall require paleontological spot-check monitoring of excavation that exceeds depths of 5 feet. The PRIMP shall state that the project paleontologist shall re-evaluate the necessity for paleontological monitoring after 50 percent or greater of the excavations deeper than 5 feet have been completed.

In the event that paleontological resources are encountered, ground-disturbing activity within 50 feet of the area of the discovery shall cease. The paleontologist shall examine the materials encountered, assess the nature and extent of the find, and recommend a course of action to further investigate and protect or recover and salvage those resources that have been encountered.

Criteria for discard of specific fossil specimens will be made explicit. If a qualified paleontologist determines that impacts to a sample containing significant paleontological resources cannot be avoided by project planning, then recovery may be applied. Actions may include recovering a sample of the fossiliferous material prior to construction, monitoring work and halting construction if an important fossil needs to be recovered, and/or cleaning, identifying, and cataloging specimens for curation and research purposes. Recovery, salvage and treatment shall be done at the applicant's expense. All recovered and salvaged resources shall be prepared to the point of identification and permanent preservation by the paleontologist. Resources shall be identified and curated into an established accredited professional repository. The paleontologist shall have a repository agreement in hand prior to initiating recovery of the resource.

HAZ-1: Groundwater. The project construction specifications and grading permit for the proposed project shall specify that should groundwater be encountered during excavation, grading, or other construction activities in the northeast portion of the project site at Lots 36, 37, 38, 39, and 47, it shall be tested by a registered hazardous waste professional to determine if contains contamination, and if so, the appropriate method of treatment and/or disposal pursuant to the DTSC requirements. The City and the DTSC shall be notified by the project contractor immediately if discolored or odorous groundwater is encountered. When not under active construction or related activities, any open trenches containing contaminated water shall be covered to prevent human contact with contamination. Appropriate notices shall be posted at the project site to warn construction personnel and public of the presence of contaminated groundwater.

HAZ-2: Vapor Barrier Systems. The project construction plans, specifications, and building permits shall require vapor barrier systems be installed within Lots 36, 37, 38, 39, and 47, pursuant to California Department of Toxic Substances Control (DTSC) regulations. The vapor barrier system shall include a physical barrier under the foundations and a passive venting system for each of the identified lots. The vapor intrusion mitigation plan, reports, and other documents shall be prepared by a registered hazardous waste professional and submitted to DTSC or review and approval. Also, a long-term soils gas monitoring program shall be implemented by a registered hazardous waste professional pursuant to the DTSC Vapor Intrusion Mitigation Advisory, 2011. Additionally, regularly scheduled groundwater testing shall occur at a frequency determined by DTSC Vapor Intrusion Mitigation Advisory by a registered hazardous waste professional pursuant to DTSC regulations and be sent to DTSC for review and approval. The soils gas monitoring and groundwater testing shall continue until it can be adequately demonstrated that natural attenuation of the substances, and reduction of onsite contamination, is occurring, and pursuant to DTSC approval. All DTSC approvals, results of any monitoring/testing, and any final closures shall be provided to the City prior to receipt of applicable permits.