

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
BREA APPROVING CANCELLATION OF DEVELOPMENT
AGREEMENT NO. 19-01 (MERCURY LANE RESIDENTIAL
PLANNED COMMUNITY)**

THE CITY COUNCIL OF THE CITY OF BREA DOES ORDAIN AS FOLLOWS:

A. RECITALS.

(i) On June 2, 2020, the City Council adopted Ordinance No. 1214 to approve Development Agreement No. 19-01 ("DA 19-01") with Mercury CXIV, LLC ("Mercury CXIV") for development of a 5-story building with 114 residential units consisting of 11 low-income units, 80 workforce units, and 23 market rate units ("Prior Project") on the property owned by Mercury CXIV located at the southeast corner of Mercury Lane and Berry Street ("Subject Property"). A Copy of DA 19-02 is on file with the City.

(ii) DA 19-01 was recorded on September 1, 2020 as Document No. 2020000458788 in the Official Records of Orange County.

(iii) Pursuant to DA 19-01, the City and Mercury CXIV executed an April 25, 2022 Affordable Housing Agreement ("Original AHA"), recorded as Document No. 2022000193475 in the Official Records of Orange County. The Original AHA placed recorded restrictions on the Subject Property to assure: (i) a certain level and number of affordable units at the Prior Project for 55 years; and (ii) a Brea workforce preference program.

(iv) Pursuant to DA 19-01, the City and Mercury CXIV, LLC executed an April 25, 2022 Restrictive Covenant for Workforce Housing ("Original Restrictive Covenant"),

recorded as Document No. 2022000193474 in the Official Records of Orange County. The Original Restrictive Covenant placed recorded restrictions on the Subject Property to assure: (i) a certain level and number of affordable units at the Prior Project for 40 years; and (ii) a Brea workforce preference program.

(v) The Prior Project was not constructed due to changing circumstances including the Covid-19 pandemic.

(vi) On August 19, 2025, the City Council approved an Affordable Housing Agreement, a Loan Agreement, an Affordable Housing and Regulatory Agreement and Declaration of Restrictive Covenants, and a Density Bonus Agreement with Brea Mercury LP (“Brea Mercury”), which is the current owner of the Subject Property, for development of an 85-unit 100% affordable senior housing project on the site.

(vii) The City and Brea Mercury desire to cancel DA 19-01 as permitted by Government Code Section 65868.

(viii) On September 8, 2026, the Brea Planning Commission conducted a duly noticed public hearing to consider cancellation of DA 19-01. At the close of that hearing, the Planning Commission adopted Resolution No. PC 2026-07, recommending that the City Council cancel DA 19-01.

(ix) On _____ 2026, the City Council conducted a duly noticed public hearing to consider cancellation of DA 19-01.

B. ORDINANCE.

ORD. NO. _____
DATE 2026

1. The City Council finds that all facts set forth in the Recitals, Part A of this Ordinance, are true and correct.

2. The City Council hereby approves the Cancellation of Development Agreement ("Cancellation") set forth in Exhibit A and authorizes the City Manager to execute the Cancellation on behalf of the City, subject to any nonsubstantive changes deemed necessary or appropriate by the City Manager and the City Attorney, and execute any additional instruments necessary to effectuate the full cancellation of DA 19-01.

3. If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

4. The City Clerk shall certify to the adoption of this Ordinance and cause it to be published as required by law.

ADOPTED AND APPROVED this ____ day of _____, 2026.

Cecilia Hupp, Mayor

ATTEST: _____
Victoria Popescu, City Clerk

ORD. NO. _____
DATE 2026

I, Victoria Popescu, City Clerk of the City of Brea, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Brea, held on the ____ day of _____, 2026, and was finally passed at a regular meeting of the City Council of the City of Brea on the _____ day of _____, 2026, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAINED:	COUNCIL MEMBERS:

Dated: _____

Victoria Popescu, City Clerk

ORD. NO. _____
DATE 2026

EXHIBIT A

CANCELLATION OF DEVELOPMENT AGREEMENT

ORD. NO. _____
DATE 2026