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Latham & Watkins LLP
on behalf of the Golden Door Properties, LLC
Dated: September 25, 2017

1. Introduction

The comment letter submitted by Latham & Watkins on behalf of the Golden Door Properties, LLC, dated September 25, 2017, is a late letter that does not require a written response from County.

Under CEQA Guidelines Section 15105, the County was legally required to provide a 45-day public review period on the Draft EIR. In order to provide additional time, the County instead afforded 60 days for public review and comment. The public comment period for the Draft EIR began on June 15, 2017, and ended on August 14, 2017. All comment letters received after expiration of the public review and comment period ending on August 14, 2017, are considered late comments.

A lead agency is required to consider comments on the Draft EIR and to prepare written responses if a comment is received within the public comment period. (Pub. Resources Code, §21091(d); CEQA Guidelines, §15088.) When a comment letter is received after the close of the public comment period, however, a lead agency does not have an obligation to respond. (Pub. Resources Code, §21091(d)(1); Pub. Resources Code, §21092.5(c).) Accordingly, the County is not required to provide a written response to late comment letters, including the September 25, 2017, letter from Latham & Watkins. (See, CEQA Guidelines, §15088(a)).

Nonetheless, for information purposes, the County has elected to respond to this late letter, but without waiving its position that written responses to late comment letters are not required by law.

2. The Comment Letter Addresses the County's Climate Action Plan, not the Newland Sierra Project

The comment letter begins by expressing appreciation for the opportunity to participate in the County's Climate Action Plan ("CAP") process. The comment states the commenter is particularly concerned about GHG emissions from the Newland Sierra project, which it believes would cause "significant GHG emissions in contrast to the County's stated goal in the CAP."

The comment does not address the adequacy of the environmental analysis prepared for the Newland Sierra project, but instead addresses the County's compliance with its mitigation obligations pursuant to the certified EIR adopted for its General Plan (and specifically measure CC-1.2, which requires the County to prepare a CAP). As such, the comment appears to be

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conflating two separate projects and processes. The County is aware that Golden Door, through its counsel Latham & Watkins, has raised numerous issues and questions with the CAP. The commenter is referred to the County's website for the 2018 CAP and responses prepared by the County to the commenter's input on that undertaking: https://www.sandiegocounty.gov/content/sdc/pds/ceqa/Climate_Action_Plan_Public_Review.html

The County provided a full response to this comment letter in the Revised Final Supplemental EIR (SEIR) prepared for the CAP at Response to Comment Letter O-14, which is available at <https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/RTCs/O14%20Golden%20Door.pdf>. The commenter is referred to those responses, which also are appended to the Newland Sierra project's Final EIR in **Appendix JJ-21**.

The County Board of Supervisors adopted the CAP on February 14, 2018. For more information on the County's Final CAP as adopted, please see **Topical Response GHG-3 [County's 2018 CAP]**. On March 15, 2018, the Golden Door filed suit against the County challenging its approval of the CAP, *Golden Door Properties, LLC v. County of San Diego*, San Diego Superior Court Case No. 37-2018-00013324. Lawsuits were also filed by Sierra Club, joined by other environmental groups, on March 19, 2018 (*Sierra Club v. County of San Diego*, San Diego Superior Court Case No. 37-2012-00101054-CU-TT-CTL, and *Sierra Club et al. v. County of San Diego* San Diego Superior Court Case No. 37-2018-00014081-CU-TT-CTL). Litigation in these cases is ongoing.

Concerning comments directed to the Newland Sierra project within the comments on the CAP, the County acknowledges that the comment letter expresses general opposition to the project. However, the County does not concur the project will result in significant GHG emissions or be inconsistent with the CAP for purposes of CEQA. As discussed in the Newland Sierra Draft EIR, Section 2.7, Greenhouse Gas Emissions, the project – following its utilization of on-site, emissions-reducing design features and mitigation measures – would offset 100 percent of its annual GHG emissions, for a 30-year period, in order to achieve carbon neutrality (i.e., net zero emissions level). The utilization of carbon offsets to mitigate GHG emissions is expressly authorized by CEQA Guidelines Section 15126.4(c)(3) – (c)(4). Because the project achieves carbon neutrality (i.e., a net zero emissions level), thereby resulting in no net increase in GHG emissions relative to existing environmental conditions; the project would not interfere with implementation of the General Plan, CAP, or any GHG reduction goals for 2030 or 2050.

3. Nothing Requires the County to Halt Processing Projects

The comment letter next states the commenter's opinion that the County should cease processing and approving projects until the CAP is completed, and should, in particular, "refrain from processing the Newland Project prior to the adoption of the CAP, as doing so may result in impermissible tiering" off of the CAP prior to its approval. The comment also states that the

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Newland Sierra project's EIR includes a "true up provision" that does not require additional public review and which renders the project's offset mitigation measure illusory. The comment notes the CAP does not provide a "true up" provision, and states the project should not be allowed to "bypass more stringent offset requirements in the CAP" simply by being approved prior to adoption of the CAP.

The County does not concur with these comments for the reasons set forth below.

First, Sierra Club previously sought an injunction to prohibit the County from processing and approving new, large scale developments pending CAP approval. (*Sierra Club v. County of San Diego* (2012), San Diego Superior Court Case No. 2012-0101054; *Golden Door Properties LLC v. County of San Diego* (2016), Superior Court of California, County of San Diego, Case No. 37-2016-00037402.) On April 28, 2017, the Court denied Sierra Club's request and a copy of the Court's ruling is included in **Appendix JJ-21** to the Final EIR. The Court stated that prohibiting the processing of projects would prejudice applicants who have expended time and financial resources processing their projects with the County, and deprive such applicants of basic due process. The Court additionally found that prohibiting the County from undertaking its planning process was an act too intrusive into County operations. Accordingly, the Court has already ruled that, contrary to the opinion expressed by the commenter, the County need not cease processing and approving projects until the CAP is completed.

Second, as discussed above, the CAP has been completed and adopted by the County. Therefore, the comments have become moot.

Third, the County notes that the filing of petitions by Golden Door, Sierra Club, and other groups does not automatically stay operation of the CAP. (*Kriebel v. City Council* (1980) 112 Cal.App.3d 693, 702; Pub. Resources Code, §21167.3; Guidelines, §15112.) Under CEQA, an EIR is presumed adequate and the County's decision to certify the EIR is presumed correct; the plaintiffs have the burden of proving otherwise. (*Id.*; *Barthelemy v. Chino Basin Mun. Water Dist.* (1995) 38 Cal.App.4th 1609, 1617; *Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 530.)

Fourth, the CEQA analysis prepared for the Newland Sierra project was not linked to the County's separate CAP development process. This is because the draft version of the CAP was not published until *after* release of the Newland Sierra project's Draft EIR. The Newland Sierra Project Draft EIR thus uses thresholds from Appendix G of the CEQA Guidelines, rather than those contained in the 2018 CAP's implementing documents. The project is not tiering from the CAP or otherwise reliant on that document, but instead has been processed separate from the County's CAP.

Further, the County specifically addressed this issue in Section 8.4.12 of the CAP's Revised Final SEIR, Master Response 12 - Mitigation Hierarchy and Use of Carbon Offset Credits, pages 8-51 to 8-52. Chapter 8.0 of the Revised Final SEIR is available online at:

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https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/CAP_FinalSEIR/8-LettersOfCommentAndResponses-Final-Clean.pdf, and is appended to the Newland Sierra project's Final EIR in Appendix JJ-21. The County also notes that the filing of petitions by Golden Door, Sierra Club, and other groups does not automatically stay operation of the CAP. (Kriebel v. City Council (1980) 112 Cal.App.3d 693, 702; Pub. Resources Code, §21167.3; Guidelines, §15112.) Under CEQA, an EIR is presumed adequate and the County's decision to certify the EIR is presumed correct; the plaintiffs have the burden of proving otherwise. (Id.; Barthelemy v. Chino Basin Mun. Water Dist. (1995) 38 Cal.App.4th 1609, 1617; Sierra Club v. City of Orange (2008) 163 Cal.App.4th 523, 530.). As discussed therein, because the Newland Sierra project requires a GPA, the CAP would not afford the project any streamlining benefits under CEQA Guidelines Section 15183.5, which allows certain, non-GPA projects to tier from and incorporate by reference the GHG emissions analysis presented in the CAP SEIR. Instead, the project is required to prepare a project-specific GHG emissions analysis; demonstrate consistency with applicable CAP measures outlined in the CAP Checklist; and reduce the increase in emissions in accordance with one of the two options set forth in Mitigation Measure M-GHG-1 of the CAP's SEIR. Those two options include: (1) Option 1: achieve no net increase in GHG emissions from additional density above the 2011 General Plan Update, or (2) Option 2: achieve a reduction in GHG emissions to no net increase over baseline conditions (net zero).

The County acknowledges that, now that the CAP has been adopted, any inconsistency with the CAP or the corresponding General Plan amendments associated with its approval process that has environmental consequences would be an impact under Appendix G of the CEQA Guidelines. As discussed in the Newland Sierra Final EIR, **Topical Response GHG-3**, and specifically therein at Table 1, Climate Action Plan Consistency Checklist, the project would comply with relevant measures in the CAP Checklist. In addition, because the project achieves carbon neutrality (i.e., a net zero emissions level) thereby resulting in no net increase in GHG emissions relative to existing environmental conditions, the project would not conflict with the CAP or its associated General Plan amendments. The project's commitment to the achievement of carbon neutrality is consistent with Option 2 (Net Zero) of CAP Mitigation Measure M-GHG-1. Further, **Appendix DD, Land Use Consistency Analysis, Table DD-1** has been revised in the Final EIR to include the General Plan amendments adopted as part of the CAP (i.e., amendments to General Plan Goal COS-20, General Plan Policy COS-20.1, and General Plan Update EIR mitigation measures CC-1.2, CC-1.7, and CC-1.8). As shown therein, the project would be consistent with these amendments to the General Plan.

In addition, while the proposed project is not included in the CAP's emissions inventories, the CAP does account for some level of development on the project as the CAP is based on the existing land use designations in the County's General Plan (2011). The Final EIR has been supplemented to disclose the GHG emissions that would be anticipated under the existing land use designations; please see the **Newland Sierra Existing General Plan Alternative - Greenhouse Gas Emissions Analysis**, incorporated at **Appendix JJ-18** to the Newland Sierra Project's Final EIR. As detailed

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therein, estimated emissions under the General Plan Alternative would total 42,146 MT CO₂e per year. If unmitigated, the project would generate 43,498 MT CO₂e per year, an increase of around 3.2% when compared to the estimated emissions under the General Plan.

Notably, the project as mitigated would reduce emissions to net zero levels; conversely, a General Plan-consistent alternative would not be required to reduce its emissions to net zero. Therefore, the project would actually result in a decrease in GHG emissions compared to development currently allowed under the General Plan, and as considered in the CAP based on the Site's land use designations. Further, the Newland Sierra project is also included in the cumulative analysis of the CAP's Supplemental EIR.¹ In sum, the project's mitigation measures reducing emissions to net zero levels would not only ensure the project would not interfere with the CAP's projections or implementation, but would actually achieve further reductions below CAP projections.

Fifth, the CAP does not preclude future General Plan amendments. Indeed, the *Guidelines for Determining Significance: Climate Change and Climate Action Plan Consistency Review Checklist* developed by the County in conjunction with the 2018 CAP are designed to ensure that individual development projects proposed for approval after the CAP's adoption do not obstruct attainment of the CAP's reduction targets. Like the "net zero" approach proposed for the Newland Sierra project, in order to support a determination of less-than-significant impacts attributable to GHG emissions, the County's documentation requires General Plan amendment projects achieve "no net increase in GHG emissions from additional density above the 2011 GPU" or "no net increase over baseline conditions (carbon neutrality)." The County's SEIR for the 2018 CAP determined that implementation of this approach – which is required by Mitigation Measure M-GHG-1 in that Supplemental EIR – would ensure that GHG emissions from in-process and future General Plan amendment projects would be offset, such that the CAP's emissions inventories would not be affected. The same rationale applies here; specifically, because the Newland Sierra project proposes to reduce its GHG emissions to net zero, the project would not impair the CAP's ability to achieve the contemplated emission reductions.

Sixth, as to the comment stating that the Newland Sierra Draft EIR includes a "true up" provision that renders M-GHG-2 illusory, the County does not concur and notes the inclusion of a "true up" process in GHG reduction plans is not without precedent in San Diego County. Projects such as the Carlsbad Seawater Desalination Project (State Clearinghouse No. 2004041081), the EIR for

¹ See County of San Diego, Final Supplement to the 2011 General Plan Update Program Environmental Impact Report for the Climate Action Plan, General Plan Amendment, GHG Threshold, and Guidelines for Determining Significance for Climate Change (SCH No. 2016101055), Table 1-3, Cumulative Projects List (see, e.g., page 1-74). As demonstrated therein, the County considered the Newland Sierra project as a reasonably foreseeable cumulative project in its environmental analysis for the 2018 CAP.

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which was certified in June 2006, included an annual “true up” process as part of its Energy Minimization and Greenhouse Gas Reduction Plan.²

Nonetheless, in response to comments received on the Draft EIR, the pertinent component of M-GHG-2 has been revised. Please see **Response to Comment No. O-1-138** for the subject revisions, which the County believes serve to improve the transparency of the “true up” process.

In sum, there is no reason the County should cease processing the Newland Sierra project; the EIR has evaluated the project’s GHG impacts including consistency with the General Plan and CAP; and the EIR proposes certain, enforceable mitigation measures for GHG emissions.

4. GHG Emissions Reductions Are Already Prioritized within the County

The comment states that the County’s CAP should prioritize GHG reductions within the County before allowing for the purchase of offsets from outside the County. The County notes that the comment does not address the adequacy of the environmental analysis prepared for the Newland Sierra project, but instead addresses the County’s CAP. The County specifically addressed this issue in Section 8.4.12 of the CAP’s Revised Final SEIR, Master Response 12 - Mitigation Hierarchy and Use of Carbon Offset Credits, pages 8-49 through 8-53; and Responses to Comments O14-10 through O14-12. Chapter 8.0 of the Revised Final SEIR is available online at: https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/FinalBoardDocs/Chapter%208.0_%20Revised%20Final.pdf; and Response to Comment Letter O14 is available at <https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/RTCs/O14%20Golden%20Door.pdf>. Additionally, the Master Response 12 and Responses to Comment Letter O14 are appended to the Newland Sierra project’s Final EIR in **Appendix JJ-21**.

While the comment does not raise an environmental issue with this project (Newland Sierra), nevertheless the commenter is referred to EIR Section 2.7, Greenhouse Gas Emissions, which recommends mitigation measures which, in combination with identified project design features, would reduce the project’s GHG emissions to net zero and thereby support a determination that project impacts would be less than significant. The necessary GHG reductions for the Newland Sierra project would be achieved through a combination of on- and off-site reduction strategies.

² Carlsbad Seawater Desalination Project, Energy Minimization and Greenhouse Gas Reduction Plan (2008), pages 21 to 22. Available online at <<http://www.sdcwa.org/sites/default/files/files/environmental-docs/city-of-carlsbad/2-energy-minimization-greenhouse-gas-reduction-plan-Dec2008.pdf>>. The County notes that the commenter is certainly aware of the precedent of the “true up” provision from the Carlsbad Seawater Desalination Project, as the commenter was counsel for the applicant on the project. See “New ‘Problem’: Too Much Water,” Steven Greenhut, November 25, 2015. Available online at <<http://www.sandiegouniontribune.com/news/politics/sdut-new-problem-too-much-water-2015nov25-story.html>>.

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As discussed in the EIR, M-GHG-1 and M-GHG 2 shall be subject to a geographic priority system that prioritizes emissions reductions in San Diego County – only upon exhaustion of all on-site feasible mitigation options can an applicant consider off-site mitigation options. International offsets would be last on the geographic hierarchy and would only be allowed if the applicant demonstrates infeasibility of the other options in the order of hierarchy. This geographic priority system recognizes that the availability of carbon offsets should be determined on a “real time,” as-needed basis because the market conditions for carbon offsets are constantly changing and evolving.

The County received comments on the project’s Draft EIR that “the developer should be required to submit proof to the County that offsets are unavailable in one priority category before seeking offsets from the next priority category.” In response, the relevant language of M-GHG-1 and M-GHG-2 has been revised as shown in **Response to Comment No. O-1-137**. While the mitigation has been revised, it is noted that CEQA provides lead agencies with discretion to formulate feasible mitigation measures for the reduction of GHG emissions.

Specifically, CEQA Guidelines Section 15126.4(c) addresses the mitigation of GHG emissions and provides a non-exclusive list of potentially feasible mitigation concepts for consideration by lead agencies and project proponents. Of importance, CEQA Guidelines Section 15126.4(c) does not establish a hierarchy of allowable mitigation options – there are no limits imposed on the geographic or locational attributes of the mitigation options, and there is no imperative to secure additional on-site reductions before utilizing carbon offsets.

Unlike criteria pollutants where individual districts are characterized by varying levels of pollutant concentrations and source types, GHGs and their attendant climate change ramifications are a global problem (CAPCOA 2008). Climate change is a global phenomenon in that all GHG emissions generated throughout the earth contribute to it; the action of GHGs is global in nature, rather than local or regional (or even statewide or national) (CAPCOA 2008). The California Supreme Court recently acknowledged this point in *Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 204: “the global scope of climate change and the fact that carbon dioxide and other greenhouse gases, once released into the atmosphere, are not contained in the local area of their emission means that the impacts to be evaluated are also global rather than local.” Accordingly, geographical limits to mitigation options does not align with the science and understanding of GHGs and the global, cumulative nature of GHG emissions. As all GHG emissions generated throughout the earth contribute to climate change, a reduction in GHG emissions on earth would offset the generation of GHG emissions and their contribution to climate change regardless of geographic location.

Indeed, as discussed in **Response to Comment No. O-1-137**, in adopting CEQA Guidelines Section 15126.4(c), the California Natural Resources Agency expressly rejected invitations to establish any sort of mitigation hierarchy for GHG emissions. Similarly, when discussing how

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local governments can support climate action through CEQA, on page 102 of *California's 2017 Climate Change Scoping Plan* (November 2017)³, CARB “recommends that lead agencies prioritize on-site design features that reduce emissions, especially from VMT, and direct investments in GHG reductions within the project’s region that contribute potential air quality, health, and economic co-benefits locally.” On that same page, CARB recognizes that “[w]here further project design or regional investments are infeasible or not proven to be effective,” it also “may be appropriate and feasible to mitigate project emissions through purchasing and retiring carbon credits.” As such, much like the framework established in CEQA Guidelines Section 15126.4(c), CARB recognizes the utilization of a portfolio-based approach in the development and selection of feasible mitigation measures for the reduction of GHG emissions, while simultaneously recommending the prioritization of GHG emissions-reducing strategies in a project’s vicinity due to the corresponding economic and air quality co-benefits.

Here, the project includes 32 *on-site* project design features (PDFs) (see Draft EIR, Table 2.7-7) to reduce GHG emissions, the implementation of which would be secured through Mitigation Measure M-GHG-3. These design requirements include a Transportation Demand Management (TDM) Program (PDF-1 through PDF-20), solar photovoltaic panels on all residences (PDF-22), pre-plumbing for the use of greywater systems where feasible (PDF-26), water efficient landscaping and irrigation equipment to reduce water usage (PDF-24 and PDF-25), energy efficient appliances (PDF-31), installation of electric vehicle chargers in all single-family homes (PDF-23), and other features to reduce energy usage, water consumption and limit GHG emissions. The Draft EIR conservatively only accounts for GHG emission reductions from those PDFs which are readily quantifiable, and thus likely underestimates the amount of GHG emissions reductions achieved by the project. Specifically, GHG emission reductions attributable to PDFs 1 through PDF-20, and PDF-22 are accounted for in EIR Section 2.7; however, GHG emission reductions attributable to PDF-21 and PDF-23 through PDF-32 are not included in the EIR.

In conjunction with implementation of the 32 on-site PDFs, the EIR recommends adoption of Mitigation Measures M-GHG-1 and M-GHG-2, which require the purchase and retirement of carbon offsets associated with off-site reductions to reduce project GHG emissions to net zero. The County’s development of this combination of on- and off-site reduction strategies is consistent with the discretion afforded to it by CEQA for purposes of mitigating GHG emissions.

5. Adequate Assurances are Provided that Offsets will Achieve Stated GHG Emissions Reductions

The comment states that the County must provide assurances that the offsets will achieve their projected GHG emissions reductions where the offsets will be implemented out-of-County, in

³ CARB 2017 Climate Change Scoping Plan (November 2017):
https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf

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other jurisdictions. The comment states the CAP should provide mitigation assurances through 2050, and should consider whether and how to ensure mitigation for General Plan amendments continue “beyond the 30-year out year.” If the County is proposing to allow offset projects to expire before the end of the County’s planning period (i.e., 2050), the comment states potential increases should be counted in the CAP’s calculations.

The County notes that the comment does not address the adequacy of the environmental analysis prepared for the Newland Sierra project, but instead addresses the County’s CAP. The County addressed the issues raised in the comment in the CAP’s Revised Final SEIR, at Master Response 12 - Mitigation Hierarchy and Use of Carbon Offset Credits; Master Response 13 - GHG Reduction Measures, CAP Mitigation Measures, and 2011 General Plan Update PEIR Mitigation Measures; and specifically within Responses to Comments O14-12 through O14-16. Chapter 8.0 of the Revised Final SEIR containing these responses is available at: https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/FinalBoardDocs/Chapter%208.0_%20Revised%20Final.pdf, and Response to Comment Letter O14 is available at <https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/RTCs/O14%20Golden%20Door.pdf>. Additionally, County CAP Master Responses 12 and 13, and Responses to Comment Letter O14 are appended to the Newland Sierra Project’s Final EIR in **Appendix JJ-21**. The County refers the commenter to those responses, and particularly Response to Comment O14-13, which explains how the County will ensure that carbon offsets achieve the requisite environmental integrity.

While the comment does not address the proposed Newland Sierra project or its EIR, the County nevertheless provides the following response.

First, for the reasons discussed in the CAP’s referenced Revised Final SEIR responses, the mitigation measures proposed for the project will likewise ensure that offsets achieve the necessary emissions reductions.

Second, please see **Topical Responses GHG-1 and GHG-2**, which address offsets and the mechanisms and protocols in place to ensure enforceability and verifiability.

Third, in response to comments received on the project’s Draft EIR, please note that M-GHG-1 and M-GHG-2 have been revised in the Final EIR to provide further information regarding the selection of an acceptable registry; please see **Response to Comment No. O-1-140**.

Fourth, as demonstrated by the State’s approval of the *Newhall Ranch Greenhouse Gas Reduction Plan* particularly Section IX.B therein (see Appendix 6 of the Final Additional Environmental Analysis for the Newhall project, available at <https://www.wildlife.ca.gov/regions/5/newhall> and included in **Appendix JJ-4** to the Newland Sierra Project’s Final EIR), the Climate Action

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Reserve, the American Carbon Registry and the Verra (previously “Verified Carbon Standard”)⁴ use accounting, quantification and monitoring protocols, and implement eligibility and procedural performance standards, which CARB has determined achieve an acceptable degree of environmental integrity for the CEQA process. As such, by supplementing M-GHG-1 and M-GHG-2 to require a demonstration of equivalency between option (i) and option (iii) registries, the comment’s concern has been addressed.

Fifth, as demonstrated by projects certified under AB 900, both CARB and the Governor of California have repeatedly approved of use of offsets to reduce GHG emissions. Under AB 900, the Jobs and Economic Improvement through Environmental Leadership Act, certain CEQA streamlining benefits were provided to “environmental leadership” projects. One of the key conditions was that such projects offset or reduce all emissions to be GHG neutral. (Pub. Resources Code, §21183(c).)

To date, twelve (12) AB 900 projects have been certified by the Governor of California, and all but one of them use carbon offsets to achieve a net zero GHG emissions level. Furthermore, only two projects have been subject to *any* form of prioritization concerning the location of offsets -- the 10 Van Ness Avenue Mixed-Use Project (San Francisco) and 6220 West Yucca Project (Los Angeles)⁵. Those geographic priorities have been drafted consistent with the policy recommendations included in CARB’s 2017 Climate Change Scoping Plan Update, and in a manner comparable to mitigation measures M-GHG-1 and M-GHG-2 proposed for the Newland Sierra project.

Lastly, concerning the sufficiency of Mitigation Measure M-GHG-2’s 30-year mitigation period, please refer to **Topical Response GHG-4 [30-Year Project Life]**, and **Response to Comment O-1.4-68**.

6. GHG Inventory and Reduction Strategies are Adequate

A. GHG Inventories

The comment states the CAP included, in its business-as-usual projections, growth from GPAs adopted since the 2011 General Plan Update, but did not include proposed GPAs. The comment states there is not enough information to support the conclusion future GPAs will not interfere with

⁴ In February 2018, Verified Carbon Standard changed its name to “Verra.” Verra remains a CARB-approved registry and continues to operate the Verified Carbon Standard (VCS) Program. Please see, <https://www.arb.ca.gov/cc/capandtrade/offsets/offsets.htm> and <http://verra.org/vcs-is-now-verra/> for more information.

⁵ 2017072018 – 10 Van Ness Avenue Mixed-Use Project, Carbon Offset Commitment Letter, December 5, 2017. Available online at: http://www.opr.ca.gov/docs/20171211-GHG_Offset_Approach_Letter_to_ARB_2017-12-05_Signed.pdf.

2015111073 – 6220 West Yucca Project, ARB Determination, June 15, 2017. Available online at: http://www.opr.ca.gov/docs/FINAL_6220_Yucca_Street_CARB_Determination.pdf.

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the County's CAP reduction targets through the implementation of CAP mitigation measure GHG-1.

Again, the County notes that the comment does not address the adequacy of the environmental analysis prepared for the Newland Sierra project, but instead addresses the County's CAP. The issues raised in the comment were addressed by the County in the CAP's Revised Final SEIR, at Responses to Comments O14-17 through O14-18. (See, Response to Comment Letter O14 at <https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/RTCs/O14%20Golden%20Door.pdf>, a copy of which also is included in **Appendix JJ-21** to the Newland Sierra Project Final EIR.) The County refers the commenter to those responses, which provide in sum:

Under CAP Mitigation Measure M-GHG-1, [t]he County shall require in-process and future GPAs to reduce their emissions to ensure that CAP emission forecasts are not substantially altered such that attainment of GHG reduction targets could not be achieved. These projects would need to either achieve no net increase in GHG emissions from additional density above the 2011 GPU or reduce all project GHG emissions to zero to achieve no net increase over baseline conditions (i.e., carbon neutrality). The GPA would ensure that CAP emission forecasts, and therefore achievement of reduction targets, are not substantially altered under either scenario. It appears the comment suggests that the CAP should evaluate on a project-specific basis the impacts of GPAs. The CAP is a county-wide, programmatic assessment of the actions and strategies the County would implement to reduce GHG emissions to meet reduction targets. A project-by-project evaluation of emissions for existing and proposed GPAs is not appropriate within the CAP. Moreover... [t]he mitigation measure is clear that GPAs achieve no net increase in GHG emissions over the 2011 GPU or no net increase over the baseline. (CAP Response to Comment O14-18.)

As the comment does not address the proposed Newland Sierra project, the County notes the comment does not raise an environmental issue concerning this project or its EIR within the meaning of CEQA. Further, the County does not concur with the comment. First, as detailed above, the County acknowledges that the CAP is based on the existing land use designations in the County's General Plan (2011) and, thus, the proposed project (Newland Sierra) and other future General Plan amendments were not included in the CAP's emissions inventories. However, the CAP does account for some level of development on the project, and the Newland Sierra project is included in the cumulative analysis of the CAP's SEIR.⁶

⁶ See County of San Diego, Final Supplement to the 2011 General Plan Update Program Environmental Impact Report for the Climate Action Plan, General Plan Amendment, GHG Threshold, and Guidelines for Determining Significance for Climate Change (SCH No. 2016101055), Table 1-3, Cumulative Projects List (see, e.g., page 1-74). As

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Second, the *Guidelines for Determining Significance: Climate Change and Climate Action Plan Consistency Review Checklist* developed by the County in conjunction with the 2018 CAP are designed to ensure that individual development projects proposed for approval after the CAP's adoption do not obstruct attainment of the CAP's reduction targets. Like the "net zero" approach proposed for the Newland Sierra project, in order to support a determination of less-than-significant impacts attributable to GHG emissions, the County's documentation requires General Plan amendment projects achieve "no net increase in GHG emissions from additional density above the 2011 GPU" or "no net increase over baseline conditions (carbon neutrality)." The County's SEIR for the 2018 CAP determined that implementation of this approach – which is required by Mitigation Measure M-GHG-1 in that Supplemental EIR – would ensure that GHG emissions from in-process and future General Plan amendment projects would be offset, such that the CAP's emissions inventories would not be affected.

The same rationale applies to the Newland Sierra project; specifically, because the Newland Sierra project proposes to reduce its GHG emissions to net zero, the project would not impair the CAP's ability to achieve the contemplated emission reductions. Note however, as discussed above, the CEQA analysis prepared for the Newland Sierra project was not linked to the County's separate CAP development processes because the draft version of the CAP was published after release of the Newland Sierra Draft EIR.

B. Transportation Reductions and Land Use

The comment states that the County should ensure that future projects are located in infill locations close to existing transit. The comment states that, by not developing housing in remote areas, the County will avoid GHG emissions from transportation and energy use associated with the conveyance of water and solid waste services. The comment recommends that a requirement be included in the CAP which requires General Plan amendment projects be consistent with the land use patterns used by SANDAG in its Regional Transportation Plan and Sustainable Communities Strategy.

The County notes that the majority of the comment does not address the adequacy of the environmental analysis prepared for the Newland Sierra project, but instead addresses the County's CAP. The County addressed the issues raised in the comment in the CAP's Revised Final SEIR, at Master Response 2 - CAP and SB 375, and Responses to Comments O14-19 through O14-22. (See, Chapter 8.0 of the Revised Final SEIR is available online at: [https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/FinalBoardDocs/Chapter%208.0 %20Revised%20Final.pdf](https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/FinalBoardDocs/Chapter%208.0%20Revised%20Final.pdf); Response to

demonstrated therein, the Sierra project was considered by the County as a reasonably foreseeable cumulative project in its environmental analysis for the 2018 CAP.

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Comment Letter O14 at <https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreview/documents/FinalPublicReviewDocs/RTCs/O14%20Golden%20Door.pdf>.) The County refers the commenter to those responses, copies of which are included in **Appendix JJ-21** to the Newland Sierra Project Final EIR.

As discussed above, the CAP has been approved by the County since this letter was submitted. Therefore, comments proposing changes to the CAP and requesting that the County not approve the Newland Sierra project *prior to* adoption of the CAP are therefore moot points.

The County also does not concur with the comment. The project's mitigation measures M-GHG-1 and M-GHG-2 would require the project to offset 100 percent of its annual GHG emissions, for a 30-year period, in order to achieve carbon neutrality (i.e., net zero emissions level). Because the project achieves carbon neutrality (i.e., a net zero emissions level), thereby resulting in no net increase in GHG emissions relative to existing environmental conditions; the project would not interfere with implementation of the CAP.

Concerning the project increasing the zoned density of the site, the County notes that while the existing General Plan land use designations would allow approximately 99 single-family residential dwelling units, it also would allow 2,008,116 square feet of office professional and commercial space with associated roadways. (Draft EIR page 1-34, Table 1-11; Draft EIR, Section 4.5.) Therefore, the General Plan already anticipates the so-called urbanization of this project.

In the same vein, the General Plan land use designations would generate only six percent (6%) fewer average daily trips when compared to the Newland Sierra project; but would actually generate 895 (56%) more trips in the AM peak period and 441 (21%) more trips in the PM peak period. (Draft EIR, Section 4.5, page. 4-22; Appendix II, Newland Sierra Project Alternatives Traffic analysis, page 3.) Compared to the project, development under the General Plan land use designations would actually result in greater impacts to traffic compared to the project. (*Ibid.*)

Nevertheless, the Draft EIR considered potential impacts from increasing housing, population, and traffic at the project. The commenter is referred to, among others, Section 1, Project Description, Section 2.12, Population and Housing, Section 2.13, Transportation and Traffic, and Section 4, Project Alternatives.

Regarding the comment that the project is located in a remote area far from transit, the County does not concur. As discussed in the Draft EIR:

[T]he project is located at the Deer Springs Road interchange with direct access to I-15, providing regional access to existing job centers in San Marcos, Vista, Rancho Bernardo, Escondido, and Poway. The Site is also located near Cal State San

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Marcos and Palomar College, and three Sprinter stations are within 6 miles of the project Site: the San Marcos Civic Center Sprinter Station, the Buena Creek Station, and the Palomar College Station, as shown in Figure 1-34, Proximity to Major Employment Centers. (Draft EIR p. 1-24.)

While the County acknowledges there are no public transit services which stop at or within the immediate vicinity of the project, service could potentially be provided in the future by the North County Transit District (NCTD). The Riverside Transit Agency (RTA) also currently operates a Commuter Link Express Route (Route 217) along the I-15 corridor with morning and evening service between Hemet, Murrieta, Temecula, and the Escondido Transit Center. Furthermore, the project incorporates a substantial TDM program which notably includes: shuttle services throughout the Project and to the Escondido Transit Center, a park-and-ride lot, subsidized transit passes for the project's residents, mobility hubs as a means of resident outreach and education, and continued coordination with SANDAG and NCTD for the siting of future transit infrastructure. (*See*, TDM Program (PDF-1 through PDF-20).)

Lastly, with respect to the request that the CAP require General Plan amendment projects to be consistent with the land use patterns used by SANDAG in its RTP/SCS, the CAP has been approved without this requirement. Government Code Section 65080(b)(2)(K) expressly declares that an SCS does not regulate the use of land; does not supersede the exercise of the County's land use authority; and does not require the County's land use policies and regulations (including those set forth in its General Plan) to be consistent with the SCS. Further, the CAP itself proposes no land use changes, but aims to reduce GHG emissions from existing and planned land uses.

Concerning the Newland Sierra project, the Draft EIR, Section 2.7.3.2 and Table 2.7-15 also evaluate the project's consistency with SANDAG's RTP/SCS, and determine the project would be consistent with the RTP/SCS.

C. Open Space Conservation Land

The comment cites the CAP's statement that the acquisition of land by the County under the MSCP would reduce GHG emissions through the preservation of land which can otherwise be developed. The comment asks how the County will calculate reductions from this measure, "but allow GPAs such as the Newland Project to move forward?" The comment also notes the North County MSCP is in draft form and states it is improper for the CAP to take credit for a program that has not been approved. The comment maintains that the project would "avoid the CAP's goal of preserving open space and agricultural lands' by developing on a parcel currently zoned for a much lower level of density...than the project currently proposes."

The County notes that the majority of the comment does not address the adequacy of the environmental analysis prepared for the Newland Sierra project, but instead addresses the County's CAP. The County addressed the issues raised in the comment CAP's Revised Final SEIR, at

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Master Response 11 - Carbon Sequestration, and Response to Comment O14-23. (See, Chapter 8.0 of the Revised Final SEIR, available online at: [https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/FinalBoardDocs/Chapter%208.0 %20Revised%20Final.pdf](https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/FinalBoardDocs/Chapter%208.0%20Revised%20Final.pdf); and Response to Comment Letter O14 at <https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/RTCs/O14%20Golden%20Door.pdf>.) The County refers the commenter to those responses, copies of which are included in **Appendix JJ-21** to the Newland Sierra Project Final EIR.

Concerning the Newland Sierra project, it would preserve approximately 1,209 acres of on-site open space and additional 212 acres of off-site open space, for a total preserve acreage of 1,421 acres (72 percent of the project acreage.) (Draft EIR page 1-3). The Draft EIR calculated GHG emissions associated with vegetation removal consistent with the CalEEMod User's Guide. The Draft EIR states:

CalEEMod was used to estimate emissions from vegetation removal and tree plantings. For purposes of this analysis, the one-time sequestration loss on the project site was calculated and included in the construction emissions estimates, and no credit was taken for the anticipated increase in sequestration capacity following project implementation as a result of tree plantings. However, the estimated increase in sequestration capacity (approximately 3,297 MT CO₂E) due to new tree plantings is provided for disclosure. This "pool" of sequestration savings (3,297 MT CO₂E), even though no credit is taken, nonetheless represents GHG reductions above and beyond those required by the EIR's mitigation measures. (Draft EIR page 2.7-36.)

See also **Response to Comment O-1.4-22**. The Draft EIR did not take credit for emissions reductions through the preservation of land. As to agriculture, Section 2.2.3.1 of the Draft EIR states, "The project does not contain any Williamson Act contract lands, County agricultural preserves, lands designated Prime Farmland, or Farmland of Statewide Importance, nor any active irrigated croplands or other crop production. As such, none of these agricultural resources would be directly impacted by the project." Thus the project would adequately protect open space, and impacts to agriculture would be less than significant.

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7. Conclusion

In sum, these late comments relate to the County's CAP, which has been approved and is not the project at issue in this EIR. Where comments included in this letter on the CAP may reference the Newland Sierra project or its EIR, the comments relate to subject areas that received extensive analysis in the Draft EIR, as detailed above. As the comment letter does not raise any specific issue regarding the Newland Sierra EIR or its analyses, no more specific responses can be provided.