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Latham & Watkins LLP
on behalf of the Golden Door Properties, LLC
Dated: November 21, 2017

1. Introduction

The comment letter submitted by Latham & Watkins on behalf of the Golden Door Properties, LLC, dated November 21, 2017, is a late letter that does not require a written response from the 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 November 21, 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. There are no data gaps, errors, or omissions in the EIR

The letter alleges data gaps, errors, and omissions in the EIR analysis and documentation, but provides no evidence that such data gaps, errors, or omissions exist in the EIR. The letter then claims that these unspecified data gaps, errors, and omissions required Golden Door Properties, LLC (“Golden Door”), to sue the County. On July 14, 2017, Andrew Yancey of Latham & Watkins, LP, on behalf of his client the Golden Door, requested “unlocked Excel spreadsheets supporting all emissions calculations in Appendices G and K (to the Draft EIR) and electronic input and output files for all CalEEMod, AERMOD, and HARP runs.” (refer to **Appendix JJ-3** to the Final EIR). On October 3, 2017, Dudek provided the requested files along with a memorandum of instructions on how to use the files to generate the analysis contained in the Draft EIR.

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3. The EIR correctly analyzed cumulative impacts.

The letter lists four projects (the Williams Riviera Project, the Safari Highlands Ranch Project, the Pala Casino Resort Expansion, and the San Marcos Highlands Project) and provides a list of projects in the City of Escondido it states the EIR did not include on the Cumulative Projects List (Table 1-10 in the EIR). The letter states that some of these projects are quite large and would have the potential to add significant traffic to area roadways, including the I-15 freeway.

The letter is incorrect in stating that the EIR did not include the Williams Riviera Project, the Pala Casino Resort Expansion, and the San Marcos Highlands Project. These three projects are listed in Table 1-10 as project numbers 22, 103, and 109.

As to the Safari Highlands Ranch Project on the eastern edge of the City of Escondido just north of the San Diego Zoo Safari Park, at the time of the release of the Newland Sierra Project Notice of Preparation (NOP) on February 12, 2015, the Safari Highlands Ranch Project was not an official project¹. The Safari Highlands Ranch Project is a proposed 550-unit residential subdivision approximately 10 miles to the southeast of the Newland Sierra Project in an unincorporated area of the County that is proposed for annexation into the City of Escondido. Accordingly, the project is being processed through the City of Escondido with Escondido serving as the Lead Agency under CEQA.

As it pertains to the various projects within the City of Escondido, to the extent that those projects are consistent with the City's 2012 General Plan Update, the environmental effects of those projects are already analyzed at the General Plan level in the City's Final EIR for the City's General Plan Update, Downtown Specific Plan Update, and Climate Action Plan ². As the Escondido projects are also surrounded by or bordered by existing urban and suburban development, the impacts associated with those projects are also largely confined to the boundaries of the City of Escondido and the cumulative impacts to natural elements of the environment such as agricultural resources, biological resources, and cultural resources would be expected to be minimal. Consequently, with the exception of traffic impacts which occur to the I-15 and SR 78 freeways, the impacts associated with these Escondido projects would be generally confined to the immediate area around these projects and are not cumulatively considerable in the Newland Sierra Project EIR.

¹ The NOP for the Safari Highlands Ranch Project was released on September 11, 2015:
<https://www.escondido.org/Data/Sites/1/media/PDFs/Planning/SafariRanch/NOPforSHR.pdf>.

² According to the City of Escondido, a few projects in the City are proposing General Plan Amendments, however none of these projects are proposing an increase in intensity compared to what is allowed by the City's updated 2012 General Plan.

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In total, the Newland Sierra EIR analyzed the cumulative effects of 199 projects (refer to Table 1-10 in Chapter 1 of the EIR), including several which are no longer active projects. As stated in Section 1.7 (page 1-33) of the EIR:

“[t]he cumulative projects are shown in Figure 1-46, Cumulative Projects Map, and listed in Table 1-10. All projects are generally located in northern San Diego County, encompassing the North County Metropolitan Plan area, Bonsall Community Plan area, Fallbrook Community Plan area, Pala-Pauma Community Plan area, Valley Center Community Plan area, and the City of San Marcos. For each environmental issue area discussed in Chapters 2 and 3 of this EIR, a more specific cumulative study area is defined, as applicable, to each issue.”

Thus, the EIR correctly focused on cumulative projects within the North County inland subregion and projects that would be expected to have some level of interaction with the proposed project (e.g., projects in San Marcos). The responses below address how cumulative impacts were addressed in each subject area of the EIR.

4. The EIR’s cumulative projects traffic analysis is conservative.

As stated above, the Williams Riviera Project, the Pala Casino Resort Expansion, and the San Marcos Highlands Project were all included in the cumulative traffic analysis for the project.

As to the Safari Highlands Ranch Project, the bulk of the traffic from this project would impact local streets within the City of Escondido, such as San Pasqual Valley Road, San Pasqual Road, Cloverdale Road, and Via Rancho Parkway, roadways to which the Sierra project would add very little traffic, given the 10 mile distance the project is located from these roadways. This road network would not be significantly impacted by the Newland Sierra Project. The Safari Highlands Ranch Project would impact portions of the I-15 and SR 78 freeway mainlines. In the case of the impacts to I-15 freeway, the Newland Sierra Project has already identified these impacts as significant and unavoidable and Caltrans is on record stating that there is no mitigation project for impacts to the freeway mainline:

“With respect to capacity enhancing improvements to Interstate 15 (I-15) between State Route 78 and the Riverside County boundary, Caltrans recognizes that no mitigation program, which the EIR could rely upon, is currently in place to implement such improvements.”

(Appendix JJ-14 to Newland Sierra Project Final EIR)

With respect to the SR 78 freeway, SANDAG and Caltrans are implementing capacity enhancing improvements in the form of high-occupancy vehicle (HOV) lanes along SR 78 west of I-15, however, because these improvements are under the jurisdiction and control of Caltrans and the

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timing of these improvements cannot be assured to occur prior to the project's impacts occurring, direct and cumulative impacts are considered significant and unavoidable (refer to Section 2.13.1.6 of the EIR).

As to the various projects within the City of Escondido and other potential projects in neighboring jurisdictions like San Marcos or the broader North County inland area (e.g., the Rancho Lomas Verdes Specific Plan Project in the City of Vista), it is important to understand how cumulative traffic analyses are conducted in the County. In the case of the Newland Sierra Project, the cumulative traffic impact analysis was based on a SANDAG Series 12 Forecast which included a certain amount of subregional forecasted growth in traffic (i.e., background traffic from other unspecified "cumulative projects" within the broader subregion based on adopted General Plans) and which was then manually adjusted to account for the traffic generated by 192 separate cumulative projects (refer to Table 9-1 of Appendix R1a to the Final EIR). As stated in Appendix R1a:

"Based on a research of potential projects in the Project area and discussions with the County, a twostep process was utilized to estimate the total cumulative projects volumes. The first step was to utilize the SANDAG Series 12 Year 2020 model which incorporates the cumulative projects within the County of San Diego. The model did not include a comprehensive listing of cumulative projects within the adjacent Cities of Vista, San Marcos and Escondido, and therefore, the next step was to estimate the total cumulative traffic that would be generated by city projects and manually add that traffic to the volumes obtained from the 2020 model. A total of 192 projects are included."

(Appendix R1a, Chapter 9.0, "Cumulative Projects", page 82)

Various projects in San Marcos were manually added to the cumulative projects traffic volumes produced by the SANDAG Series 12 2020 model, which overstates the impacts from these projects, and, thereby the traffic volume from cumulative projects.

Finally, the EIR already concluded that the project would contribute to significant cumulative impacts on I-15 and SR 78 and increases in cumulative traffic volumes along these freeways would not change the conclusion in the EIR related to these two freeway facilities.

5. The SANDAG model was adjusted to incorporate the land uses proposed by the Lilac Hills Ranch Project.

The letter states that it is difficult to understand how the addition of the Lilac Hills Ranch Project impacts the baseline SANDAG model, that there is a temporal component to determining when cumulative impacts will occur, and the scope of a project used to amend a baseline model could determine the difference between a significant and insignificant impact. The SANDAG Series 12 2020 model used to forecast cumulative traffic volumes for the Newland Sierra Project

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incorporated the land uses from 171 separate cumulative projects listed in Table 6.1 of the Lilac Hills Ranch Traffic Impact Study³. In other words, the land uses for these various Traffic Analysis Zones (TAZs) were specifically modified to incorporate the land uses proposed by these 171 projects. Then the Lilac Hills Ranch Project and 20 San Marcos projects were separately added to the cumulative traffic volumes produced by the SANDAG Series 12 model. As stated in Section 6.1 of the Lilac Hills Ranch Traffic Study one of the 171 cumulative projects included in the SANDAG Year 2020 Model was the Newland Sierra Project. The Sierra project traffic could have been removed from the cumulative traffic volumes for the Newland Sierra EIR. But to be conservative, this traffic was not removed. Therefore, cumulative traffic is overstated in the Newland Sierra EIR. The cumulative analysis is also conservative in that the manual addition of the San Marcos projects overstates the volumes from these projects because the trip association/interaction between the residential and non-residential uses in these projects which the SANDAG model captures is lost. Therefore, the cumulative traffic volumes used for the Newland Sierra Project EIR's analysis is considered conservative. Finally, as to the temporal nature of impacts, the SANDAG Series 12 2020 traffic model was run assuming full buildout of the Lilac Hills Ranch Project along with the other 191 projects included in the analysis. Therefore, from this standpoint as well, the cumulative analysis should be considered conservative.

6. The EIR found cumulative impacts related to aesthetics, air quality, and population and housing significant and unavoidable.

The addition of new cumulative projects (e.g., Safari Highlands Ranch Project, Rancho Lomas Verdes Project in Vista, projects in downtown Escondido) would not change these significance determinations in the EIR.

As to air quality specifically, which is an environmental resource area highlighted in the comment letter, Section 2.3, Air Quality, of the EIR considered whether the project would “[r]esult in a cumulatively considerable net increase of any criteria pollutant for which the project region is in nonattainment under an applicable federal or state ambient air quality standard.” (Final EIR, p. 2.3-19; see also pp. 2.3-60 to 2.3-65.) Assessment of the project's impacts under this Appendix G criterion was further informed by the County's *Guidelines for Determining Significance – Air Quality (Air Quality Guidelines)*. (Id. at p. 2.3-20.) The County's *Air Quality Guidelines* provide, in part, that a project with a significant direct impact associated with PM₁₀, PM_{2.5}, NO_x and/or VOCs also results in a significant cumulative impact.⁴ (Id. at pp. 2.3-20, 2.3-60.)

³ Refer to the Lilac Hills Ranch Traffic Impact Study:

https://www.sandiegocounty.gov/content/dam/sdc/pds/regulatory/docs/LILAC_HILLS_RANCH/Recirculation/GPA_12001-REIR-AppendixE-TrafficImpactStatement_061214.pdf.

⁴ These four criteria pollutants are the focus of the County's *Air Quality Guidelines* for cumulative impact analysis because the San Diego Air Basin (SDAB) is a designated federal nonattainment area for ozone (NO_x and VOC are recognized ozone precursors), and a designated state nonattainment area for ozone, PM₁₀ and PM_{2.5}. (Final EIR, pp. 2.3-62, 2.3-67.)

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As provided in EIR Section 2.3, the proposed project's NO_x, PM₁₀ and PM_{2.5} emissions resulting from construction activities would be cumulatively considerable, because the project's direct emissions exceeded the quantitative thresholds set forth in the County's *Air Quality Guidelines* following application of all feasible design features and mitigation measures. (Id. at p. 2.3-63.) Similarly, operational emissions of VOCs, PM₁₀ and PM_{2.5} would be cumulatively considerable, because the project's direct emissions exceeded the quantitative thresholds set forth in the County's *Air Quality Guidelines* following application of all feasible design features and mitigation measures. (Id. at p. 2.3-65.)⁵

Of relevance to this response, it is not industry standard practice – when assessing cumulative air quality impacts – to undertake modeling that presents the quantitative emission estimates associated with specific cumulative projects, such as those identified by Latham & Watkins. In this way, air quality models (here, CalEEMod) are methodologically distinct from traffic models, which sometimes do account for the quantitative implications of cumulative projects. However, this is not a deficiency in the modeling framework used to assess cumulative air quality impacts, as CEQA Guidelines section 15130 does not require a quantitative assessment but rather an assessment that is “guided by the standards of practicality and reasonableness.” Standards of practicality and reasonableness preclude the formulation of emissions estimates based on cumulative project data as the model designed for uniform, statewide application in the CEQA context (CalEEMod) is constructed to populate data associated with a singular project. Relatedly, the cumulative significance of a project is not under-reported due to the absence of such data. This is because, in the case of SDAB, a project is presumed to result in a cumulatively significant impact if it exceeds any of the direct emission thresholds for a pollutant for which the SDAB is designated nonattainment, thereby requiring adoption of all feasible mitigation measures and alternatives.

7. The Newland Sierra Project would not result in significant cumulative impacts to agricultural resources.

As stated in the EIR:

“[T]he project Site is not considered to be comprised of important agricultural resources and would mitigate for any potential direct off-site impacts to agricultural resources. According to the County's Guidelines for Determining Significance, ‘[a] project that is determined not to be an important agricultural resource, that would not have significant indirect impacts to agricultural resources, and that would not conflict with agricultural zoning or a Williamson Act contract would not have the potential to contribute to a cumulative impact’ (County of San Diego 2007). ... Therefore, the project would **not result in a cumulatively considerable impact** on agricultural resources.”

⁵ The EIR also conservatively identified significant cumulative impacts associated with CO, even though the San Diego Air Basin is not a designated nonattainment area for carbon monoxide. (Final EIR, pp. 2.3-63, 2.3-65.)

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(Newland Sierra Final EIR, Section 2.2.4, Agricultural Resources, Cumulative Impact Analysis, page 2.2-17)

Therefore, whether other cumulative projects would result in significant impacts to agricultural resources does not affect the significance determination in the EIR related to cumulative impacts to agricultural resources for the Newland Sierra Project.

8. The EIR's analysis of cumulative impacts to biological resources is based on a "biological cumulative impact study area".

As stated in the EIR:

"The (biological cumulative impact) study area is bound on the south and southwest by urban lands, on the west by the San Marcos Mountains, on the north by Gopher Canyon, and on the east by Moosa Canyon. Of the 199 reasonably foreseeable projects provided by the County, 87 projects are located within the 66,681-acre biological study area. Potential impacts to biological resources were examined for these 87 cumulative projects and are summarized in Table 2.4-28."

(EIR Section 2.4.13, Cumulative Impact Analysis, page 2.4-94)

The Safari Highlands Ranch Projects falls outside of this biological cumulative impact study area due to its geographic location and is, therefore, not included in the EIR's analysis of cumulative impacts to biological resources.

As to the Rancho Lomas Verdes Specific Plan Project, the development footprint would be primarily limited to the areas of the site that have been used for intensive agriculture and the site's natural areas (areas not used for agriculture) would remain undeveloped⁶. Therefore, with the application of appropriate mitigation measures and absent any site specific evidence to the contrary, it is reasonable to assume that this project would not result in significant biological resource impacts.

9. The project's cultural resource impacts are not cumulatively considerable.

The EIR acknowledges potential cultural resource impacts from cumulative projects, identifies the project's impacts, and identifies mitigation to reduce the project's impacts to less than significant. Refer to EIR Section 2.5.4 Cumulative Impact Analysis, pages 2.5-44 and 2.5-45.

⁶ Refer to the Notice of Preparation of a Draft Environmental Impact Report for the Rancho Lomas Verdes Specific Plan: <http://www.cityofvista.com/home/showdocument?id=13837>.

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As to the Safari Highlands Ranch Project, the EIR for this project ⁷ has identified potential significant impacts to two (2) archeological resource sites defined as historical resources by CEQA and, although no human remains have been identified on the project site, the project's EIR includes seven (7) mitigation measures (MM CUL-1 through MM CUL-7) to mitigate the impacts to archeological resources and potential impacts to human remains to less than significant. Impacts to historic structures and paleontological resources were found to be less than significant.

As to the Rancho Lomas Verdes Specific Plan Project, although no environmental document has yet been prepared for this project, as stated above, the development footprint would be primarily limited to the areas of the site that have been used for intensive agriculture and the site's natural areas (areas not used for agriculture) would remain undeveloped. The project would also be subject to Assembly Bill 52 requiring consultation with the Native American Tribes. Therefore, with the application of mitigation measures and absent any site specific evidence to the contrary, it is reasonable to assume that this project would not result in significant cultural resource impacts.

10. The project's geological impacts are not cumulatively considerable.

As stated in the EIR:

“Geotechnical conditions are localized and generally unique to each site. Approved projects and those under review are subject to soils and stability analyses and cannot be constructed unless each project is determined to be geotechnically feasible. The project is not located adjacent to other cumulatively considerable projects related to geotechnical conditions; therefore, cumulative impacts related to localized site stability would not occur. With regard to seismicity, the project and any future development would expose additional property and people to earthquake hazards. However, this impact can be mitigated by compliance with CBC seismic requirements on a project-by-project basis. Development throughout northeastern San Diego County would not impact the plate tectonic conditions of the area. Therefore, the project would not result in a cumulatively considerable impact to geology, soils, or seismicity.”

(EIR Section 2.6.4, Geology, Soils, and Seismicity, Cumulative Impact Analysis, pages 2.6-19 and 2.6-20)

As to the Safari Highlands Ranch Project, that project's EIR found impacts to geology and soils to be less than significant and the project does require any mitigation for its impacts⁸.

⁷ Refer to Section 2.4, Cultural Resources, of the Safari Highlands Ranch and Citywide SOI Update EIR: <https://www.escondido.org/Data/Sites/1/media/PDFs/Planning/SafariRanch/eir/101317/EIR/204CulturalResources.pdf>.

⁸ Refer to Section 2.5, Geology and Soils, of the Safari Highlands Ranch and Citywide SOI Update EIR: <https://www.escondido.org/Data/Sites/1/media/PDFs/Planning/SafariRanch/eir/101317/EIR/205GeologyandSoils.pdf>.

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As to the Rancho Lomas Verde Project, the site is already substantially disturbed by agricultural uses. The project will be required to comply with the same standards (e.g., CBC seismic requirements) applicable to the Newland Sierra Project, the Safari Highlands Ranch Project, and, broadly, all projects (e.g., any planned or approved projects in the City of Escondido) requiring grading of roads, slopes, and building pads and construction of buildings, roads, utilities, and stormwater infrastructure. Cumulative impacts would be less than significant.

11. The Newland Sierra Project would result in no net increase in greenhouse gas (GHG) emissions.

It is well recognized that “GHG impacts are exclusively cumulative impacts; there are no non-cumulative GHG emission impacts from a climate change perspective.” (CAPCOA, *CEQA & Climate Change* (2008), p. 35.)⁹ As such, the analysis provided in Section 2.7, Greenhouse Gas Emissions, of the EIR is uniquely oriented to an evaluation of the cumulative significance of the project’s GHG emissions:

“Due to the global nature of the assessment of GHG emissions and the effects of global climate change, impacts can currently only be analyzed from a cumulative impact context; therefore, this EIR’s analysis includes the assessment of both project and cumulative impacts.”

(Final EIR, p. 2.7-48.)

As to the project’s significance determination after implementation of its design features and mitigation measures, the EIR finds that:

“[w]ith implementation of mitigation measures M-GHG-1 through M-GHG-3, 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. Accordingly, the project would not interfere with implementation of any of the above-described GHG reduction goals for 2030 or 2050. Further, the project emissions estimates presented in Table 2.7-8 through Table 2.7-14 are a conservative representation of project emissions due to the reasonably foreseeable and anticipated technological and regulatory advancements that will continue to advance the state’s GHG policies. Therefore, the project

⁹ See also California Natural Resources Agency, *Final Statement of Reasons for Regulatory Action: Amendments to the State CEQA Guidelines Addressing Analysis and Mitigation of Greenhouse Gas Emissions Pursuant to SB 97* (2009), p. 4 [“The incremental contributions of GHGs from innumerable direct and indirect sources result in elevated atmospheric GHG levels.”]; *Center for Biological Diversity v. California Department of Fish and Wildlife* (2015) 62 Cal.4th 204, 256-257 [“First, because of the global scale of climate change, any one project’s contribution is unlikely to be significant by itself. The challenge for CEQA purposes is to determine whether the impact of the project’s emissions of greenhouse gases is *cumulatively* considerable ...”] (*italics in original*).

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would not conflict with any local or state plans, policies, or regulations adopted for the purpose of reducing GHG emissions and impacts would be **less than significant.**”

(Final EIR, p. 2.7-55 (**bold in original**).)

As such, the mitigated project would not result in a cumulatively considerable contribution of GHG emissions that would significantly impact global climate change. In response to these comments, it is important to note that CEQA requires evaluation of an individual project’s incremental contribution to the cumulative condition. And, as provided in CEQA Guidelines section 15130(a)(3): “A project’s contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact.” Here, the Newland Sierra project has proposed to mitigate its fair share by reducing, to net zero, each metric ton of carbon dioxide equivalents that it directly and indirectly emits into the atmosphere.

As to the cumulative projects highlighted by Latham & Watkins in its comment letter, the Safari Highlands Ranch Project and other projects in the City of Escondido would be required to comply with the City of Escondido’s Climate Action Plan, and the Rancho Lomas Verdes Project would be required to comply with the City of Vista’s Climate Action Plan. As provided in Section 2.6, Greenhouse Gas Emissions, of the Safari Highlands Ranch Draft EIR:

“Mitigation measure MM GHG-1 would ensure that the proposed project achieves energy efficiency and associated GHG emissions reduction objectives to be determined consistent with the Escondido Climate Action Plan. With implementation of this mitigation measure, resulting impacts would be **less than significant.**”

With implementation of mitigation measure MM GHG-2, the project would offset 7,442 MT CO₂e per year over the project’s lifetime, for a total of 223,250 MT CO₂e. ² The project’s GHG emission would be reduced to a level below the efficiency metric of 2.89 MT/SP/year, which would be consistent with the GHG emission statewide reduction goals for 2030 and 2050. Therefore, after mitigation impacts would be **less than significant.**”

(City of Escondido, *Safari Highlands Ranch and Citywide SOI Update Draft EIR* (October 2017) (SCH No. 2015091039), p. 2.6-27, available at <https://www.escondido.org/Data/Sites/1/media/PDFs/Planning/SafariRanch/eir/101317/EIR/206GreenhouseGasEmissions.pdf>.)

While the Draft EIR for the Rancho Lomas Verdes Project is not yet publicly available as of the date of this writing, that project’s notice of preparation discloses that it will consider the project’s consistency with the City of Vista’s adopted Climate Action Plan, as required by CEQA. Compliance with these other cities’ Climate Action Plans would ensure that the referenced

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cumulative projects result in less-than-significant cumulative impacts relative to GHG emissions, both with respect to each city's GHG reduction objectives and statewide reduction goals.

12. The project would not result in significant cumulative impacts related to Hazards and Hazardous Materials

As stated in the EIR:

“Wildfire Hazards

“As discussed above, the project Site is susceptible to wildland fires. The potential for wildland fires resulting in the loss of life or property is generally unique to each site. All cumulative projects are subject to the fire codes and regulations and, with some projects, the preparation of FPPs to determine the potential risk for wildland fires. Larger cumulative projects similar to the proposed project, such as Lilac Hills Ranch and Campus Park West, are required to include such features as FMZs, fire access roads, and fire hydrants to reduce the risk of potential wildland fires. Any project in a given area cannot be approved unless the project is determined to meet the fire codes and regulations for the fire authority having jurisdiction over the cumulative projects.

“However, the proposed project, along with cumulative projects, would result in an increased population in wildland interface and urbanized areas, thereby potentially increasing the risk of wildland fires through factors such as human carelessness, arson, and vehicle fires. However, the best available technologies for fire protection have been included in project design, and its FPP further demonstrates that the fire spread rate would be sufficiently reduced for adequate response by the fire authority having jurisdiction. Through the proposed project's and cumulative projects' compliance with the numerous fire-related regulations, and incorporation of fire protection features, the potential cumulative impacts from wildland fires would be **less than significant.**”

(EIR Section 2.8, Hazards and Hazardous Materials, Cumulative Impacts, pages 2.8-32 and 2.8-33)

Therefore, as all potential cumulative projects would need to comply with all applicable fire and building codes and regulations, including the Safari Highlands Ranch Project, the Rancho Lomas Verdes Project, and projects in the City of Escondido, no change to the significance determination for cumulative impacts in the Newland Sierra EIR would result.

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13. Cumulative projects would result in a less than significant impact to mineral resources.

As stated in the EIR:

“As growth in the region continues, mining and extraction activities are likely to be directly and indirectly impacted by new development. Mineral resources, particularly sand, gravel, and rock, are a regional resource (see Figure 2.9-2, County-Wide Quarries, Mines, and Gem Deposits). The proposed project, in combination with the cumulative projects, could potentially impact mineral resources within the MRZ-2 zone. Only a small portion of planned development is proposed within the MRZ-2 zone located in the northern portion of the development, and potential future extraction from the Quarry parcel would not be precluded.

“On a region-wide cumulative scale, the eastern portion of San Diego County would not be economically feasible for mining activities due to haul distances and lack of infrastructure. Because the majority of resources would be available for extraction, a significant cumulative impact would not occur. As such, cumulative projects would result in a less-than-significant impact, and the proposed project would **not result in a cumulatively considerable impact** on mineral resources.”

(EIR Section 2.9.4, Mineral Resources, Cumulative Impact Analysis, page 2.9-10)

14. The geographic scope for the analysis of cumulative noise impacts is limited to locations within proximity to noise-generating operational components and construction equipment.

As stated in the EIR:

“Noise levels tend to diminish quickly with distance from a source; therefore, the geographic scope for the analysis of cumulative impacts related to noise was limited to locations within proximity to noise-generating operational components and construction equipment. This study area is similar to the off-site model receiver locations shown in Figure 2.10-4. As listed in Table 1-10, Cumulative Projects, and shown in Figure 1-46, of Chapter 1, Project Description, cumulative projects in this area include the Casa de Amparo, Dougherty Pet Resort, Crossroads Church, North County Metro (NC22), Matheson, and Rimsa TPM. Most of the cumulative projects located in the area consist of existing or planning NSLUs, and, given their size, are not likely to substantially contribute to cumulative traffic noise. However, cumulative projects outside of this immediate area could contribute traffic along Deer Springs Road and other off-site roadways, such that a cumulative increase in ambient noise would occur.”

(EIR Section 2.10.4 Noise, Cumulative Impact Analysis, page 2.10-26)

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As addressed above, the Safari Highlands Ranch Project, the Rancho Lomas Verdes Project, and projects in the City of Escondido are not expected to contribute significant amount of traffic to the same road network impacted by the Newland Sierra Project. Also addressed above, the cumulative analysis for traffic impacts from the Newland Sierra Project is considered conservative. Therefore, cumulative considerable noise impacts from these projects are not expected to have any effect on the analysis of cumulative noise impacts related to the Newland Sierra Project.

Finally, the Newland Sierra Project has already identified a potentially significant cumulative impact to sensitive receivers along Deer Springs Road and this impact was determined to be **significant and unavoidable** (refer to EIR Section 2.10.4.7, Noise, Cumulative Impacts, pages 2.10-37 and 2.10-38). Additional cumulative projects would not affect this significance determination.

15. The Newland Sierra Project's impacts to paleontological resources are not cumulatively considerable.

All projects involving significant grading or excavation activities are required to obtain a grading permit which, with rare exception¹⁰, requires a paleontological monitor to be present during these grading or excavation activities. In the case of the proposed project, the discovery of any fossils greater than 12 inches in any dimension requires suspension of grading activities until the appropriate resource recovery protocols are determined and implemented. This is a standard form of mitigation that all projects involving significant grading and excavation activities and subject to CEQA must adhere to. Therefore, no projects, including but not limited to the Safari Highlands Ranch Project, the Rancho Lomas Verdes Project, and projects in the City of Escondido, should result in significant and unavoidable impacts or cumulative considerable impacts to paleontological resources once this standard mitigation is applied.

16. The Safari Highlands Ranch Project, the Rancho Lomas Verdes Project, and projects in the City of Escondido are in different sewer and water districts.

The Safari Highlands Ranch Project and most of the projects in the City of Escondido would be served by the City of Escondido for water and wastewater services. Some projects in the City of Escondido and to the west of the City would be served by the Rincon del Diablo Municipal Water District. The Rancho Lomas Verdes Project would be served by the Vista Irrigation District for water service and the City of Vista for wastewater service. The Newland Sierra Project would be served by Vallecitos Water District for water and sewer services. Detailed responses have been

¹⁰ An exception to this requirement might be for a project obtaining a grading permit for a site that was previously graded and the proposed grading would only impact existing fill areas such as manufactured slopes or pads (in other words, the grading would not extend into previously ungraded soils or rock). Other exceptions are for minor grading permits not subject to CEQA (e.g., a homeowner building a retaining wall).

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prepared addressing water supply availability and reliability (refer to **Responses to Comments O-1-279 through O-1-352**).

17. Environmental Effects Found Not to be Significant

The Newland Sierra Project would not result in a cumulative considerable impact related to Energy, Hydrology and Water Supply, Land Use and Planning, Parks and Recreation, or Public Services and no evidence has been presented that additional cumulative projects (such as Safari Highlands Ranch, Rancho Lomas Verdes, projects in the City of Escondido, etc.) not included in Table 1-10 of the EIR would alter this significance determination.

18. Conclusion as to cumulative impacts.

In conclusion, the Newland Sierra Project EIR has sufficiently addressed the potential cumulative effects of the project in conjunction with present and probable future projects. Despite the fact that the Safari Highlands Ranch Project, the Rancho Lomas Verdes Project, or projects in the City of Escondido were not included in the EIR's cumulative projects list (EIR Table 1-10), as addressed herein, no change to the cumulative impact significance determinations for the various Newland Sierra Project EIR subject areas (aesthetics, agricultural resources, etc.) would result were these projects to be included in Table 1-10.

19. Implications of *Cleveland National Forest Foundation v. San Diego Association of Governments* (Case No. D063288) decision.

Citing the Fourth District Court of Appeal's *Cleveland National Forest Foundation v. San Diego Association of Governments (CNFF v. SANDAG)* decision, Latham & Watkins states that the Newland Sierra project's EIR failed to evaluate the project's compliance with SANDAG's mitigation measure requiring agencies in the San Diego region to "require the use of best available control technology [BACT] to reduce greenhouse gas emissions during the construction and operation of projects." In response, the subject mitigation measure, which was adopted by SANDAG in connection with its 2050 RTP/SCS EIR,¹¹ has been superseded by the mitigation framework more recently adopted by SANDAG in connection with its EIR for San Diego Forward: The Regional Plan.¹² SANDAG's current framework does *not* impose the same BACT requirement. Nonetheless, the project is not inconsistent with the BACT concepts identified in the subject mitigation measures. Specifically, SANDAG's prior mitigation called for use of fuel efficient fleets and alternative fueled vehicles, energy efficiency lighting systems, cool pavements

¹¹ The mitigation measure (GHG-C) referenced by Latham & Watkins is available at <https://www.sandag.org/uploads/2050RTP/F2050RTPEIR48.pdf>; specifically, please see page 4.8-38 in Section 4.8, Greenhouse Gas Emissions, of SANDAG's Final EIR for the 2050 RTP/SCS (October 2011)(SCH No. 2010041061).

¹² See Section 4.8, Greenhouse Gas Emissions, of SANDAG's Final EIR for San Diego Forward: The Regional Plan (October 2015)(SCH No. 2010041061), which is available at http://www.sdforward.com/pdfs/EIR_final/Section%204.8%20Greenhouse%20Gas%20Emissions.pdf.

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and shade trees, as well as the recycling of construction debris.¹³ The project is subject to regulatory compliance measures and includes design features and mitigation measures that are compatible with and in furtherance of each of these BACT concepts, as discussed in Section 2.7, Greenhouse Gas Emissions, of the project's EIR. Additionally, consistent with SANDAG's prior mitigation, through application of CalEEMod, the Newland Sierra project's EIR also "[u]se[d] an adopted emissions calculator to estimate construction-related emissions."

Latham & Watkins also states that the project's EIR failed to consider a transit-oriented development alternative. However, Chapter 4, Project Alternatives, of the EIR addressed the feasibility of alternative locations for the project, and specifically evaluated an alternative site (NC 2-1) identified by Latham & Watkins' client (Golden Door) as being located "in closer proximity to ... transit infrastructure." (Final EIR, pp. 4-6 to 4-8.) As explained therein, alternative locations (including NC 2-1) were determined to be infeasible to undesirable for various reasons, such as their smaller size and scale, developed status/development potential, and/or multiple landowners. Please refer to EIR Section 4.3.1.1, Alternative Site Location Alternatives, for additional relevant information.

Finally, Latham & Watkins states that the project's EIR failed to analyze whether the project will be consistent with smart growth policies advanced by the County and SANDAG. However, the project's consistency with land use and smart growth policies set forth by the County and SANDAG is considered throughout the EIR. For example, project consistency with SANDAG's RTP/SCS is addressed in Table 2.7-15 of Section 2.7, Greenhouse Gas Emissions. (Final EIR, pp. 2.7-70 to 2.7-73.) Additionally, project consistency with County General Plan policies of relevance to GHG emissions analysis is evaluated in Table 2.7-17 of EIR Section 2.7. (Final EIR, pp. 2.7-74 to 2.7-79.) Appendix DD of the EIR contains a full consistency analysis relative to the County's General Plan and SANDAG's RTP/SCS. As provided therein, the project would be consistent with applicable policies of both agencies.

¹³ Certain elements of mitigation measure GHG-C are not appropriate for project-specific application. For example, one BACT concept identified by SANDAG calls for the streamlining of permitting processes for infill, redevelopment and energy-efficient projects. The Newland Sierra project has not been processed using streamlined permitting procedures; as such, this concept is not applicable.