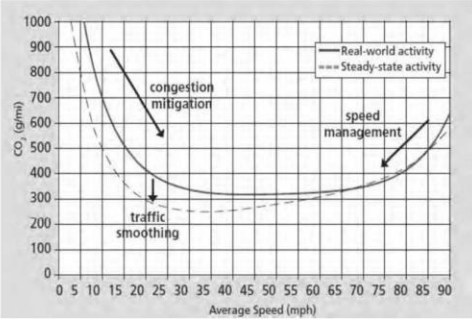


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| <div data-bbox="210 302 636 367" data-label="Image"> </div> <div data-bbox="732 267 926 290" data-label="Text"> <p>Comment Letter RO6</p> </div> <div data-bbox="371 388 697 449" data-label="Text"> <p>396 HAYES STREET, SAN FRANCISCO, CA 94102 T: (415) 552-7272 F: (415) 552-5816 www.smwlaw.com</p> </div> <div data-bbox="732 388 875 449" data-label="Text"> <p>SARAH H. SIGMAN Attorney sigman@smwlaw.com</p> </div> <div data-bbox="506 501 625 527" data-label="Text"> <p>April 9, 2018</p> </div> <div data-bbox="207 561 382 587" data-label="Section-Header"> <p><u>Via Electronic Mail</u></p> </div> <div data-bbox="207 602 504 740" data-label="Text"> <p>Ms. Ashley Smith Land Use & Environmental Planner Planning & Development Services 5510 Overland Avenue, Suite 310 San Diego, California 92123 Ashley.Smith2@sdccounty.ca.gov</p> </div> <div data-bbox="317 756 909 847" data-label="Text"> <p>Re: <u>Harmony Grove Village South Recirculated Draft Environmental Impact Report (PDS2015-GPA-15-002; PDS2015-SP-15-002; PDS2015-TM-5600; PDS2015-REZ-15-003; PDS2015-MUP-15-008; PDS2015-ER-15-08-006)</u></p> </div> <div data-bbox="207 865 348 889" data-label="Text"> <p>Dear Ms. Smith:</p> </div> <div data-bbox="207 906 924 1089" data-label="Text"> <p>This firm represents the Elfin Forest Harmony Grove Town Council in matters related to the County's consideration of the proposed Harmony Grove Village South project ("Project" or "HGVS"). The purpose of this letter is to inform the County that the Recirculated Draft Environmental Impact Report ("RDEIR"), which modifies the analysis of the Project's impact on greenhouse gas emissions ("GHGs"), remains inadequate and violates the minimum standards of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 et seq., and the "CEQA Guidelines," California Code of Regulations, title 14, § 15000 et seq.</p> </div> <div data-bbox="207 1105 919 1312" data-label="Text"> <p>As described below, the Elfin Forest Harmony Grove Town Council ("Council") is deeply concerned about the Project's far-ranging impacts on environmental resources, land use planning, and public safety. The Council is thus disappointed that the recirculated analysis of greenhouse gas emissions retains many of the errors identified in the Council's June 20, 2017 letter on the draft environmental impact report for the Project ("DEIR"). Even where it adopts new approaches, the RDEIR continues to rely on inadequate methodologies and mitigation measures. As the Supreme Court held in <i>Center for Biological Diversity v. California Department of Fish & Wildlife</i> (2015) 62 Cal.4th 204 ("<i>Newhall Ranch</i>"), environmental impact reports for</p> </div> <div data-bbox="934 1112 955 1136" data-label="Text"> <p>1</p> </div> <div data-bbox="934 901 955 1323" data-label="Image"> </div> | <div data-bbox="1050 164 1415 193" data-label="Section-Header"> <p>Response to Comment O6-1</p> </div> <div data-bbox="1050 198 2013 459" data-label="Text"> <p>This comment indicates that the Elfin Forest/Harmony Grove Town Council (EFHGTC) believes that the greenhouse gas (GHG) emissions analysis remains inadequate under CEQA and retains "many of the errors identified in the Council's June 20, 2017 letter," including continuing to rely on inadequate methodologies and mitigation measures. The comment notes that new developments "must acknowledge their heightened responsibility" to meet California's emissions reduction goals, and address "permanent" changes.</p> </div> <div data-bbox="1050 496 2013 605" data-label="Text"> <p>Although these comments are noted, the statements are generalized conclusions, with no specific detail as to areas of concern. Specific responses are therefore not possible but each of these points is addressed in summary form.</p> </div> <div data-bbox="1050 641 2013 1094" data-label="Text"> <p>With reference to stated concerns on environmental resources, land use planning, and public safety, this comment relates to an issue outside the scope of recirculation pursuant to CEQA Guidelines Section 15088.5(c). For a full description of the scope of recirculation for this EIR, please see the Recirculation Readers Guide, dated February 22, 2018. While the comment does not address an issue in this Revised DEIR, the Final EIR (FEIR) does include responses to the comments asked on these questions. Please refer to Responses to Comments O3a-6, -9, 10, -12, -39, -47, and 48 regarding land use planning; and to O3a-9, -10, -15, 16, -32, -34, -37, and -38 (as well as O3b-3, -13 and -14 regarding fire and/or roadway safety. Responses to Letter O3c are wholly dedicated to fire safety issues. It is impossible to know which of the "environmental resources" concerns are referenced here, and no response can be made.</p> </div> <div data-bbox="1050 1130 2013 1507" data-label="Text"> <p>Regarding the "errors" in GHG that have been retained, the comment is not understood. The June 20 communication addresses GHGs in Comments O3a-41 and O3a-42 (cumulative impacts are important; feasible mitigation measures must be identified to address these issues; and analysis was flawed because it used an inappropriate threshold suggested in County interim guidance of July 2016, referenced state metrics, and should have been based on a County Climate Action Plan [CAP]). Comments continued in O3a-43 and -44 regarding compliance with A 32 and SB 32, as well as Executive Orders S-03-05 and B-30-15 and need to provide greater emission reductions than meeting a statewide target. These issues were addressed in both Responses to Comments O3a-41</p> </div> |

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| | <p>through O3a-44 (which the commenter did not see prior to this FEIR) but also in the Revised DEIR Subchapter 2.7, <i>Greenhouse Gas Emissions</i>, as well as the amended Appendix J, circulated from February 22 to April 9, 2018, and which these comments purport to address. In brief, the topic of GHGs is cumulative by nature, and has been identified as such in Subchapter 2.7. Impacts were found to be significant, which is why mitigation measures are proposed for both construction and operational periods. The threshold in the Revised DEIR was revised to use one currently appropriate under CEQA (the original DEIR used a threshold appropriate at the time of release for public circulation, but found to be inappropriate by the courts during public circulation), and although a County CAP has now been made available and was reviewed, it has been challenged. The Project would provide greater reductions than assumed under statewide targets because it not only requires reasonable and feasible reduction measures, but also would mitigate to carbon neutrality for the Project overall, even though up to 220 residential units were identified for the parcel in the adopted General Plan land use designation for the parcels (Semi-Rural Residential at 0.5 acre per dwelling unit without consideration of environmental factors). This information is also addressed in Global Responses: Carbon Offsets and Climate Action Plan in Chapter 8.0 of this FEIR. The Project does not ignore the changes that would result from the Project land use changes or the associated climate change impacts.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 2</p> <p>new developments like this one must acknowledge their heightened responsibility for meeting the State’s ambitious (but achievable) emissions-reduction goals. Contrary to this direction, the RDEIR persists in ignoring the permanent changes that the Project will cause to land use and the associated climate change impacts.</p> <p>Overall, the RDEIR, like the DEIR concludes that the Project will have no significant impacts on GHGs, despite generating 4,500 new car trips per day and more than 11 million additional vehicle miles traveled (“VMT”) each year. To reach this unsupported conclusion, the RDEIR ignores both state and County policies that expressly disfavor sprawl and direct growth to locations that will minimize VMT to avoid exacerbating existing conditions that have contributed to climate change. Both the General Plan and the Regional Transportation Plan/Sustainable Community Strategy recognize that projects should be built in appropriate locations and, to the extent that they still require mitigation of impacts on GHGs, should provide mitigation by reducing other local sources of emissions. Here, the Project seeks to double the planned population in a rural location, far from jobs, services, and shopping. This type of development is a prime contributor to the climate impacts that California and, purportedly, the County are now fighting. As proposed, the Project will make a significant contribution to climate change. These significant impacts must be acknowledged in the RDEIR.</p> <p>An adequate analysis of greenhouse gas emissions is essential to achieve CEQA’s fundamental purpose: informing decision makers and the public about the environmental price-tag of development before it is too late. Accurate information about a project’s climate change impacts is particularly important because we have already exceeded the capacity of the atmosphere to absorb additional greenhouse emissions without risking catastrophic and irreversible consequences. Therefore, even seemingly small additions of GHG emissions into the atmosphere must be considered cumulatively significant, and weighed seriously by the County. <i>See Communities for Better Environment v. Cal. Resources Agency</i> (2002) 103 Cal.App.4th 98, 120 (“the greater the existing environmental problems are, the lower the threshold for treating a project’s contribution to cumulative impacts as significant.”); <i>see also Center for Biological Diversity v. National Highway Traffic Safety Admin.</i> (9th Cir. 2007) 508 F.3d 508, 550 (“we cannot afford to ignore even modest contributions to global warming.”). The RDEIR must be revised once more to present an accurate assessment of the Project’s greenhouse gas emissions.</p> <p>I. The RDEIR understates vehicle emissions resulting from the Project.</p> <p>As discussed in the Council’s June 20, 2017 comments on the DEIR, the RDEIR continues to underestimate predicted traffic volumes because it relies on outdated</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>Response to Comment O6-2</p> <p>This comment provides general contentions with no supporting evidence or specifics; therefore, a specific response cannot be provided. The conclusion that the Project ultimately will result in less than significant impacts on GHGs is supported. The location of the Project in an area that does not contribute to sprawl was directly addressed in the DEIR in Chapter 1.0, <i>Introduction</i>, and Section 3.1.6, <i>Land Use</i> (3.1.5 in the FEIR). In addition, please refer to Global Response: Regional Plan Conformity for additional focused discussion of this point.</p> <p>Response to Comment O6-3</p> <p>This comment does not specifically state why the GHG analysis is inaccurate and should be additionally revised. In any event, the County agrees that adequate analysis of Greenhouse Gas (GHG) emissions is essential as part of the Project’s evaluation under CEQA. As noted above, GHG impacts are by definition cumulative and have been analyzed as such. The EIR does not ignore the Project’s contribution to global climate change, but to the contrary, finds the Project-related impact significant and identifies mitigation consistent with County and state requirements. The RDEIR does not require additional revision.</p> <p>Response to Comment O6-4</p> <p>The statement that the RDEIR “continues to underestimate predicted traffic volumes because it relies on outdated traffic volume data” is not correct. In response to those comments, the traffic volume data were confirmed by LLG, as shown in the Final TIA (Attachment A of Appendix D to the FEIR) and no corrections are needed. Please also refer to DEIR Responses to Comments O3a-29 and O3b-4.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 3</p> <p>traffic volume data. Inasmuch as the greenhouse gas emissions are dependent on the transportation analysis assumptions, any underestimation of vehicular trips necessarily results in an underestimation of vehicle-related greenhouse gas emissions. Once the County accurately analyzes the Project's increase in traffic volumes, and corresponding increases in traffic congestion, it must revise the greenhouse gas impact analysis.</p> <p>In addition, the RDEIR fails to account for all the ways in which the Project will cause GHGs. For example, the RDEIR simply calculates vehicular emissions based on Project-related trips and miles traveled. RDEIR p. 2.7-21 and Global Climate Change Supplement, Attachment C at 34. However, it fails to assess the GHG impacts of the traffic congestion that the Project will necessarily cause. Such congestion dramatically affects vehicle efficiency and increases GHGs (and other emissions). As Caltrans has previously described in its environmental reviews:</p> <p>One of the main strategies in the Caltrans' Climate Action Program to reduce GHG emissions is to make California's transportation system more efficient. The highest levels of carbon dioxide from mobile sources, such as automobiles, occur at stop-and-go speeds (0-25 mph) and speeds over 55 mph; the most severe emissions occur from 0-25 mph.¹</p>  <p>¹ See, e.g., Final Initial Study and Mitigated Negative Declaration for Lambert Road Interchange Improvement Project p. 2.6-5 (citing Exhibit A to this letter), available at http://dot.ca.gov/dist12/DEA/SR57LAM/2.6.pdf; Caltrans Environmental Handbook, Ch. 13 – Energy, available at http://www.dot.ca.gov/ser/vol1/sec3/physical/ch13energy/chap13.htm.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>Response to Comment O6-5</p> <p>The comment incorrectly states that the REIR GHG analysis fails to account for all the ways in which the Project will cause GHGs because it fails to assess the GHG impacts of the traffic congestion. The vehicle emissions were derived using a model commonly referred to as CalEEMod. As detailed in Chapter 5 of CalEEMod's Appendix A: Calculation Details for CalEEMod, CalEEMod relies upon emission factors for each vehicle model year and type based on individual counties, air basins, air districts, and statewide averages for all fuel types. The emissions associated with on-road mobile sources includes running, idling, starting, and evaporative loss emissions. For running exhaust emissions, CalEEMod utilizes aggregated speed option which allows for a single emission factor weighted and averaged based on varying vehicle speeds to be expressed in terms of grams per vehicle mile traveled. Idling, starting, and evaporative loss emissions are associated with the number of starts or time between vehicle uses and are calculated using average daily trips. As such, CalEEMod does account for both idling and varying vehicle speed in its emissions estimation.</p> <p>Specific to the comment request, the type of analysis requested by the commenter is speculative and does not constitute evidence. While some congestion might cause increased GHG emissions on existing roadways, it would be speculative to model as GHG emissions from mobile sources, i.e. on-road vehicles, is directly related to the amount of fuel consumed in combustion. The amount of fuel used by a vehicle is dependent on several factors and as general rule vehicles traveling at higher speeds experience lower fuel efficiency. The commenter cites a study conducted by the EPA, that shows a vehicle's fuel efficiency peaks between 25 and 55 miles per hour (mph), and identifies the emission rate, such as grams per mile. However, the amount of fuel consumed is also dependent on the amount of work the engine is required to do and the efficiency of the engine. As example, while a vehicle sitting at idle consumes fuel, it is not working and does not consume as much fuel as a moving vehicle.</p> <p>To calculate mobile source emissions would require using the California emission factor model (EMFAC), which is the only regulatory approved model for calculating mobile source emissions in California. To model the condition requested, information on the total existing and future annual traffic volume</p> |

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| | <p>would be required. The level of information required includes an understanding of the variations in daily and hourly traffic volumes over the year, and within that information it would be necessary to identify the vehicle classification mix for each period along with the percentage of vehicles traveling at various speeds ranging from 5 to 75 mph in 5 mph increments. This results in potentially infinite combinations -- all of which would be based on random assumptions, not facts - and would result in speculative results that could not be supported by substantial evidence one way or the other. According to CEQA Guidelines Section 15384 substantial evidence should be used “to support a conclusion.” Substantial evidence is defined as:</p> <p style="text-align: center;"><i>Enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached... Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.</i></p> <p>The evaluation of a near infinite number of potential scenarios of potential congestion that cannot be quantified would be trying to determine impacts on variable and potentially inaccurate evidence at the very least and also would be speculative. Due to the level of speculation involved in determining these impacts, and consistent with CCR 14, Section 15145, “after thorough investigation...[this] particular impact is too speculative for evaluation...”</p> <p>Additionally, various improvements to the identified systems are being planned by Caltrans, the County, the City, and SANDAG, such as a rapid bus transit line along the I-15 and managed lanes projects. Please refer to local capital improvement programs, as well as San Diego Forward, and Caltrans. Finally, the commenter assumes that congestion would result in greater GHG emissions,</p> |

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| | <p>however this too is some what speculative, as emissions would be expected to decrease with newer technology.</p> <p>The comment also incorrectly states that the Project would result in significant traffic congestion on County roads and freeways. Review of Subchapter 2.2, <i>Transportation/Traffic</i> shows that even with the conservative assumptions of all HGV traffic being on area roads on opening day, addition of Project traffic results in only one segment impact on all the assessed roads. That segment is on Country Club Drive in the City of Escondido, where LOS would drop from C to D. Although the impact is identified as significant and unmitigated/infeasible as it is within the jurisdiction of another CEQA lead agency, mitigation has been proposed which (if approved by the City) would lower that impact to less than significant levels. (It is noted that a potential intersection impact is addressed to the intersection of Country Club Drive/Harmony Grove Road, but that would be rectified as part of Project-design upgrades.) Beyond that, impacts only occur in the existing plus Project plus cumulative condition. Again, where a CEQA nexus between the Project and the cumulative effect is identified (i.e., the Project would result in significant cumulative contributions to off-site transportation facilities), mitigation measures are proposed to improve these conditions. This is consistent with the cited goal of making the transportation system more efficient.</p> <p>Consistent with the detailed explanations in DEIR Responses to Comments O3b-4 through O3b-8, the freeway analysis conducted for the Proposed Project is consistent with County standards and lead agency requirements. While the comment is correct that the freeway analysis shows LOS F(0) operations on SR 78 under existing plus cumulative projects conditions both without the Project, and with the addition of Project traffic to this condition (operating at four to nine percent over the hourly capacity); as shown in the EIR traffic study, the Project-induced increase in the volume-to-capacity (V/C) ratio is below the significance threshold of 0.01 for an LOS F-operating freeway segment. Therefore, a significant traffic-related impact does not occur as a result of the Project. Similarly, of the 6,549 a.m. and 6,268 p.m. cumulative peak hour trips, the Project would contribute 38 and 20 trips, respectively. This is approximately one-half of one percent for the morning and one-third of one percent for the</p> |

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| | <p>afternoon/evening. Since some level of idling and trip speed data are already incorporated into the modeling as shown above, these are very small percentages.</p> <p>In any event, the Project achieves net neutrality through a combination of on- and off-site mitigation measures, including mitigation identified in Subchapter 2.7, for carbon offsets.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 4</p> <p>Exhibit A at p. 26 (M. Barth and K. Boriboonsomsin, Traffic Congestion and Greenhouse Gases, TR News 268 May-June 2010).</p> <p>Here, the Project would result in significant traffic congestion on County roads and freeways. For example, as we explained in our comments on the DEIR, even though the traffic analysis presented was flawed, the DEIR indicated that SR 78 would operate at level of service F under cumulative conditions – 4 to 9 percent beyond its capacity. See Letter from Winter King to Ashley Smith Re Comments on Harmony Grove Village South Draft Environmental Impact Report (June 20, 2017), Exhibit A, MRO Report dated June 2, 2017 at 5. The Project would add significant traffic contributing to anticipated traffic congestion. By increasing traffic congestion and causing slower speeds on County roads, the Project will cause greater emissions not only from Project-related vehicle trips, but also from existing trips where drivers will be forced to operate at lower speeds. Yet the RDEIR fails to analyze how the Project’s contribution to this congestion will increase GHGs as well as particulate, toxic air contaminant and other emissions.</p> <p>EIRs must analyze not only a project’s direct effects, but also indirect effects that are reasonably foreseeable. § 21065; Guidelines § 15064(d). Here, it is reasonably foreseeable—indeed, the RDEIR acknowledges that it is certain—that the Project will cause increased congestion and lower traffic speeds. This, in turn, will cause greater levels of GHGs than currently exist or than would occur without the Project. The RDEIR’s failure to analyze these indirect Project impacts is prejudicial error. See <i>Plastic Pipe & Fittings Assn. v. California Building Standards Com.</i> (2004) 124 Cal.App.4th 1390, 1412 (CEQA requires analysis of indirect impacts).</p> <p>II. The RDEIR acknowledges that the Project is inconsistent with the fundamental purpose of the General Plan’s provision for climate change, EO-S-05, AB 32, and SB 375.</p> <p>Even setting aside the inadequacy of the vehicle emissions analysis discussed above, the RDEIR concedes that the Project will generate 4,500 daily car trips and more than 11 million VMT each year (DEIR pp. 3.1.3-7, 3.1-25) and “will increase the density of residential land uses on the Project site” in a location that “was not identified for development in SANDAG’s . . . forecasted development pattern maps” (RDEIR pp. 2.7-26 to 27). More than 80 percent of the Project’s annual operating emissions will be from vehicle trips. RDEIR p. 2.7-36. Yet the RDEIR seeks to paper over these fundamental flaws in its discussion of consistency with plans, policies, and regulations adopted to address GHGs by pointing to energy efficient Project components that have nothing to do with VMT and by claiming that the Project will be located close</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>Response to Comment O6-6</p> <p>The impacts would not be indirect in nature – GHG vehicular emissions are direct, but they are cumulative in nature and would be mitigated through the offset credits purchased on behalf of the Project. Please see the Response to Comment RO6-5.</p> <p>Response to Comment O6-7</p> <p>This comment generally contends that the Project is inconsistent SANDAG’s Regional Plan. This is addressed below. A statement is also made that the Project RDEIR should have disclosed the magnitude of the difference between the Project’s density and number of units compared to the assumptions in the RTP/SCS and that the location was not identified for development in SANDAG’s forecasted development pattern maps.</p> <p>The Project is zoned for 0.5 acre lots and under the primary General Plan land use designation (without consideration of slope or other environmental constraints) up to 220 homes could be placed on the property. Under the CAP, design and evaluation of homes built in compliance with the General Plan would incorporate CAP Checklist analysis and the associated reduction checklist, but a conforming project would not need to purchase carbon offsets to get to net zero. Compliance with the General Plan and CAP Checklist would support the County in achieving the GHG emissions reduction goals. The Project, however, is even more conservative in that it commits to purchase of offset credits for all Project-related emission not reduced through on-site measures, and not just for the emissions exceeding those already assumed as part of County plans. This commitment ultimately would result in a greater GHG emissions reduction than buildout under the General Plan in compliance with the CAP.</p> <p>When SANDAG calculates their vehicle miles travelled, it is based on the current General Plan, and is therefore, as SANDAG describes, a forecast that is a snapshot in time. SANDAG’s forecasts are meant to assist jurisdictions and special districts in their planning efforts.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 5</p> <p>to transit, jobs, and shopping. <i>Id.</i> p. 27. This is disingenuous at best. The project site is in a rural area several miles from the nearest services and much further from job centers in and near the City of San Diego. In fact, the Project is located in a notably circumscribed gap in SANDAG’s Regional Transportation Plan/Sustainable Community Strategy (“RTP/SCS”), outside of the Urban Area Transit Strategy Boundary and—contrary to the RDEIR’s claims—away from jobs. <i>See</i> RTP/SCS p. 37.² SANDAG identified the need to direct the County’s future growth to urbanized areas, yet the County is now considering multiple projects, including the Harmony Grove Village South Project, in rural areas that would result in thousands of housing units in far flung locations. This approach is inconsistent with the RTP/SCS, and the GHG impacts of this approach must be fully analyzed in a revised RDEIR.</p> <p>The Project’s inconsistency with the RTP/SCS is evidence of the Project’s significant climate change impacts. The preeminent goal and performance target of the RTP/SCS, as mandated by SB 375, is to reduce per-capita CO₂e emissions from cars and light-duty trucks to meet the California Air Resources Board’s 2020 and 2035 reduction targets for the region. <i>See</i> RTP/SCS p. 24. The RDEIR acknowledges that the Project would be inconsistent with the RTP/SCS because the density proposed is greater and the number of dwelling units is higher than what was included in the land use input assumptions from San Diego County. RDEIR p. 2.7-26 to 27. But it never acknowledges that this inconsistency is clear evidence of significant GHG impacts. As a result, the RDEIR’s perfunctory “analysis” of the Project’s inconsistency with the RTP/SCS does not comply with CEQA.</p> <p>Rather than study the environmental implications of this inconsistency, the RDEIR attempts to sweep them under the rug, as described above. The fact that SANDAG has not planned for this Project is not a trivial detail, as the RDEIR implies. The EIR must actually <i>analyze</i> the implications of this unplanned growth on regional and state climate change and air quality goals.</p> <p>In particular, the RDEIR should have disclosed the magnitude of the difference between the Project’s density and number of units compared to the assumptions in the RTP/SCS. Moreover, many of the RTP/SCS’s fundamental provisions are directly at odds with the proposed Project. For example, the RTP/SCS did not contemplate this type of sprawling residential development. Rather than growing “out,” the RTP/SCS envisioned the development of compact communities.³ The RTP/SCS</p> <p>² Available at http://www.sdforward.com/pdfs/Final_PDFs/The_Plan_combined.pdf. ³ <i>See</i> San Diego Forward: the Regional Plan Summary; available at: http://www.sdforward.com/about-san-diego-forward/how-we-will-grow.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>However, SANDAG routinely updates these projections based on land use decisions by all jurisdictions. SANDAG’s Regional Growth Forecast data for population and housing itself includes a note that reads: “This forecast represents one possibility for future growth in the San Diego region. It is intended to represent likely prediction of future growth, but it is not intended to be a prescription for growth” (emphasis supplied). Further, SANDAG’s 2050 Regional Growth Forecast (available on SANDAG’s website at http://www.sandag.org) states: “The purpose of the 2050 Regional Growth Forecast is to provide a starting point for regional planning. The forecast is not intended to be a prescription for future growth. Rather, the forecast is intended to show possible future development patterns based on regional projections and local input.” Local input can change, which would involve consideration by the County Board of Supervisors of any requested General Plan Amendment. SANDAG regularly updates their population projections to reflect changes in jurisdictional land use plans, the regional economy and changes in economy. SANDAG’s SCS, including the forecasted development pattern, is not intended to regulate the use of land, as explicitly provided by the California Legislature when enacting SB 375. Rather, pursuant to Government Code section 65080(b)(2)(K), the SCS does not regulate the use of land; does not supersede the exercise of the land use authority of cities and counties within its region; and, does not require that a city’s or county’s land use policies and regulations, including its general plan, be consistent with it.</p> <p>Please refer to the Global Response: Regional Plan Conformity. The commenter cites the Urban Area Transit Strategy Boundary shown on Figure 2.6 of the Regional Plan on page 37. It is acknowledged that the Regional Plan focuses housing and population growth within the region’s incorporated cities. The focus of Figure 2.6 is not to identify all areas where growth may occur in the region, but to show where SANDAG and the transit planning agencies should focus transit improvements, based largely on existing land uses. It also clearly shows the employment hubs cited in the Project EIR (the dense brown dots indicating employment opportunity/building density in the areas of San Marcos and Escondido). The County does not agree that the project is located in a rural</p> |

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| | <p>area “far flung” from existing and planned developed uses. Please see the Global Response: Regional Plan Conformity.</p> <p>Average trip length provides the best indication with respect to compliance with the RTP/SCS goals and policies. The Project is not identified as having a high average trip length (VMT rate). As stated in Subchapter 2.7, <i>Greenhouse Gas Emissions</i>, of the EIR, and as supported by modelling discussed in Appendix C of EIR Appendix J, the Project average trip length, or the VMT rate, is projected to be 7.88, within the regional average identified by SANDAG. The fact that the trip length is consistent with SANDAG’s regional average of 7.9 miles shows that the Project is in fact in an appropriate location. Although the Project was not proposed at the time of General Plan adoption and Regional Plan modeling, the Project is located in the western extent of unincorporated County lands. Location of the Project within the western communities supports reductions of County development in other portions of the unincorporated area. The cities of Escondido and San Marcos contain shopping, educational and job opportunities, as well as public transit hubs, which provide options for public transit. Most of the jobs are aggregated along the SR 78 corridor, stretching from Carlsbad to Escondido. Please also note that SANDAG does assume some growth for this area as the 2035 forecast development pattern map shows General Plan-consistent residential land uses on site.</p> <p>With respect to the comment related to the VMT reduction of 7 percent, the commenter is conflating regional goals with project-specific requirements. The Project will be consistent with SANDAG’s RTP/SCS, by including site design elements and Project design features developed to support the policy objectives of the RTP and SB 375. The Project would implement land use and design measures that would create an environment that promotes alternative mode choice (e.g., pedestrian/bicycle networks and proximity to bus routes). For example, the Project will work with SANDAG to provide informational materials on rideshare programs like icommute to promote rideshare programs and opportunities. The Project is located near job centers, and existing land uses and is also currently designated as Village under the Regional Category of the General Plan. The Project will encourage daily physical activity associated with walking and bicycling, by providing public riding and hiking trails as well as</p> |

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| | <p>creating a public place for the community to gather and have access to cultural activities at the proposed park that will be dedicated to the public. The Project will include sidewalks and easy walkability throughout the site and to the nearby bus stops along the Project frontage.</p> <p>Relative to SANDAG achieving their CARB-projected reductions, SANDAG was tasked by CARB to achieve a 7 percent reduction (from a 2005 base year) in per capita GHGs from passenger cars and light trucks by 2020, and a 13 percent reduction by 2035 relative to emission levels in 2005. Currently, the region would achieve or exceed both reduction targets by implementing its SCS (SANDAG 2015). SANDAG calculations (which were accepted by CARB) stated that it would achieve the region's targets with 15 percent per capita reduction by 2020 and 21 percent reduction by 2035. Consistent with reaching SANDAG goals, the Project is carbon neutral net zero. Current calculations exceed the targets by approximately 110 and 62 percent, respectively.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 6</p> <p>anticipated that about 80 percent of all housing would be developed within the urbanized areas in the western part of the County, which do not include the Project area. Accordingly, the RTP/SCS called for achieving GHG reduction goals in part by reducing vehicle miles travelled throughout the region. <i>Id.</i></p> <p>The State's 2017 Scoping Plan reinforced this priority with even greater urgency based on recent data:</p> <p>CARB determined that VMT reductions of 7 percent below projected VMT levels in 2030 (which includes currently adopted SB 375 SCSs) are necessary. In 2050, reductions of 15 percent below projected VMT levels are needed. A 7 percent VMT reduction translates to a reduction, on average, of 1.5 miles/person/day from projected levels in 2030. It is recommended that local governments consider policies to reduce VMT to help achieve these reductions, including: <i>land use and community design that reduces VMT . . . It is important that VMT reducing strategies are implemented early because more time is necessary to achieve the full climate, health, social, equity, and economic benefits from these strategies.</i></p> <p>California's 2017 Climate Change Scoping Plan ("Scoping Plan")⁴ p. 101 (emphasis added); <i>see also Newhall Ranch</i>, 62 Cal.4th at 226. Yet, the Project's remote location will ensure that the majority of residents will be forced to rely on automobiles for virtually all of their transportation needs. <i>See</i> DEIR pp. 3.1.3-7, 3.1-25 (Project would generate more than 11 million VMT each year). The RDEIR should have identified SANDAG's VMT (and GHG emissions) assumptions for this location and compared them to those that would be generated by the proposed Project. The RDEIR's failure to conduct this evaluation is a serious flaw.</p> <p>III. The RDEIR fails to propose feasible mitigation measures to reduce project-related GHG emissions.</p> <p>An EIR must identify feasible measures to avoid or mitigate significant environmental impacts. CEQA Guidelines § 15126.4. Under CEQA, "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." Pub. Resources Code § 21002.</p> <p>⁴ Available at https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>Response to Comment O6-8</p> <p>This comment contends that the RDEIR does not propose feasible mitigation measures to reduce Project-related GHG emissions. The County does not agree with this contention. The Project complies with CEQA Guidelines Section 15126.4 and PRC Section 21002. Reductions in on-site GHG generation are incorporated into the Project through building design (e.g., solar panels to generate electricity, provision of electrical car and equipment outlets for residences, lack of wood-burning fire places, electrical car recharge station at the Center House, planned use of recycled water, reductions in turf use, etc.). Relative to the Revised DEIR, the significance conclusion was not that impacts would be less than significant, but that they would be significant and mitigable. Mitigation is proposed on top of these reductions that would reach carbon neutrality for the Project through offset credit purchase (please see Global Response: Carbon Offsets). Finally, the Project also identifies lesser intensity development alternatives that would emit fewer operational GHG emissions. The commenter fails to cite any information pertaining to what feasible and potentially effective mitigation measures were rejected. There is no "unlawful reject[ion] of feasible and potentially effective mitigation measures." The Project appropriately identifies and commits to design and mitigation measures and identifies alternatives that "substantially lessen the significant effects," and in fact do so to less than significant levels under CEQA.</p> <p>Please also see current Responses to Comments RO6-4 and -05. Regardless, GHGs comprise cumulative impacts.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 7</p> <p>Despite the fact that the Project would result in an anticipated 4,500 daily car trips and more than 11 million VMT each year, the RDEIR maintains the flawed conclusion from the DEIR that the Project would not result in significant impacts related to climate change, although on new grounds. As detailed below, the RDEIR's analysis is again fundamentally flawed. It unlawfully rejects feasible and potentially effective mitigation measures specifically described in its own supporting technical documents. Instead, the RDEIR relies primarily on the purchase of carbon offset credits to claim that the Project will have no impacts whatsoever.</p> <p>A. The RDEIR improperly avoids analysis of impacts by relying on project features to mitigate Project-related impacts.</p> <p>Where a project may have significant environmental impacts, any appropriate mitigation measures must be identified in the environmental review process, not outside of it. <i>Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster</i> (1997) 52 Cal.App.4th 1165, 1199-1200. This ensures that impacts are reduced to the greatest extent possible, as a result of informed decision making. <i>Lotus v. Department of Transportation</i> (2014) 223 Cal.App.4th 645, 658. Accordingly, reliance on mitigation measures to avoid CEQA review amounts to an "end run" around the governing standards. <i>Azusa Land Reclamation Co.</i>, 52 Cal.App.4th at 1201.</p> <p>According to the RDEIR, the proposed Project incorporates "sustainability and efficiency [Project Design Features or] PDFs that would reduce the Project's operational GHG emissions." RDEIR p. 2.7-18. The RDEIR, like the DEIR, concludes that these features would reduce many of the Project's impacts. <i>See id.</i> p. 2.7-21 to 25.</p> <p>But CEQA does not allow an EIR to fold what is effectively an assumed mitigation measure into a significance determination; the project's significant impacts must be determined first, and then the EIR must identify enforceable mitigation that will "offset" the impacts. <i>See Lotus</i>, 223 Cal.App.4th at 656. <i>Lotus</i> held that an EIR was legally inadequate where it assumed certain mitigation techniques would be incorporated into the project, and thus the EIR did not disclose the impacts of the project without those special techniques. <i>See id.</i> Further, the court in <i>Lotus</i> held that the EIR there was inadequate because it "fail[ed] to discuss the significance of the environmental impacts apart from the proposed 'avoidance, minimization, and/or mitigation measures' and thus fail[ed] to consider whether other possible mitigation measures would be more effective." <i>Id.</i> at 657. Such is the case here: the RDEIR relies on a list of Project Design Features, but it never considers the full range of feasible mitigation measures.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>Response to Comment O6-9</p> <p>These issues largely were submitted on the DEIR. Please see Response to Comment O3a-49 of your prior letter.</p> <p>This comment also raises issues regarding the enforceability of some of the Project design features (PDFs). Specific to use of construction equipment/fleets that exceed existing emissions standards as feasible, the measures in question are potentially more restrictive (if there is something better than Tier III), but it is not possible to be specific at this time. These are very conservative County requirements as they look forward to future fleet function/equipment that is currently unknown, but would be pursued based on availability in the future. This will be a Project condition of approval and will ensure that the equipment will meet the best standards available at the time of construction. Regarding provision of educational materials to homeowners, the Applicant is required to provide these educational materials to the homeowner (however no emission credits were taken for this PDF). It is not a mitigation measure as it cannot be ensured to measurably lower impacts. The County ensures that items assumed as part of design are clearly spelled out and included as conditions. They cannot "escape" requirements as they are included within Chapter 7.0, <i>List of Mitigation Measures and Project Design Features</i> that become conditions and act as the Project mitigation monitoring and reporting program. The true nature of the impacts is disclosed. No reductions in emissions have been taken for PDFs that are not truly enforceable, and for which participation by residents would be voluntary. Operational vehicular trips were conservatively estimated (see Project Final TIA Attachment G), no reductions were taken for Project sequestration benefits provided by the robust landscaping plan (see Attachment B to the Ldn Consulting Supplemental Letter of Final Appendix J, no reductions were taken for natural gas use offset (see Attachment A to the Ldn Consulting Supplemental Letter in Appendix J), etc.</p> <p>Relevant to footnote 5, use of these PDFs is not prejudicial, please see Response to Comment O3a-49 of your prior letter.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 8</p> <p>In addition, several of the Project Design Features measures are not mandatory and enforceable, which CEQA requires of mitigation measures. For example, the Project Design Features call for use of electric and renewable fuel powered construction equipment and fleets that exceed existing emissions standards but only to the extent feasible, RDEIR p. 2.7-22. The PDFs also include educating homeowners about ways to reduce emissions through distribution of an information brochure. <i>Id.</i> Because these measures are not mandatory, they will not necessarily result in any reduction of emissions. Therefore, the RDEIR fails to reveal the true nature of the impacts or consider other feasible mitigation measures and their effectiveness, in violation of CEQA.⁵</p> <p>Under CEQA, it is the EIR's job to evaluate just how significant the Project's impacts would be and to consider all feasible measures to lessen or avoid the impact. Until the County evaluates the Project's adverse effects prior to the implementation of mitigation, and the feasibility of available onsite mitigation measures, the EIR will remain legally inadequate.</p> <p>B. The RDEIR fails to adopt all feasible mitigation measures, even those identified in its own analysis.</p> <p>Under CEQA, "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." Pub. Resources Code § 21002. The Project includes rooftop photovoltaic panels that the RDEIR states are sufficient to generate the entire amount of electricity consumed by the Project.⁶ RDEIR p. 2.7-23. However, the RDEIR goes on to explain that the PDFs do <i>not</i> include sufficient photovoltaic capacity to counterbalance or offset the Project's full</p> <p>⁵ Conflating environmental analysis and mitigation is also prejudicial because CEQA contains special requirements to ensure monitoring and enforcement of mitigation measures. CEQA Guidelines §§ 15097(a), 15126.4(a)(2). If the mitigation is subsumed within the analysis and not included as a separate measure, it would escape these requirements.</p> <p>⁶ The analysis of photovoltaic capacity required to "cover" the Project's use of electricity and natural gas makes several assumptions that appear to minimize the amount of electricity and natural gas consumed by the Project, including use of a small prototype home that is not based on any Project-specific designs and is assumed to have an exceptional level of energy efficiency that is not supported by the Project description or PDFs. <i>See, e.g.,</i> Ldn Letter, Ex. B pp. 2-8. As a result, the recommended size of the photovoltaic arrays may be insufficient to cover even the portion of the Project's GHG emissions that they claim.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>Response to Comment O6-10</p> <p>Please refer to Response to Comment RO6-8, above. There is no violation of PRC Section 21002, or inconsistency with CEQA Guidelines Section 15126.4(c).</p> <p>The commenter is correct in stating that the RDEIR provides that based on ConSol's analysis, the Project's residences can achieve ZNE and off-set all the natural gas energy use with an increased solar system. The ConSol analysis calculated the estimated size of a rooftop solar PV system that would produce the amount of electricity required for each building to achieve 100 percent offsets of all fuel uses, based on Time Dependent Valuation (TDV) values (i.e., the time of day when most expensive, or peak use), thus achieving ZNE. Therefore, a design feature to off-set 100 percent of the energy usage provided in the Global Climate Change Study is achievable. However, for purposes of providing a conservative analysis, ZNE credit for the reduction of natural gas emissions was not taken in the Supplemental GHG analysis. The PDF has been revised to better reflect the text of the RDEIR and the findings of the Supplemental GHG Analysis. the Project design feature has been revised as follows: Design all residences to achieve the CEC's Zero Net Energy standards, as defined in that agency's 2015 Integrated Energy Policy Report (CEC 2015).Footnote 6 of the letter questions the assumptions used by ConSol in assessing the efficacy of photovoltaic panels on Project residences. The comment says that the analysis "is not based on any Project-specific designs" and assumes "an exceptional level of energy efficiency that is not supported by the Project description of PDFs. The County disagrees. As detailed in the ConSol report in Attachment B to the Ldn Consulting Amendments to EIR Appendix J, the "typical" single family and multi-family structures modeled were taken from the ConSol library and fit within the parameters (in terms of overall square footage and numbers of units) of the Project. The "typicals" for the single-family uses reflect an underestimation of the larger individual homes and an overestimation of the smaller individual homes. As stated in the ConSol Report, the objective of the report was to calculate the annual energy use when each building is configured with options that achieve: (i) compliance with the 2016 Title 24 Standards (California's Energy Code); and (ii) Zero Net Energy (ZNE) as defined in the California Energy Commission's (CEC's) 2015</p> |

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| | <p>Integrated Energy Policy Report (2015 IEPR). This analysis also calculates the estimated size of a roof top solar photovoltaic (PV) system that would produce the amount of electricity required for each building to achieve ZNE. Similar to other conservative assessments for this Project, no credit for any additional reductions was accounted for in the emission reductions.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 9</p> <p>energy use, even though “the Project <i>could</i> also off-set all the natural gas energy use with an increased solar system.” RDEIR p. 2.7-20 fn. 1 (emphasis added). As the supporting letter provided by Ldn Consulting Inc. explains, “the [P]roject could also off-set all the natural gas energy use with an increased solar system” that either increased the size of photovoltaic arrays or the efficiency of the panels used. Letter to RCS Harmony Partners, LLC from Jeremy Loudon, Ldn Consulting, Inc. (“Ldn Letter”) p. 7 (Feb. 16, 2018); <i>see also id.</i>, Ex. B p. 6 (technical report explaining that increase in either size or efficiency of photovoltaic panels on homes would produce sufficient energy to cover the entire “load” of each building, including consumption of both electricity and natural gas). There is no indication, much less substantial evidence, that such additional mitigation is infeasible. Thus, the very documents that claim to support the RDEIR identify feasible mitigation measures that the County has not required, in violation of CEQA. Pub. Resources Code § 21002.</p> <p>Likewise, the RDEIR provides no discussion of the availability or feasibility of additional locations for solar panel installation, such as parking areas or roofs on other buildings. Nor does it mention the vast array of additional measures that the State Attorney General’s Office,⁷ the California Air Pollution Control Officers’ Association,⁸ and other air districts⁹ have published for years, including:</p> <ul style="list-style-type: none"> • Onsite energy generation and savings such as solar or geothermal hot water systems and energy storage to optimize onsite renewable generation; • Design features such as cool roofs, graywater systems, prohibitions on fireplaces, and reductions in turf and nonnative grass; • Transit measures such as incorporating the construction of one or more transit stops within the project and providing shuttles to transit stops and/or transit subsidies to reduce residents’ VMT; <p>⁷ California Attorney General, Addressing Climate Change at the Project Level (2010), available at http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf. ⁸ CAPCOA, Quantifying Greenhouse Gas Mitigation Measures (2010), available at http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf. ⁹ Sacramento Metropolitan Air Quality Management District, Recommended Guidance for Land Use Emission Reductions, Version 4 (for Operational Emissions) (Nov. 2017), available at http://www.airquality.org/LandUseTransportation/Documents/SMAQMD_LandUseEmissionReductions4.0Final.pdf.</p> <p style="text-align: right;">SHUTE, MIHALY WEINBERGER LLP</p> | <p>Response to Comment O6-11</p> <p>This comment lists a number of additional sources that could be referenced when determining measures that could be applied to the Project, such as the State Attorney General’s Office, the California Air Pollution Control Officers’ Association (CAPOA), and other air districts. However, the commenter does not include any specifics as to which measures the commenter assert should be considered by the Project from hundreds of such measures. . The comment also questions the lack of discussion of potential to add additional locations for solar panel installation, such as parking areas or other buildings. The EIR and supporting GHG technical study assume that any residential building could have solar panels as needed and that the Center House also would have solar panels. The ConSol Report (attached as Appendix B to the Supplemental Analysis) assumed, with the information concerning the Center House, that the building should be able to easily meet a ZNE requirement. As noted above, the energy needs of the Project would be offset. Given the configuration of parking as a narrow linear area, combined with required compliance with the vegetation requirements in the County’s Parking Design Manual to minimize the heat island effect, there is no potential for covered parking. The only other on-site structures would be associated with the Wastewater Treatment/Wastewater Reclamation Facility (WTWRF). That facility generally consists of ponds, with equipment structures being limited in size. As necessary, however, panels could also be added to the WTWRF, and those structures would be pre-wired, consistent with Title 24 and as stated in the Project PDFs. Taking each of the bullets in turn:</p> <ul style="list-style-type: none"> • Use of on-site solar or geothermal hot water systems and energy storage to optimize on-site renewable generation: The Project already proposes solar panels. Tankless water heaters are incorporated as part of the Project, and they are more energy-efficient than dedicated solar panels for hot water. or geothermal hot water systems. Energy storage is unnecessary, as the energy provider (SDG&E) accepts energy fed into the grid during sunlight hours and feeds it back to users as needed. • Use of cool roofs, graywater systems, prohibitions on fireplaces, and reductions in turf and non-native grasses: Cool roofs were not specifically called out as they will be part of the required Title 24 |

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| | <p>building code during construction. The Project will achieve cooling benefits through the implementation of cool roof design with special roof tiles and radiant barrier insulation. Greywater systems are not preferred in areas where there is potential for runoff into waterways, or community garden areas. These are also unnecessary for a Project that assumes use of recycled water on all Project public landscaping. As stated in the Project Description on page 1-15, “all Project wastewater is proposed to be reclaimed and reused for irrigation of on-site parks, parkways and common areas (excluding the community gardens) in accordance with standards set by Rincon MWD.” The Project has restricted turf use, as discussed in Subchapter 2.7 PDFs (“The Project’s outdoor landscaping plan will use turf only in sports field, dog park and park/recreation areas; maximize drought-tolerant, native, and regionally appropriate plants through planting in conformance with the Project Conceptual Landscape Plan and the County’s Water Conservation and Landscape Design Manual”). Also as noted in EIR Table 1-2, <i>Project Design Features</i>, the Project’s outdoor landscaping plan will use turf only in sports field, dog park and park/recreation areas, maximize drought-tolerant, native and regionally appropriate plants through planting in conformance with the Project Conceptual Landscape Plan and the County’s Water Conservation and Landscape Design Manual, and incorporate weather-based irrigation controllers, multi-programmable irrigation clocks, and high efficiency drip irrigation systems. At the time of final inspection, a manual shall be placed in each building that includes, among other things, information about water conservation. The Project shall submit a Landscape Document Package that complies with the referenced County Ordinance and demonstrates a 40 percent reduction in outdoor use. The Landscape Document Package shall be submitted to the County for review and approval prior to issuance of any building permits and compliance with this measure shall be made a condition of the Project's approval. This latter commitment has been incorporated into Project PDFs and is included in the Final EIR on Table 1-2, and in Chapter 7.0, <i>List of Mitigation Measures and Project Design Features</i>.</p> |

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| | <ul style="list-style-type: none"> Incorporation of transit stops, shuttles to transit stops and/or transit subsidies: It is beyond the Project’s purview to provide transit stops. Coordination with North County Transit District indicates that they do not see ridership sufficient to support bus lines in the area as of yet. The Project would be “transit ready.” A turn out for a future bus stop would be incorporated into the Center House use area. This latter commitment has been incorporated into Project PDFs and is included in the Final EIR on Table 1-2, in Subchapter 2.7, and in Chapter 7.0. The Project is approximately 3 miles for the Nordahl Transit Station, and is therefore well located for future residents who wish to access public transportation. Transit subsidies are not feasible because they are too difficult to confirm that they would be used with any degree of certainty over the life of the Project. As described in Subchapter 2.7 “The HOA will provide informational materials on SANDAG’s rideshare programs like icommute,” and the Nordahl Transit station is located within 3 miles. Subsidy of reduced emissions vehicle purchase, creation of ride-sharing programs and provision of electric vehicles for movement within the Project. These actions are often included in Transportation Demand Management (TDM) programs focusing on efforts to shift when travel occurs, promotion of telecommuting, etc. These (and other TDM programs) are most frequently applicable to state road planning agencies, metropolitan planning agencies, or to employers providing job opportunities that would support a substantial number of workers travelling to/from a specific locale at specified hours. The HGV South Project is a residential project. Such projects cannot control the ability to telecommute to jobs and do not contain elements that draw visitors/users to the site at specified times each day (as would be the case with a large-scale employer). Similarly, future residents would be expected to have varied reasons and times to leave and return to the Project, minimizing opportunities to combine trips. It is therefore not feasible for the Project to implement a ride-sharing program. The Project would, however, encourage carpooling. As described in Subchapter, “The HOA will provide informational materials on |

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| | <p>SANDAG’s rideshare programs like icommute,” Also, in response to comment, the Project will support two electric vehicles on site for use by residents on site and to/from HGV. Similarly, the Project is designed to be walkable on site and also supports bike riding and pedestrian activities between HGV South and HGV through connections to the HGV multi-purpose trail on Country Club Drive and on-site wide streets with low use rates, sharrows, and pedestrian pathways.</p> <p>Use of low emissions construction equipment, preferential contracting with “green” contractors, and use of recycled material: The Project has PDFs requiring low emissions equipment. As stated in Subchapter 2.7, “Tier III or higher construction equipment will be used, with the exception of concrete/industrial saws, generator sets, welders, air compressors, or construction equipment where Tier III or higher is not available.” Also, as specifically noted in Response to Comment R09, even higher standards are requested when available. Similarly, the Project will recycle 90 percent of inerts and 70 percent of all other materials. “Green building” is the practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building’s life-cycle from siting to design, construction, operation, maintenance, (and even beyond to) renovation and deconstruction. Although the latter two phases would be in the future (and speculative) actions, the basis of this Project is environmentally responsible and resource efficient. This starts with the consolidated footprint for the number of homes proposed and continues to the use of wide swaths of vegetation, the 2,045 trees to be planted, the 100 percent offset of electrical/energy use through use of solar, the reduction in turf, the use of recycled water on Project public areas, the walkability of the Project, and all the other measures detailed in the Project FEIR and these responses.. The use of recycled materials is encouraged and potential for such use will be reviewed during Project construction. In the meantime, Project modeling is conservative as no deductions have been taken.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 10</p> <ul style="list-style-type: none"> • Vehicular emissions measures such as subsidizing the purchase of low or zero-emissions vehicles, creating ride sharing programs, and providing electric vehicles for movement within the project; • Construction measures such as use of low emissions construction equipment, preferential contracting with “green” contractors, and use of recycled materials. <p>Increasing onsite renewable energy and reducing onsite and vehicular emissions are far preferable to purchasing only 30 years of offsets from unknown locations to reduce the impacts of new, permanent, sprawling development. The RDEIR’s omissions are particularly egregious in light of the clear priority that the General Plan places on onsite and local measures to mitigate GHGs. <i>See</i> General Plan, Mitigation Measure CC-1.2 (County CAP will achieve GHG emissions reductions of 17 percent from County operations); <i>see also</i> 2017 Scoping Plan p. 102.¹⁰</p> <p>C. Proposed offsets are not adequate mitigation under CEQA.</p> <p>Compounding the errors described above, the RDEIR avoids any further analysis of the Project’s contribution to climate change by providing for the purchase of carbon offsets for up to the amount of GHG emissions that it calculates for the Project. Even if offsets were potentially feasible mitigation, the RDEIR must demonstrate their effectiveness in reducing the Project’s climate change impacts. When a lead agency relies on mitigation measures to find that project impacts will be reduced to a level of insignificance, there must be substantial evidence in the record demonstrating that the measures are feasible and will be effective. <i>Sacramento Old City Assn. v. City Council of Sacramento</i>, 229 Cal.App.3d 1011, 1027 (1991); <i>Kings County</i>, 221 Cal.App.3d at 726-29. As discussed below, the RDEIR provides no such evidence.</p> <p>Mitigation measure MM GHG-1 would require the applicant to show proof of purchase of offsets to reduce the project’s construction-related GHG emissions level to zero from “any registry approved by CARB to act as a registry under the State’s cap-and-trade program” prior to obtaining grading permits. RDEIR pp. 2.7-31 to 32. Mitigation measure MM GHG-2 imposes the same requirement for GHG emissions associated with 30 years of Project operations, after reductions attributable to PDFs, although it also</p> <p>¹⁰ The PDFs are inadequate for the additional reason that the provisions for photovoltaic arrays to generate onsite renewable energy fail to require that the developer or homeowner retire all carbon offset credits associated with such generation. Absent such a mandatory restriction, nothing will prevent the sale of carbon credits associated with these purported reductions to another project, thus voiding the claimed mitigation.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>Response to Comment O6-12</p> <p>The commenter incorrectly states that the RDEIR fails to comply with the clear priority that the General Plan places on onsite and local measures to mitigation GHG. Consistent with County requirements, all feasible measures have been incorporated into the Project, as detailed throughout these responses. The CAP Checklist and the CARB Scoping Plan document the incorporation of all feasible measures for the Project. The CAP Checklist has been incorporated into the Final GHG Emissions Report and the Scoping Plan List of Mitigation Measures is Attachment D to the GHG Emissions Report. (The CAP Checklist is hereby incorporated by this reference and is available for review as a part of the Information for the Reader in the technical report.) All of the Project design features and mitigation measures are included in Chapter 7.0 of the FEIR. These have resulted in a robust on-site reduction program is built into the Project – 100 percent of the projected Project electrical/energy use would be offset through on-site solar panels, and the energy use in general was initially reduced through the measures (as well as others specified in FEIR Subchapter 2.7) summarized in Response to Comment RO6-8. In addition, the Project landscaping plan, and the installation of a minimum of 2,045 trees, was not quantified but would nonetheless sequester emissions (please also see RO6-05, above).</p> <p>The commenter cites a mitigation measure in the General Plan Update (GPU) PEIR requiring the County to adopt a CAP. The County Board of Supervisors adopted the CAP on February 14, 2018 in full compliance with GPU PEIR mitigation measure CC-1.2. The Project, designed and mitigated through commitments to be carbon neutral, would not interfere with the County’s ability to achieve the targets and goal in the CAP. In fact, through placement of developed uses on County lands abutting County Village and proximate to more intensely developed uses in nearby cities, the Project would support goals to place County housing in areas where jobs, services and shopping are nearby.</p> <p>Regarding the 30 years of offset credits and CARB’s 2017 Scoping Plan, please refer to Global Response: Carbon Offsets.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 11</p> <p>allows the developer to reduce the amount of offsets purchased after Project approval under certain circumstances. <i>Id.</i> pp. 2.7-32 to 33.</p> <p>A mitigation measure requiring the purchase of offset credits operates as a kind of mitigation fee. But CEQA does not allow mitigation fees unless there is substantial evidence of a functioning, enforceable, and effective implementation program. Courts have found mitigation fees inadequate where the amount to be paid for traffic mitigation was unspecified and not “part of a reasonable, enforceable program” (<i>Anderson First Coalition v. City of Anderson</i> (2005) 130 Cal.App.4th 1173, 1189 (<i>Anderson First</i>)); where a proposed urban decay mitigation fee contained no cost estimate and no description of how it would be implemented (<i>California Clean Energy Committee v. City of Woodland</i> (2014) 225 Cal.App.4th 173, 198); and where there was no specific traffic mitigation plan in place that would be funded by mitigation fees (<i>Gray v. County of Madera</i> (2008) 167 Cal.App.4th 1099, 1122).</p> <p>Here, the applicant can purchase offsets from an unspecified registry without providing any mechanism to ensure that those credits will actually reduce carbon emissions at all, much less in the same quantity that the County admits the Project will generate. This is insufficient.</p> <p>1. Carbon offsets are disfavored and may not be effective.</p> <p>Measures M-GHG-1 and M-GHG-2 fail to comply with CEQA’s rule that proposed offsets must be “not otherwise required.” Guidelines §15126.4(c)(3). This rule makes clear that offsets may only be used as CEQA mitigation if the offsets will provide “additional” emission reductions—that is, reductions not otherwise required by law or likely to occur anyway. California Natural Resources Agency, Final Statement of Reasons for Regulatory Action pp. 88-89.¹¹</p> <p>The RDEIR makes no attempt to identify how many of the required offsets meet this essential criterion. In fact, it provides no evidence that any of the qualified offset programs listed in the RDEIR are capable of ensuring that offsets are “additional.” This omission is a particular concern given the RDEIR’s allowance of international offsets, which are especially challenging to verify, as described below and in Exhibits B and C. As a result, the RDEIR fails to ensure that these programs will generate offsets that comply with CEQA. <i>See Sacramento Old City</i>, 229 Cal.App.3d at 1027 (record must include substantial evidence that mitigation is effective and enforceable).</p> <p>¹¹ Available at http://resources.ca.gov/ceqa/docs/Final_Statement_of_Reasons.pdf.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>Regarding footnote 10, the commenter is incorrect in stating that the Project’s PDF, that requires 100 percent of its projected electrical use be offset through on-site solar panels, could be sold to mitigate GHG emissions for another project. There is a mandatory restriction that prevents this from occurring; CEQA Guidelines section 15126.4[c][3]) requires that carbon offset credits be in addition to or “not otherwise required.” Therefore, no offset credits could be sold for this PDF.</p> <p>Response to Comment O6-13</p> <p>Please refer to Global Response: Carbon Offsets regarding information on offsets being adequate mitigation under CEQA, and the effective nature of offsets. Specific to the California cap and trade program created by CARB with the voluntary, open GHG credit-based trading market available through CARB-approved registries. The Cap-and-Trade program is an adopted statewide plan for reducing or mitigating GHG emissions from regulated industries. In the voluntary, open based market, emission reduction credits are treated as a commodity with independent value which may be purchased and sold as a commodity on an exchange. The important distinction between a voluntary, open market and a cap-and-trade system is that the creation, buying, and selling of offsets is not restricted in an open market. An open GHG credit-based trading market does not have a cap, and participation is on a voluntary basis. Therefore, the eight percent restriction placed on the cap and trade program mentioned by the commenter is not relevant when discussing the purchase and retirement of emission reduction credits obtained from the carbon market. The cap and trade requirement for regulated entities is a different regulatory scheme than applied to land use development projects on the voluntary market.</p> <p>Even though the decision to approve a project is a discretionary matter, the commenter speculates that the County will approve a number of projects in the future which will result in the demand for offset credits growing so rapidly that there will be insufficient credits for such projects to purchase. Then relying on <i>Kings County Farm Bureau v. City of Hanford</i>, 221 Cal. App. 3d 692, 728,</p> |

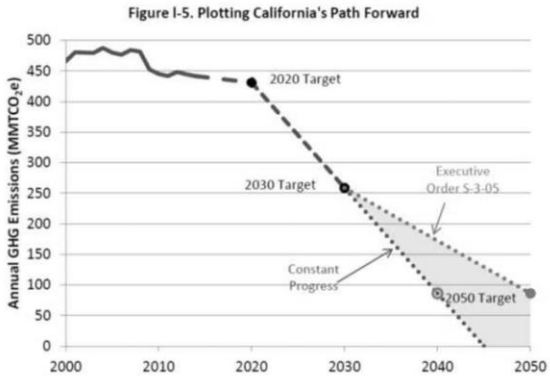
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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 12</p> <p>Moreover, even the most sophisticated offset programs have failed in practice. A 2016 report prepared for the EU Directorate General for Climate Action concluded that nearly 75 percent of the potential certified offset projects had a low likelihood of actually contributing additive GHG reductions, and less than 10 percent of such projects had a high likelihood of additive reductions. <i>See</i> Exhibit B (<i>How additional is the Clean Development Mechanism? Analysis of the application of current tools and proposed alternatives</i>, Institute of Applied Ecology, March, 2016) p. 11; <i>see also</i> Exhibit C (<i>Carbon Credits Likely Worthless in Reducing Emissions, Study Says</i>, Inside Climate News, April 19, 2017).</p> <p>Here, there is no evidence that the required offsets will be effective. The three registries identified in the RDEIR allow the developer to purchase offsets from several different categories of offset programs. Only some of these offset programs meet the minimum standards that CARB sets for “compliance offsets,” which are the offsets that are eligible for use in the state’s cap and trade program.¹² Other products, such as voluntary offsets, are unregulated and provide no evidence of their effectiveness or additionality. <i>See, e.g.</i>, Climate Action Reserve, Voluntary Offsets.¹³</p> <p>Absent any evidence whatsoever that the offsets on which it relies will actually reduce carbon emissions, the RDEIR lacks substantial evidence to support its conclusion that the Project will have less-than-significant-impacts on climate change.</p> <p>Because of these known problems with enforcement and efficacy, agencies typically permit offsets to constitute only a very small part of an overall emission reduction program. For example, California’s cap and trade program allows no more than 8 percent of GHG reductions to come from offsets, which will drop to 4 percent in 2021, at which point at least half of the offsets used must “provide direct environmental benefits in state.” Health & Safety Code, § 38562(c)(2)(E). The 2017 Scoping Plan also prioritizes onsite measures: “[t]o the degree a project relies on GHG mitigation measures, CARB recommends that lead agencies prioritize on-site design features that reduce emissions, <i>especially from VMT</i>, and direct investments in GHG reductions within the project’s region that contribute potential air quality, health, and economic co-benefits</p> <p>¹² Under the State’s cap-and-trade program, compliance offset projects must comply with minimum regulatory requirements, including that “[t]he activities that result in GHG reductions and GHG removal enhancements are not required by law, regulation, or any legally binding mandate applicable in the offset project’s jurisdiction, and would not otherwise occur in a conservative business-as-usual scenario.” Cal. Code Regs. tit. 17, § 95973(a)(2).</p> <p>¹³ Available at http://www.climateactionreserve.org/about-us/voluntary-offsets/.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>assets that the RDEIR must address whether enough GHG offset credits are available from existing, functioning programs to mitigate the Project’s emissions. However, the Kings County case is inapposite here. In Kings County the mitigation measure relied upon to mitigate an impact consisted of the act of entering into the agreement to purchase water not the actual purchase of the water. The agreement was then made a part of the basis for finding there was no significant impact and was not a condition of project approval.</p> <p>This is quite different from the case here in which carbon offset credits must actually be purchased before the impact occurs. In the case of construction emissions, such emissions must be mitigated before a grading permit may be issued by the County and impacts related to operational emissions must be mitigated before building permits that would cause such emissions are issued by the County for each phase of the project.</p> <p>The concept of development projects purchasing compensatory mitigation credits in the future is not a new one. For example, purchasing off-site mitigation credits from “mitigation banks” or “programs” respectively for biological or agricultural impacts has been used for quite some time and has been upheld when there is a commitment to the mitigation and criteria or performance standards are set forth.</p> <p>As described in the Global Response: Carbon Offsets, the use of carbon offset credits is also a well-established method for mitigating project-level GHG emissions. The GHG Mitigation Measures established clear performance standards ensuring the effectiveness of the mitigation by requiring the purchase of carbon offset credits from registries consistent with CARB guidance. This ensures that the carbon offsets are in fact purchased through an existing and functioning program.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 13</p> <p>locally.” Scoping Plan p. 102 (emphasis added). The County General Plan concurs; Mitigation Measure CC-I.2 for the General Plan expressly requires reductions in GHG emissions from County and community emissions. Contrary to each of these approaches, the RDEIR relies on offsets to mitigate all VMT-related emissions. Yet there is simply no evidence that the undefined, unenforceable offsets proposed by the RDEIR will cause any meaningful reduction to mitigate the permanent increase in GHG resulting from the Project’s sprawl development.</p> <p>Perhaps most important, the RDEIR’s approach of meeting its GHG reduction requirements with the use of out-of-County offsets simply allows the County to perpetuate sprawling land use development patterns. Projects such as Harmony Grove Village South increase sprawl, VMT, and GHG emissions. This Project and its mitigation, which allows in-County emissions to multiply while out-sourcing reductions to unreliable international offsets, violates both the letter and the spirit of CEQA.</p> <p>2. There is no evidence that enough GHG offset credits are available.</p> <p>The RDEIR does not even address whether enough GHG offset credits are available from existing, functioning programs to mitigate the Project’s emissions. This is a particular concern because there are only a limited number of offset projects that attempt to demonstrate additionality, as discussed above. This Project will require approximately 10,000 MT CO_{2e} in offsets total. RDEIR pp. 35-36. But the Project does not exist in a vacuum. The San Diego Union Tribune recently noted that “more than a dozen” projects that rely on offsets were awaiting County approval as of March 19, 2018. See Exhibit D (San Diego Union Tribune, “Sierra Club, others sue San Diego County to block carbon credit plan for new development,” March 19, 2018). The County’s flawed Climate Action Plan, discussed below, endorses the use of offsets, ensuring that demand for offset credits will grow rapidly in the near future.</p> <p>Despite this growing demand, as of January 2018 there were no credits from carbon offset projects located in San Diego County that were available on any of the three offset registries approved by CARB. Final Supplement to the 2011 General Plan Update Program Environmental Impact Report for the Climate Action Plan, p. 8-53.¹⁴ And at a much broader level, 324,069,019 MT CO_{2e} were subject to the state’s cap-and-trade program in 2016, over 25 million (up to 8 percent) of which could come from</p> <p>¹⁴ Available at https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/FinalBoardDocs/Chapter%208.0_%20Revised%20Final.pdf.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>With respect to the assertion that emission trading is unsuccessful, please see “California’s carbon market is a big success. Here are the facts” by Erica Morehouse, incorporated herein and available at https://www.edf.org/blog/2016/.../californias-carbon-market-big-success-here-are-fact. As of 2016, California is ahead of schedule in meeting its climate goals. The state’s nearly 10-year-old climate program, of which the carbon market is the backbone, initially required a reduction in greenhouse gas emissions to 1990 levels by 2020, 15 percent below where emissions would be without regulation. “But the Golden State is expected to be well below 1990 levels four years from now; emissions have been below required levels every year for which we have data.”</p> |



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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 14</p> <p>offsets. <i>See</i> Exhibit E. The sheer volume of emissions creates a large and growing demand for offsets and thus casts serious doubt on the availability of sufficient credits. The lack of evidence that sufficient credits exist renders the mitigation measure invalid. <i>See Kings County</i>, 221 Cal.App.3d at p. 728.</p> <p style="text-align: center;">3. The RDEIR allows for impermissible decreases in mitigation after project approval, contrary to state policy.</p> <p>Mitigation Measure M-GHG-2 is flawed for the additional and independent reason that it authorizes County staff to <i>decrease</i> the amount of carbon offsets required if the Project's assumed carbon emissions are reduced by future measures or regulatory changes, without any corresponding requirement to <i>increase</i> offsets if future events prove that the EIR's emissions assumptions are too low. RDEIR p. 2.7-33. This lopsided standard could further reduce the already inadequate offsets, even where later information or changed circumstances demonstrate that the Project's actual GHGs are greater than the RDEIR anticipated.</p> <p>Moreover, the process for approving this reduction in mitigation would be subject only to County oversight, conducted outside of CEQA, with no public review. At a minimum, any change in greenhouse gas emissions that are to be offset must be subject to CEQA review. The mitigation measure should also be broadened to require offsets for increases in future operational greenhouse gas and criteria pollutant emissions, beyond those estimated in the RDEIR, as increases are equally likely because future emissions depend upon many factors that cannot be currently predicted—including the feasibility of proposed PDFs, political will, increasing ambient temperatures, and reductions in water supply due to climate change—which could increase greenhouse gas and criteria pollutant emissions beyond those estimated in the RDEIR.</p> <p>This one-way provision that allows the County to ratchet mitigation down moves the County in the wrong direction. In fact, even if the Project purchased a sufficient number of offsets, and the offsets were actually effective as mitigation, the RDEIR would still fail to show that the Project complies with County and state policies that require reductions in long-term climate impacts to a less-than-significant level. As explained in the DEIR, the California Air Resources Board projects that average annual emissions must decline by 5.2 percent <i>each year</i> to achieve target reductions for year 2050. DEIR p. 3.1.3-16. CARB recently confirmed these required reductions in its 2017 Scoping Plan. Scoping Plan p. 18. These reductions are portrayed graphically in the Plan's Figure 5, which is reproduced below. Mitigation Measure CC 1.2 for the County General Plan reflects the same conclusion, requiring reductions in emissions from County operations and communities, as described below. As the California Supreme Court recognized in</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>Response to Comment O6-14</p> <p>This comment contends that the RDEIR allows for impermissible decreases in mitigation after project approval, contrary to state policy. Mitigation Measure M-GHG-2 acknowledges the constant advances that are being made in technology with respect to GHG emissions. It provides that if new technological improvements, scientific advancements, improvements in fuel efficiency or other similar advancements result in a greater reduction in the total MT CO₂e operational emissions being realized from the Project, the Applicant may provide an Updated Operational Emissions Report to the County. The Report is subject to the following specific requirements as set forth in M-GHG-2:</p> <ul style="list-style-type: none"> • The Updated Operational Emissions Report shall be prepared by a County-approved, qualified air quality and GHG technical specialist • The Report shall be based upon calculations that utilize a County-approved model or methodology • The calculations shall be based upon an emissions inventory of the Project's operational emissions, including emissions from mobile sources, energy, area sources, water consumption, and solid waste • The Report shall demonstrate based on substantial evidence that greater GHG efficiencies occurred due to advancements, or improvements in fuel efficiency or other similar advancements that has resulted in a greater reduction in the total operational emissions of the Project than what was evaluated. <p>The County may only reduce the amount of GHG credits required to be purchased at the next site plan approval phase and the associated building permits issued per that subsequent site plan, if the following occurs:</p> <ol style="list-style-type: none"> 1. The Director of PDS approves the Updated Operational Emissions Report that has been prepared subject to the requirements described above, and 2. The Director determines that the Applicant has demonstrated by substantial evidence that changes in State regulation or law, or other increased building efficiencies, have reduced the total MT CO₂e emitted by the Project and the reduction to the total carbon offsets, and |

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| | <p>are consistent with the Project commitment to achieve and maintain carbon neutrality (i.e., net zero emissions) for the 30-year life of the Project.</p> <p>The DEIR analyzed in detail the impacts related to the Project's GHG emissions and identified appropriate mitigation measures under a worst case scenario that does not take into consideration the future advances that are constantly being made in technology that could result in reductions to the operational emissions of the Project. It clearly provides the performance standards with which the Applicant must comply in order to be eligible to receive a reduction in the amount of GHG credits the Applicant would be required to purchase in the future. Thus this process is in keeping with Sacramento Old City Ass'n v. City Council (1991) 229 CA3d 1011. (The agency has committed itself to devising measures that will satisfy specific performance criteria articulated at the time of project approval.) Similar to Sacramento Old City, the County has thoroughly analyzed the GHG impacts and has committed to a specific mitigation measure. It merely allows the Applicant to seek to purchase fewer offset emission credits if there has been a decrease in the project's GHG emissions. However, the Applicant must prove this to the County based on substantial evidence after following the specific performance criteria set forth in M-GHG-2. It is not conducted outside of CEQA but rather is allowed by CEQA under the circumstances described herein. There is no need for this to receive public review because it is a routine part of conformity analysis completed by qualified County staff as part of Project final approvals</p> <p>Relative to the potential for additional offset credits to be required, this is not anticipated. As described throughout these responses, the Project GHG analyses were conservative in nature. Operational vehicular trips were conservatively estimated (see Project Final TIA Attachment G), no reductions were taken for Project sequestration benefits provided by the robust landscaping plan (see Attachment B to the Ldn Consulting Supplemental Letter of Final Appendix J, no reductions were taken for natural gas use offset (see Attachment A to the Ldn Consulting Supplemental Letter in Appendix J), etc. Finally, it is acknowledged that improved technology will continue to lower GHG emissions from Project</p> |

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| | <p>vehicular sources over time. For all these reasons, the potential for need for additional credits over those assessed for the Project is not considered likely.</p> <p>The paragraph on the bottom of page 14 focuses on the need to reduce emissions every year, and states that “even if the Project purchased a sufficient number of offsets, and the offsets were actually effective as mitigation,” the Project would still fail to demonstrate compliance with County and State policies requiring reductions in climate impacts. On the top of page 15, however, the comment alludes to Newhall Ranch, and makes the generally agreed-upon observation that the greatest possible reduction in emissions will come from new construction with it “associated opportunities to design for energy efficiency and minimal emissions from the outset.” There will be reductions per residence as older built uses and vehicles phase out and newer structures and vehicles, with fewer emissions come into use. This Project would be part of the less impactful and reduction-focused new construction noted in Newhall, based on the Project design features, as well as the offsets in emissions over and above those identified to offset Project impacts (i.e., due to offsets to carbon neutral of even the designated land uses in the adopted General Plan for the site and the landscaping plan that provides an additional 48 percent sequestration value over the vegetation removal totals).</p> <p>The graphic on page 15 is a schematic of how many reductions need to occur per year in order to attain straight line reductions to reach 2050 targets. It is not a standard per se, but illustrative on average of what it would take to “get there.” Greater reductions may be attained in some years, and lesser reductions may be attained in others, but overall, the same goal is met in 2050.</p> <p>It is also noted that there are other agencies, industries and factors involved in planned GHG reductions. For example, local and state transportation agency reductions are also critical to the mix.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 15</p> <p><i>Newhall Ranch</i>, 62 Cal.4th at 226, it is especially important to obtain the greatest possible reductions in emissions from new construction, with its associated opportunities to design for energy efficiency and minimal emissions from the outset.</p> <div style="text-align: center;">  </div> <p>IV. The County's failure to adopt a legally sufficient climate action plan is the root of the problem.</p> <p>The County's General Plan contains a mitigation measure that requires the County to adopt a Climate Action Plan ("CAP") that will ensure that the County sufficiently reduces its GHG emissions to meet AB 32's goals and longer-term climate needs. As the Court of Appeal stated in recent litigation successfully challenging the County's failure to prepare an adequate CAP:</p> <p style="padding-left: 40px;">[Mitigation Measure] CC-1.2 requires the preparation of a County Climate Change Action Plan within six months from the adoption date of the General Plan Update. The Climate Change Action Plan will include a baseline inventory of greenhouse gas emissions from all sources and more detailed greenhouse gas emissions reduction targets and deadlines. The County Climate Change Action Plan will achieve comprehensive and enforceable GHG emissions reduction of 17% (totaling 23,572 MTCO₂e)</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>Response to Comment O6-15</p> <p>Please refer to Global Response: Climate Action Plan regarding the County CAP.</p> |

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| <p style="text-align: right;">Comment Letter RO6</p> <p>Ms. Ashley Smith April 9, 2018 Page 16</p> <p>from County operations from 2006 by 2020 and 9% reduction (totaling 479,717 MTCO₂e) in community emissions from 2006 by 2020.</p> <p><i>Sierra Club v. County of San Diego</i> (2014) 231 Cal.App.4th 1152, 1159. This mitigation measure is a crucial aspect of the General Plan, and the General Plan EIR made it clear that adoption of the Climate Action Plan, among other measures, was necessary to mitigate the Plan's significant climate impacts. However, when the County adopted its Climate Action Plan, it failed to ensure that the Plan contained enforceable measures to reduce Countywide emissions to 1990 levels by 2020. Sierra Club successfully challenged the Climate Action Plan, which the court invalidated. <i>Id.</i></p> <p>The County adopted a new CAP on February 14, 2018. While the RDEIR does not expressly rely on the CAP, its mitigation measures track those of the CAP. In particular, the RDEIR relies on the purchase of carbon offset credits to conclude that the "Project would not generate GHG emissions that may have a significant impact on the environment because the mitigated Project would have no net increase in GHG emissions, as compared to the existing environmental setting." RDEIR p. 2.7-33.</p> <p>For the reasons set forth above and in the March 16, 2018 Petition for a Writ of Mandate in which the Sierra Club and other County environmental organizations challenge the new CAP, attached as Exhibit F, and the comment letter submitted by the same, attached as Exhibit G, this approach does not comply with the County General Plan, the RTP/SCS, CEQA, or the State's urgent policy of reducing emissions from VMT in particular in an attempt to avoid catastrophic climate change.</p> <p>V. Conclusion</p> <p>For all of the foregoing reasons, we respectfully submit that the County cannot lawfully approve Harmony Grove Village South. The Project is plainly inconsistent with numerous General Plan policies. The RDEIR perpetuates the flaws of the DEIR and fails to inform the public of the full impacts of the Project. It cannot support the findings required by CEQA. We urge the County to exercise its discretion and deny this ill-advised Project.</p> <p style="text-align: right;">SHUTE, MIHALY & WEINBERGER LLP</p> | <p>Response to Comment O6-16</p> <p>These are conclusion comments. No specific substantive comments are made, but a number of generalizations are stated. In response, it is noted that as demonstrated in the DEIR, RDEIR, and FEIR (including responses to comments submitted on the draft documents), the Project is consistent with General Plan policies and informs the public of the full impacts of the Project. The FEIR and supporting technical studies are also found to support the necessary CEQA findings. Your opposition to the Project is noted, and it will be before the decision makers during consideration of the Project. Should they decide to approve the Project, it is expected to be a lawful approval.</p> |

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| <p data-bbox="743 240 926 261">Comment Letter RO6</p> <p data-bbox="216 289 363 358">Ms. Ashley Smith April 9, 2018 Page 17</p> <p data-bbox="558 402 905 472">Very truly yours, SHUTE, MIHALY & WEINBERGER LLP</p>  <p data-bbox="558 605 695 626">Sarah H. Sigman</p> <p data-bbox="216 646 380 667">cc: (e-mail only):</p> <p data-bbox="270 686 810 935">Dianne Jacob, Chair, Supervisor, District 2 Kristin Gaspar, Supervisor, District 3 Greg Cox, Supervisor, District 1 Ron Roberts, Supervisor, District 4 Bill Horn, Supervisor, District 5 Sarah Aghassi, Deputy CAO and group General Manager for LUEG David Sibbett, Planning Manager, PDS Doug Dill, San Dieguito Planning Group Jacqueline Arsivaud, Elfin Forest Harmony Grove Town Council David Kovach, RCS Harmony Partners, LLC Marcel Arsenault, Real Capital Solutions</p> <div data-bbox="674 1312 926 1357"> SHUTE, MIHALY  WEINBERGER LLP </div> | |

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| <div>Comment Letter RO6</div> <div>Ms. Ashley Smith April 9, 2018 Page 18</div> <div>List of Exhibits</div> <table><tr><td>Exhibit A</td><td>M. Barth and K. Boriboonsomsin, Traffic Congestion and Greenhouse Gases, TR News 268 May-June 2010. Available at http://onlinepubs.trb.org/onlinepubs/trnews/trnews268.pdf.</td><td>17</td></tr><tr><td>Exhibit B</td><td>M. Cames et al., <i>How additional is the Clean Development Mechanism? Analysis of the application of current tools and proposed alternatives</i> (March 2016). Available at https://www.atmosfair.de/wp-content/uploads/clean_dev_mechanism_en.pdf.</td><td>18</td></tr><tr><td>Exhibit C</td><td>N. Kusnetz, <i>Carbon Credits Likely Worthless in Reducing Emissions, Study Says</i>, Inside Climate News (April 19, 2017). Available at https://insideclimatenews.org/news/19042017/carbon-emissions-credits-paris-climate-agreement.</td><td>19</td></tr><tr><td>Exhibit D</td><td>J. Smith, <i>Sierra Club, others sue San Diego County to block carbon credit plan for new development</i>, San Diego Union Tribune (March 19, 2018). Available at http://www.sandiegouniontribune.com/news/environment/sd-me-sierra-lawsuit-20180319-story.html.</td><td>20</td></tr><tr><td>Exhibit E</td><td>California Air Resources Board, Annual Summary of 2016 Greenhouse Gas Emissions Data Reported to the California Air Resources Board (Nov. 6, 2017). Available at https://www.arb.ca.gov/cc/reporting/ghg-rep/reported-data/2016-ghg-emissions-2017-11-06.xlsx?_ga=2.154900728.1354564655.1521587185-1672352890.1504716489.</td><td>21</td></tr><tr><td>Exhibit F</td><td>Sierra Club et al. v. County of San Diego, Petition for a Writ of Mandate (March 16, 2018).</td><td>22</td></tr><tr><td>Exhibit G</td><td>Letter from J. Chatten-Brown to San Diego County Planning Commission Re Supplemental Comments on San Diego Climate Action Plan (PDS2015-POD-15-002), Draft Supplemental Environmental Impact Report for the Climate Action Plan (PDS2016-ER-16-00-003) and Pending General Plan Amendments (Jan. 16, 2018).</td><td>23</td></tr></table> <div>981198.3</div> <div>SHUTE, MIHALY WEINBERGER LLP</div> | Exhibit A | M. Barth and K. Boriboonsomsin, Traffic Congestion and Greenhouse Gases, TR News 268 May-June 2010. Available at http://onlinepubs.trb.org/onlinepubs/trnews/trnews268.pdf . | 17 | Exhibit B | M. Cames et al., <i>How additional is the Clean Development Mechanism? Analysis of the application of current tools and proposed alternatives</i> (March 2016). Available at https://www.atmosfair.de/wp-content/uploads/clean_dev_mechanism_en.pdf . | 18 | Exhibit C | N. Kusnetz, <i>Carbon Credits Likely Worthless in Reducing Emissions, Study Says</i> , Inside Climate News (April 19, 2017). Available at https://insideclimatenews.org/news/19042017/carbon-emissions-credits-paris-climate-agreement . | 19 | Exhibit D | J. Smith, <i>Sierra Club, others sue San Diego County to block carbon credit plan for new development</i> , San Diego Union Tribune (March 19, 2018). Available at http://www.sandiegouniontribune.com/news/environment/sd-me-sierra-lawsuit-20180319-story.html . | 20 | Exhibit E | California Air Resources Board, Annual Summary of 2016 Greenhouse Gas Emissions Data Reported to the California Air Resources Board (Nov. 6, 2017). Available at https://www.arb.ca.gov/cc/reporting/ghg-rep/reported-data/2016-ghg-emissions-2017-11-06.xlsx?_ga=2.154900728.1354564655.1521587185-1672352890.1504716489 . | 21 | Exhibit F | Sierra Club et al. v. County of San Diego, Petition for a Writ of Mandate (March 16, 2018). | 22 | Exhibit G | Letter from J. Chatten-Brown to San Diego County Planning Commission Re Supplemental Comments on San Diego Climate Action Plan (PDS2015-POD-15-002), Draft Supplemental Environmental Impact Report for the Climate Action Plan (PDS2016-ER-16-00-003) and Pending General Plan Amendments (Jan. 16, 2018). | 23 | <div>Response to Comment O6-17</div> <div>This exhibit is cited in Comment RO6-5. Please refer to Global Response: Carbon Offsets.</div> <div>Response to Comment O6-18</div> <div>This exhibit is cited in Comment RO6-13. Please refer to Global Response: Carbon Offsets.</div> <div>Response to Comment O6-19</div> <div>This exhibit is cited in Comment RO6-13. Please refer to Global Response: Carbon Offsets.</div> <div>Response to Comment O6-20</div> <div>This exhibit is cited in Comment RO6-13. Please refer to Global Response: Carbon Offsets.</div> <div>Response to Comment O6-21</div> <div>This exhibit is cited in Comment RO6-13. Please refer to Global Response: Carbon Offsets.</div> <div>Response to Comment O6-22</div> <div>This exhibit is cited in Comment RO6-15. Please refer to Global Response: Climate Action Plan.</div> <div>Response to Comment O6-23</div> <div>This exhibit is cited in Comment RO6-15. Please refer to Global Response: Climate Action Plan.</div> |
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