Vista Del Agua - City Council Comment Letter No. 1

Mitchell M. Tsai, Attorney
Southwest Regional Council of Carpenters (2-26-2020)

(Note: In an effort to conserve resources, Exhibits A and B and the AERSCREEN and CALEEMOD Models contained in Exhibit C attached to Comment Letter No. 1 are not included below; the entire Letter is attached electronically to these Responses)

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VIA HAND DELIVERY, U.S. MAIL & E-MAIL

February 26, 2020

Hand Delivered to February 26, 2020, City Council Hearing
City Hall Council Chamber
1515 Sixth Street
Coachella, CA 92236

Via E-Mail & U.S. Mail
Luis Lopez, Development Services Director
Planning Division
City of Coachella
53990 Enterprise Way
Coachella, CA 92236
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RE: Vista Del Agua Specific Plan and Final Environmental Impact Report (SCH # 2015031003)

Dear Honorable Mayor and City Council Members,

On behalf of the Southwest Regional Council of Carpenters ("**Commenters**" or "**Carpenters**"), my Office is submitting these comments on the City of Coachella's ("**City**" or "**Lead Agency**") Final Environmental Impact Report ("**FEIR**") (SCH No. 2015031003) for the Vista Del Agua Specific Plan, a proposed development of a maximum of 1,640 dwelling units including 1,026 single-family homes and 613 multi-family dwelling units on approximately 275 acres and includes two commercial planning areas that total approximately 25 acres in addition to approximately 30 acres of open space. ("**Project**"). The Project also proposes 29 acres of off-site infrastructure improvements. 1.1

The required entitlements for the Project include General Plan Amendment No. 14-01, Specific Plan No. 14-01, Change of Zone No. 14-01, Tentative Parcel Map No. 36872, Development Agreement and Environmental Impact Report (EA No. 14-01.) (DEIR, p. 1-1.) 1.2

The Southwest Carpenters is a labor union representing 50,000 union carpenters in six states, including in southern California, and has a strong interest in well-ordered land use planning and addressing the environmental impacts of development projects. 1.3

Commenters expressly reserve the right to supplement these comments at or prior to hearings on the Project, and at any later hearings and proceedings related to this Project. Cal. Gov. Code § 65009(b); Cal. Pub. Res. Code § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121. 1.4

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Commenters incorporate by reference all comments raising issues regarding the EIR submitted prior to certification of the EIR for the Project. *Citizens for Clean Energy v City of Woodland* (2014) 225 CA4th 173, 191 (finding that any party who has objected to the Project's environmental documentation may assert any issue timely raised by other parties). 1.6

Moreover, Commenter requests that the Lead Agency provide notice for any and all notices referring or related to the Project issued under the California Environmental Quality Act ("**CEQA**"), Cal Public Resources Code ("**PRC**") § 21000 *et seq*, and the California Planning and Zoning Law ("**Planning and Zoning Law**"), Cal. Gov't Code §§ 65000–65010. California Public Resources Code Sections 21092.2, and 21167(f) and Government Code Section 65092 require agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body. 1.7

I. EXPERTS

This comment letter includes comments from air quality and greenhouse gas experts Matt Hagemann, P.G., C.Hg. and Paul Rosenfeld, Ph.D. concerning the FEIR. Their comments, attachments, and Curriculum Vitae ("CV") are attached hereto and are incorporated herein by reference. 1.8

Matt Hagemann, P.G., C.Hg. ("Mr. Hagemann") has over 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office, where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Mr. Hagemann also served as Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closer. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. 1.9

For the past 15 years, Mr. Hagemann has worked as a founding partner with SWAPE (Soil/Water/Air Protection Enterprise). At SWAPE, Mr. Hagemann has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality, and greenhouse gas emissions. 1.10

Mr. Hagemann has a Bachelor of Arts degree in geology from Humboldt State University in California and a Masters in Science degree from California State University Los Angeles in California. 1.11

Paul Rosenfeld, Ph.D. ("Dr. Rosenfeld"), is a principal environmental chemist at SWAPE. Dr. Rosenfeld has over 25 years' experience conducting environmental investigations and risk assessments for evaluating impacts on human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risks, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from unconventional oil drilling operations, oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, and many other industrial and agricultural sources. His project experience ranges from monitoring and modeling of pollution sources to evaluating the impacts of pollution on workers at industrial facilities and residents in surrounding communities. 1.12

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particular matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, 1.13

perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants, Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at dozens of sites and has testified as an expert witness on more than ten cases involving exposure to air contaminants from industrial sources. 1.13 cont.

Dr. Rosenfeld has a Ph.D. in soil chemistry from the University of Washington, M.S. in environmental science from U.C. Berkeley, and a B.A. in environmental studies from U.C. Santa Barbara. 1.14

II. THE PROJECT WOULD BE APPROVED IN VIOLATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

A. Background Concerning the California Environmental Quality Act

CEQA has two basic purposes. First, CEQA is designed to inform decision-makers and the public about the potential, significant environmental effects of a project. 14 California Code of Regulations ("**CCR**" or "**CEQA Guidelines**") § 15002(a)(1). "Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR 'protects not only the environment but also informed self-government.' [Citation.]" *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564. The EIR has been described as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm'rs.* (2001) 91 Cal. App. 4th 1344, 1354 ("*Berkeley Jets*"); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810. 1.15

Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. CEQA Guidelines § 15002(a)(2) and (3). *See also, Berkeley Jets,* 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553; *Laurel Heights Improvement Ass'n v. Regents of the University of California* (1988) 47 Cal.3d 376, 400. The EIR serves to provide 1.16

public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to "identify ways that environmental damage can be avoided or significantly reduced." CEQA Guidelines § 15002(a)(2). If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has "eliminated or substantially lessened all significant effects on the environment where feasible" and that any significant unavoidable effects on the environment are "acceptable due to overriding concerns" specified in CEQA section 21081. CEQA Guidelines § 15092(b)(2)(A–B). 1.16 cont.

While the courts review an EIR using an "abuse of discretion" standard, "the reviewing court is not to 'uncritically rely on every study or analysis presented by a project proponent in support of its position.' A 'clearly inadequate or unsupported study is entitled to no judicial deference.'" *Berkeley Jets*, 91 Cal.App.4th 1344, 1355 (emphasis added) (quoting *Laurel Heights,* 47 Cal.3d at 391, 409 fn. 12). Drawing this line and determining whether the EIR complies with CEQA's information disclosure requirements presents a question of law subject to independent review by the courts. (*Sierra Club v. Cnty. of Fresno* (2018) 6 Cal. 5th 502, 515; *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48, 102, 131.)As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355: 1.17

> A prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process. 1.18

The preparation and circulation of an EIR are more than a set of technical hurdles for agencies and developers to overcome. The EIR's function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals, it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal. App. 4th 70, 80 (quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–450). 1.19

B. <u>CEQA Requires Revision and Recirculation of an Environmental Impact Report When Substantial Changes or New Information Comes to Light</u>

Section 21092.1 of the California Public Resources Code requires that "[w]hen significant new information is added to an environmental impact report after notice has been given pursuant to Section 21092 … but prior to certification, the public agency shall give notice again pursuant to Section 21092 and consult again pursuant to Sections 21104 and 21153 before certifying the environmental impact report" in order to give the public a chance to review and comment upon the information. CEQA Guidelines § 15088.5. 1.20

Significant new information includes "changes in the project or environmental setting as well as additional data or other information" that "deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative)." CEQA Guidelines § 15088.5(a). Examples of significant new information requiring recirculation include "new significant environmental impacts from the project or from a new mitigation measure," "substantial increase in the severity of an environmental impact," "feasible project alternative or mitigation measure considerably different from others previously analyzed" as well as when "the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." *Id.* 1.21

An agency has an obligation to recirculate an environmental impact report for public notice and comment due to "significant new information" regardless of whether the agency opts to include it in a project's environmental impact report. *Cadiz Land Co. v. Rail Cycle* (2000) 83 Cal.App.4th 74, 95 [finding that in light of a new expert report disclosing potentially significant impacts to groundwater supply "the EIR should have been revised and recirculated for purposes of informing the public and governmental agencies of the volume of groundwater at risk and to allow the public and governmental agencies to respond to such information."]. If significant new information was brought to the attention of an agency prior to certification, an agency is required to revise and recirculate that information as part of the environmental impact report. 1.22

Based on the information set forth below, the City is required to consider the significant new information and revise the FEIR accordingly. Thereafter, the City must recirculate the revised FEIR. 1.23

C. <u>A Programmatic EIR Cannot Be Used as a Way to Avoid Fully Analyzing the Project's Impacts for Each and All of the Ten Planning Areas</u>

The EIR provides that a Program EIR because (1) the Project would be implemented over a large geographic area, and (2) final grading and construction plans and details have not been developed for each planning area. DEIR, 2-3. 1.24

A program EIR (like any EIR) must provide decision-makers with "sufficient analysis to intelligently consider the environmental consequences of the project," and designating the EIR as a program EIR in itself does not decrease the level of analysis otherwise required. (*Cleveland Nat'l Forest Found. v San Diego Ass'n of Gov'ts* (2017) 17 CA5th 413, 426.) A lead agency preparing a program EIR must disclose what it reasonably can, and any determinations that it is not feasible to provide specific information must be supported by substantial evidence. (*Id.* at 440 [rejecting air quality baseline discussion and impact analysis because substantial evidence did not support agency decision to omit more detailed analysis].) 1.25

A programmatic EIR is not a way to get around the requirement that the City adequately analyze the Project's impacts and mitigate them to the extent feasible. To the extent that the FEIR failed to provide substantial evidence to support all of the Project's impacts analyses, the City must prepare subsequent EIRs. 1.26

In this instance, the FEIR does not even know what all of the Project's development will entail – the Project proposes a total of ten (10) Planning Areas (PA) within the Vista Del Agua Specific Plan, which identifies a variety of residential and non-residential designations. (FEIR, p. 2-2.) The FEIR also discloses the possibility that PA 10, which is slated to be developed as Neighborhood Commercial land use covering 8.27 acres, could be developed into 41 single-family residential uses instead, although without increasing the Project's maximum of 1,640 residential units. (*Id.*) If PA 10 does not develop for commercial land uses as anticipated, then the Project's impacts would differ substantially, including but not limited to, traffic impacts. 1.27

When approving each of the ten PAs of the Specific Plan, the City must carefully consider whether subsequent EIRs or other CEQA analyses would be required. 1.28

D. <u>The FEIR Fails to Adequately Disclose, Analyze and Mitigate the Project's Significant Impacts on Air Quality, Health Risks and Greenhouse Gas Emissions</u>

As explained in full in the comment letter prepared by air quality and greenhouse gas experts, SWAPE (attached as Exhibit C), the FEIR failed to adequately evaluate the Project's air quality, health risk, and greenhouse gas impacts. According to SWAPE, 1.29

an updated EIR should be prepared to adequately assess the impacts described in its comment letter. 1.29 cont.

E. The FEIR Does Not Adequately Analyze and Mitigate the Project's Significant Impacts on Agricultural Resources

Most of the Project site, and the areas surrounding it, are or were used as farmland. Currently, the eastern 30% of the Project site is planted with vineyards. (FEIR, p. 4.3-2, 3.) Most significantly, the FEIR admits that "there is Farmland of Local Importance, Prime Farmland and Other Land on the Project site." (FEIR, p. 4.3-5 [Prime Farmland is classified as the best type of farmland].) The FEIR then concludes that the Project's impacts on agricultural resources will be significant and unavoidable. (*Id.* at pp. 4.3-8~12.) 1.30

The problem is that the FEIR concludes that "[n]o mitigation measures are proposed for agricultural resources since it has been determined the Project will result in a significant and unavoidable impact." despite finding significant impacts of the loss of agricultural resources. (FEIR, p. 4.3-12.) CEQA clearly requires that an EIR propose and describe mitigation measures to minimize the significant environmental effects identified in the EIR. (Pub. Res. Code § 21002.1(a); CEQA Guidelines § 15126.4.) The very reason for this requirement is due to CEQA's policy that agencies adopt feasible measures when approving a project to reduce or avoid their significant environmental effects. (Pub. Res. Code § 21002, 21081(a).) 1.31

Therefore, the FEIR violated CEQA by failing to mitigate the Project's significant impacts on agricultural resources because "the Project will result in a significant and unavoidable impact." (FEIR, p. 4.3-12.) 1.32

F. The FEIR Improperly Labels Mitigation Measures as "Project Design Features" or "Standard Conditions"

The EIR improperly labels mitigation measures for "Project Design Features" and "Standard Conditions" as follows: Aesthetics (SC-AES-1, SC-AES-2), Agricultural (SC-AG-1), Air Quality (SC-AQ-1), Biological Resources (SC-BIO-1 and SC-BIO-2), Hydrology (SC-HYD-1, SC-HYD-2, SC-HYD-3, SC-HYD-4), Traffic (SC-TR-1, -2, -3), Utilities (SC-UTIL-1, -2, -3, -4, -5, -6). And as the Staff Report for the February 26, 2020, City Council hearing show, the City equates "Standard Conditions" as "Project Design Features." (Staff Report, p. 231 [bike lanes and sidewalks are "project design features" which are incorporated into Standard Condition SC-UTIL-3], 271, 273, 352.) 1.33

However, it is established that "'[a]voidance, minimization and / or mitigation measure' . . . are not 'part of the project.' . . . compressing the analysis of impacts and mitigation measures into a single issue . . disregards the requirements of CEQA." (*Lotus v. Department of Transportation* (2014) 223 Cal. App. 4th 645, 656.) 1.33 cont.

When "an agency decides to incorporate mitigation measures into its significance determination, and relies on those mitigation measures to determine that no significant effects will occur, that agency must treat those measures as though there were adopted following a finding of significance." (*Lotus, supra*, 223 Cal. App. 4th at 652 [citing CEQA Guidelines § 15091(a)(1) and Cal. Public Resources Code § 21081(a)(1).].) By disguising mitigation measures. By labeling mitigation measures as project design features, the City violates CEQA by failing to disclose "the analytic route that the agency took from the evidence to its findings." (Cal. Public Resources Code § 21081.5; CEQA Guidelines § 15093; *Village Laguna of Laguna Beach, Inc. v. Board of Supervisors* (1982) 134 Cal. App. 3d 1022, 1035 [quoting *Topanga Assn for a Scenic Community v. County of Los Angeles* (1974) 11 Cal. 3d 506, 515.) 1.34

The FEIR's labeling its numerous mitigation measures as merely "Standard Conditions" or "Project Design Features" violates CEQA (FEIR, Chapter 4, Sections 4.2 to 4.15.) The FEIR concedes that the "potential impacts…can be reduced to a less than significant level **with implementation of standard conditions or, the mitigation measures identified in this EIR**." (FEIR, p. 1-3 [emphasis added].) 1.35

None of the standard conditions and project design features are included in the Mitigation Monitoring and Reporting Program Table, which is set to be approved by the City Council. (Staff Report, pp. 417-457.) Moreover, the EIR'S Summary of Impacts and Mitigation Measures don't list any of the standard conditions and project design features. This is especially important because CEQA requires lead agencies to adopt mitigation measures that are fully enforceable and to adopt a monitoring and/or reporting program to ensure that the measures are implemented to reduce the Project's significant environmental effects to the extent feasible. (Cal. Public Resources Code § 21081.6; CEQA Guidelines § 15091(d).) 1.36

G. The FEIR Fails to Adequately Analyze and Disclose the Project's Cumulative Impacts

The CEQA Guidelines define cumulative impacts as "two or more individual effects which, when considered together, are considerable or which compound or increase 1.37

other environmental impacts." (CEQA Guidelines §15355.) The individual effects may be changes resulting from a single project or more than one project. (CEQA Guidelines §15355(a).) Cumulative impacts may result from individually minor but collectively significant projects taking place over a period of time. (CEQA Guidelines §15355(b).) Even if the Project's impacts may not be significant, its incremental effects, when added to other past, present, and probable future projects, can be cumulatively significant. (CEQA Guidelines §§15065(a)(3), 15130(b)(1)(A), 15355(b).) Thus, in analyzing a Project's cumulative impacts, it's important to analyze not just impacts of the Project itself, but also consider impacts from all other related projects as well. However, the EIR fails to do so. 1.37 cont.

1. The FEIR Fails to Adequately Analyze and Disclose the Project's Cumulative Air Quality Impacts

The DEIR fails to adequately analyze and disclose the Project's potentially significant cumulative air quality impacts. While acknowledging that "[e]ven with the incorporation of Mitigation Measures MM-AQ-10 through MM-AQ-13 the Project will have a significant and unavoidable [operational air quality] impact," the DEIR curiously concludes that "operation of the proposed Project **would not** create a significant cumulative impact to global climate change." (DEIR, pp. 4.4-59, 60 [emphasis added].) The FEIR does not alter these conclusions. These conclusions in the EIR are irreconcilable, and as a result, the EIR"s conclusion that the Project will have less than significant cumulative air quality impacts is flawed and unsupported. 1.38

2. The FEIR Fails to Adequately Analyze and Disclose the Project's Cumulative Hazards Impacts

The DEIR fails to adequately analyze and disclose the Project's potentially significant cumulative hazards impacts. (DEIR, p. 4.8-18.) The DEIR concludes, without analyzing actual cumulative hazards impacts of the Project along with related projects in the area, that "[s]ince the Project is below the established thresholds, cumulative impacts will remain less than significant." (*Id.*) Moreover, the FEIR did not change or add to any of the deficient cumulative impacts analysis. 1.39

Simply put, the conclusion that the Project has less than significant Project-level impacts is not synonymous with whether even the incremental Project impacts could be cumulatively considerable. 1.40

3. The FEIR Fails to Adequately Analyze and Disclose the Project's Cumulative Impacts Regarding Utilities

Similar to the way the FEIR fails to adequately analyze and disclose the Project's cumulative air quality and hazard impacts as described above, the FEIR fails to adequately analyze and disclose the Project's cumulative impacts pertaining to Utilities and Service Systems Impacts. 1.41

The FEIR concluded that "cumulative impacts to landfill capacity will be less than significant due to the Project's construction debris and operational waste representing a less than substantial cumulative increment with adherence to" standard conditions. (FEIR, p. 4.15-40.) However, even a small, less than significant Project impact could still be considered cumulatively considerable when analyzed along with related Projects. As such, the FEIR's cumulative impacts analysis regarding Utilities and Services is inadequate and violates CEQA. 1.42

H. The FEIR Improperly Defers Mitigation Based on a Future Study

MM-HAZ-4 defers the soil sampling necessary to determine the residual concentrations of pesticides. The EIR acknowledges that "[t]he presence of pesticides in the soil may represent a health risk to tenants or occupants on the Property and the soil may require specialized handling and disposal." (DEIR, p. 4.8-17.) Despite the potential health risks, and without knowing the extent of residual pesticides that are present on the Project site, MM-HAZ-4 allows the City to approve the Project by improperly deferring the necessary soil investigation. 1.43

CEQA prohibits impermissible deferral of mitigation, which occurs when an EIR calls for mitigation measures to be created based on future studies or describe mitigation measures in general terms, but the agency fails to commit itself to specific performance standards. (*California Clean Energy Comm. v. City of Woodland* (2014) 225 Cal.App.4th 173, 195 [agency could not rely on the future report on urban decay with no standards for determining whether mitigation required]; *Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts* (2017) 17 Cal.App.5th 413, 442 [generalized air quality measures failed to set performance standards].) 1.44

III. THE PROJECT IS INCONSISTENT WITH THE GENERAL PLAN

Each California city and county must adopt a comprehensive, long-term general plan governing development. (*Napa Citizens for Honest Gov. v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 352, citing Gov. Code §§ 65030, 65300.) The general plan 1.45

sits at the top of the land use planning hierarchy (*see DeVita v. County of Napa* (1995) 9 Cal.4th 763, 773) and serves as a "constitution" or "charter" for all future development. (*Lesher Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 540.) 1.45 cont.

General plan consistency is "the linchpin of California's land use and development laws; it is the principle which infused the concept of planned growth with the force of law." (*See Debottari v. Norco City Council* (1985) 171 Cal.App.3d 1204, 1213.) 1.46

State law mandates two levels of consistency. First, a general plan must be internally or "horizontally" consistent: its elements must "comprise an integrated, internally consistent and compatible statement of policies for the adopting agency." (See Gov. Code § 65300.5; *Sierra Club v. Bd. of Supervisors* (1981) 126 Cal.App.3d 698, 704.) A general plan amendment thus may not be internally inconsistent, nor may it cause the general plan as a whole to become internally inconsistent. (*See DeVita*, 9 Cal.4th at 796 fn. 12.)

Second, state law requires "vertical" consistency, meaning that zoning ordinances and other land-use decisions also must be consistent with the general plan. (See Gov. Code § 65860(a)(2) [land uses authorized by zoning ordinance must be "compatible with the objectives, policies, general land uses, and programs specified in the [general] plan."]; *see also Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184.) A zoning ordinance that conflicts with the general plan or impedes the achievement of its policies is invalid and cannot be given effect. (*See Lesher*, 52 Cal.3d at 544.) 1.47

The Subdivision Map Act, Government Code §§ 66410, *et seq,* ("Subdivision Map Act" or "Act") also requires local agencies to review and approve all land subdivisions. The Act regulates both the process for approving subdivisions and sets substantive requirements for approval of land subdivisions. 1.48

The Act requires that a local agency deny approval of a land subdivision, referred to as a tentative map or a parcel map, if "(a) **That the proposed map is not consistent with applicable general and specific plans** . . . (b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans. (c) That the site is not physically suitable for the type of development. (d) That the site is not physically suitable for the proposed density of development. (e) That the design of the subdivision or the proposed improvements are likely to cause substantial 1.49

environmental damage or substantial and avoidably injure fish or wildlife or their habitat. (f) That the design of the subdivision or type of improvements is likely to cause serious public health problems. (g) That the design of the subdivision or type of improvements will conflict with easements, acquired by the public at large, for find as part of approving a subdivision map that accesses through or use of, property within the proposed subdivision." (Gov. Code § 66474 [emphasis added].) 1.49 cont.

The Project is inconsistent with General Plan Goals and Policies pertaining to agricultural resources: Goal 5 (Agricultural Preservation. Viable, productive local agricultural lands and industry), Policy 5.8 (Buffers between agricultural and urban uses. Require new developments, whether they are new urban or new agricultural uses, in which urban and agriculture would be adjacent to maintain a protective buffer that ensures land-use conflicts do not occur, Policy 5.9 (Right to Farm. Support the right of existing farms to continue operations). (FEIR, P. 4.3-8.) The FEIR does not adequately analyze and disclose the Project's inconsistencies with these Goals and Policies, even outright ignoring the buffer and right to farm policies to protect agricultural operations. (*Id.*, p. 4.3-9.) 1.50

Next, the Project is also inconsistent with General Plan Policy 6.14 pertaining to proximity to pollution sources, including "agricultural land where pesticides and chemical fertilizers are used regularly." (FEIR, p. 4.10-22.) However, the Project site is comprised of agricultural land with residual pesticides remaining, which the City does not require the Applicant to test until after Project approval (see the argument regarding improper deferral of mitigation above.) 1.51

In sum, the Project is inconsistent with several goals and policies of the City's General Plan. 1.52

IV. CONCLUSION

Commenters request that the City revise and recirculate the Project's environmental impact report to address the aforementioned concerns. If the City has any questions or concerns, feel free to contact my Office. 1.53

Sincerely,

Mitchell M. Tsai
Attorneys for Southwest Regional Council of Carpenters

Attached:

Air Quality and GHG Expert, Matt Hagemann, P.G., C.Hg. – C.V. (**Exhibit A**);

Air Quality and GHG Expert, Paul Rosenfeld, Ph.D. – C.V. (**Exhibit B**);

Letter from Hagemann and Rosenfeld to Mitchell M. Tsai re Comments on the Final Environmental Impact Report for the Vista del Agua Specific Plan Project with
Exhibits (February 25, 2020) (**Exhibit C**)

1.54

EXHIBIT A

1.55

EXHIBIT B

1.56

SWAPE Technical Consultation, Data Analysis and Litigation Support for the Environment

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February 25, 2020

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Subject: Comments on the Vista Del Agua Project (SCH No. 20155031003)

Dear Mr. Tsai,

We have reviewed the June 2018 Environmental Impact Report ("EIR") for the Vista Del Agua Project ("Project") located in the City of Coachella ("City"). The Project proposes to construct 1,640 residential units and 281,397-SF of commercial land use on the 304-acre Project site. 1.57

Our review concludes that the EIR fails to adequately evaluate the Project's Air Quality, Health Risk, and Greenhouse Gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. An updated EIR should be prepared to adequately assess and mitigate the potential air quality, health risk, and greenhouse gas impacts that the project may have on the surrounding environment. 1.58

Air Quality

Failure to Implement All Feasible Mitigation to Reduce Emissions

The EIR determines that the proposed Project's operational VOC, NO_x, and CO emissions will result in a significant and unavoidable air quality impact (p. 1-8). Specifically, the EIR claims, 1.59

> "When the Project is fully operational, the Project would exceed SCAQMD regional thresholds for volatile organic compounds (VOC), oxides of nitrogen (NOx), and CO. Even with the incorporation of Mitigation Measures AQ-10 through AQ-13 the Project would have a significant and unavoidable impact" (p. 1-8)

However, while we agree that the Project would result in a significant VOC, NO_x, and CO impact, the EIR's conclusion that these impacts are "significant and unavoidable" is incorrect. According to CEQA Guidelines § 15096(g)(2), 1.59 cont.

> "When an EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment."

As you can see, an impact can only be labeled as significant and unavoidable after all available, feasible mitigation has been considered.[1] Review of the Project's proposed "Mitigation Measures AQ-10 through AQ-13" demonstrates that the EIR fails to implement all feasible mitigation. More specifically, the EIR requires that lighting for the proposed Project "uses an average of 5 percent less energy than conventional lighting," that paints have a "VOC content lower than SCAQMD Rule 1113 requires," and that "at least 2,406 new trees are planted on-site" (p. 6-5). However, review of these measures demonstrates that the EIR implements SCAQMD Rule 1113, which is already required for all Projects in the area. In addition, the EIR fails to substantiate why more energy-efficient lighting is not available or why more trees cannot be planted. Finally, additional mitigation measures exist that should be identified and incorporated, such as those suggested in the section of this letter titled "Feasible Mitigation Measures Available to Reduce Operational Emissions,"[2] in order to reduce the Project's air quality impacts to the maximum extent possible. Therefore, the EIR's conclusion that impacts are significant and unavoidable is unsubstantiated. Until all feasible mitigation is considered and incorporated into the Project's design, the Project's operational VOC, NO_x, and CO emissions should not be considered significant and unavoidable. 1.60

Unsubstantiated Input Parameters Used to Estimate Project Emissions

The EIR's air quality analysis relies on emissions calculated with CalEEMod.2016.3.2.[3] CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act (CEQA) requires that such changes be justified by substantial evidence.[4] Once all of the values are inputted into the model, the Project's construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the 1.61

[1] "Final Draft Guidance for Assessing and Mitigating Air Quality Impacts." SVJUAPCD, February 2015, ***available at:*** http://www.valleyair.org/transportation/GAMAQI-2015/FINAL-DRAFT-GAMAQI.PDF, p. 115.
[2] See section titled "Feasible Mitigation Measures Available to Reduce Operational Emissions" on p. 24 of this comment letter. These measures would effectively reduce operational VOC, NO_x, and CO emissions.
[3] CAPCOA (November 2017) CalEEMod User's Guide, http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4.
[4] Ibid, p. 1, 9.

reader what parameters were utilized in calculating the Project's air pollutant emissions and make known which default values were changed as well as provide justification for the values selected.[5]

1.61 cont.

Review of the Project's air modeling demonstrates that the EIR underestimates emissions associated with Project activities. As previously stated, the EIR's air quality analysis relies on air pollutant emissions calculated using CalEEMod. When we reviewed the Project's CalEEMod output files, provided in Appendix D1 to the EIR, we found that several of the values inputted into the model were not consistent with information disclosed in the EIR. As a result, the Project's construction and operational emissions are underestimated. An updated EIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction and operation of the Project will have on local and regional air quality.

1.62

Unsubstantiated Reductions to Architectural and Area Coating Emission Factors

Review of the Project's CalEEMod output files demonstrates that the Project's architectural and area coatings were manually reduced without sufficient justification (see excerpt below) (Appendix D1, pp. 121, 122, 213, 214, 313, 314).

Table Name	Column Name	Default Value	New Value
tblArchitecturalCoating	EF_Nonresidential_Exterior	250.00	10.00
tblArchitecturalCoating	EF_Nonresidential_Interior	250.00	10.00
tblArchitecturalCoating	EF_Residential_Exterior	250.00	10.00
tblArchitecturalCoating	EF_Residential_Interior	250.00	10.00
tblAreaCoating	Area_EF_Nonresidential_Exterior	250	50
tblAreaMitigation	UseLowVOCPaintNonresidentialExteriorValue	50	10
tblAreaMitigation	UseLowVOCPaintNonresidentialInteriorValue	250	10
tblAreaMitigation	UseLowVOCPaintResidentialExteriorValue	250	10
tblAreaMitigation	UseLowVOCPaintResidentialInteriorValue	250	10

1.63

As you can see in the excerpt above, four of the architectural and four of the area coating emission factors were each reduced from their default values to 10 g/L. The CalEEMod User's Guide requires any changes to model defaults be justified.[6] According to the "User Entered Comments & Non-Default Data" table, the justification provided for these changes is: "Paints limited to 50g/L per SCAQMD Rule 1113" (Appendix D1, pp. 313). However, the architectural coating emission factors were changed to 10 g/L, not 50 g/L as indicated. As a result, we cannot verify these changes and the model should not be relied upon to determine Project significance.

[5] CAPCOA (November 2017) CalEEMod User's Guide, http://www.aqmd.gov/docs/default-source/caleemod/01_user-39-s-guide2016-3-2_15november2017.pdf?sfvrsn=4, p. 11, 12 – 13. A key feature of the CalEEMod program is the "remarks" feature, where the user explains why a default setting was replaced by a "user defined" value. These remarks are included in the report.

[6] CalEEMod User Guide, ***available at:*** http://www.caleemod.com/, p. 2, 9

Failure to Evaluate the Feasibility of Obtaining Tier 4 Final Equipment

Review of the CalEEMod output files demonstrates that the model assumed that construction equipment would be equipped with Tier 4 Final engines (see excerpt below) (Appendix D1, pp. 77-78, 123-124, 169-170, 215-216, 261-262, 315-316, 369-370).

Table Name	Column Name	Default Value	New Value
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
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tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final
tblConstEquipMitigation	Tier	No Change	Tier 4 Final

1.64

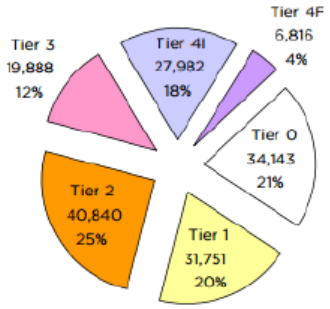
As you can see in the excerpt above, the model assumes that several pieces of construction equipment will be equipped with Tier 4 Final engines. Regarding Tier 4 Final mitigation, the EIR states:

> "Off-road diesel-powered equipment that will be used an aggregate of40 or more hours during any portion of the construction activities for the project shall meet the United States Environmental Protection Agency (EPA) Tier 4–Final emissions standards, and off-road equipment greater than 300 horsepower shall be equipped with diesel particulate filters" (EIR, pp. 199).

However, the EIR failed to evaluate the feasibility in obtaining Tier 4 Final equipment. Due to the limited amount of Tier 4 Final equipment available, the EIR should have assessed the feasibility in obtaining equipment with Tier 4 engines (see excerpt below).[7]

[7] ***Ibid*.**

Figure 4: 2014 Statewide All Fleet Sizes (Pieces of Equipment)



Total Pieces of Equipment: 161,420

Key:
XX,XXX = Total pieces of equipment in that tier
XX% = Percent of total pieces of equipment in that tier

1.65

As demonstrated in the figure above, the Tier 4 Final equipment only account for 4% of all off-road equipment currently available in California. Thus, emissions are modeled assuming that the Project will be able to obtain Tier 4 Final equipment even though this equipment only accounts for 4% of available off-road equipment currently available in California. As a result, the model represents the best-case scenario even though obtaining this type of equipment may not be feasible. This is incorrect, as CEQA requires the most conservative analysis.

Due to the limited availability of Tier 4 Final equipment, the EIR should have evaluated the feasibility of obtaining Tier 4 Final equipment. As a result, construction emissions may be underestimated. 1.66

Use of Incorrect Trip Purpose Percentages

Review of the Project's CalEEMod output files demonstrates that the pass-by trip percentages utilized in the model are inconsistent with the pass-by trip percentages indicated by the Traffic Impact Study, provided as Appendix O to the EIR. As a result, the model underestimates the Project's mobile-source operational emissions. 1.67

CalEEMod separates the operational trip purposes into three categories: primary, diverted, and pass-by trips. According to Appendix A of the CalEEMod User's Guide, the primary trips utilize the complete trip lengths associated with each trip type category. Diverted trips are assumed to take a slightly different path than a primary trip and are assumed to be 25% of the primary trip lengths. Pass-by trips are assumed to be 0.1 miles in length and are a result of no diversion from the primary route.[8] Review of the Project's CalEEMod output files demonstrates that the trip purpose percentage was divided amongst primary, diverted, and pass-by trip types for the Project's proposed Regional Shopping Center land uses (see excerpt below) (Appendix D1, pp. 112, 158, 204, 250, 297, 351, 405). 1.68

[8] "CalEEMod User's Guide, Appendix A: Calculation Details for CalEEMod." ***SCAQMD, available at:*** http://www.aqmd.gov/docs/default-source/caleemod/caleemod-appendixa.pdf?sfvrsn=2, p. 20

	Miles			Trip %			Trip Purpose %		
Land Use	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
Apartments Low Rise	11.00	3.50	4.50	40.20	19.20	40.60	86	11	3
Apartments Low Rise	11.00	3.50	4.50	40.20	19.20	40.60	86	11	3
City Park	12.50	4.20	5.40	33.00	48.00	19.00	66	28	6
Condo/Townhouse	11.00	3.50	4.50	40.20	19.20	40.60	86	11	3
Other Asphalt Surfaces	12.50	4.20	5.40	0.00	0.00	0.00	0	0	0
Parking Lot	12.50	4.20	5.40	0.00	0.00	0.00	0	0	0
Regional Shopping Center	12.50	4.20	5.40	16.30	64.70	19.00	54	35	11
Regional Shopping Center	12.50	4.20	5.40	16.30	64.70	19.00	54	35	11
Single Family Housing	11.00	3.50	4.50	40.20	19.20	40.60	86	11	3
Single Family Housing	11.00	3.50	4.50	40.20	19.20	40.60	86	11	3
Single Family Housing	11.00	3.50	4.50	40.20	19.20	40.60	86	11	3
Single Family Housing	11.00	3.50	4.50	40.20	19.20	40.60	86	11	3

1.69

As you can see in the excerpt above, 11% of the Regional Shopping Center land uses were estimated as pass-by trips in the CalEEMod model. However, as demonstrated in the Project's Traffic Impact Study, pass-by trips for this land use were already accounted for in the Project's Trip Generation calculations (see excerpt below) (Appendix O, pp. 59, Table 3-2).

Planning Area	Land Use	Quantity	Units[1]	Peak Hour						Daily
				AM			PM			
				In	Out	Total	In	Out	Total	
	Shopping Center	191.337	TSF	114	70	184	341	369	710	8,170
1	Less 30% Pass-By Reduction[2]			-34	-21	-55	-102	-111	-213	-2,451
	Sub-Total PA 1			80	49	129	239	258	497	5,719
2	Apartments	146	DU	15	60	75	59	32	91	971
3	Apartments	201	DU	21	82	103	81	44	125	1,337
4	Condo/Townhomes	263	DU	20	96	116	92	45	137	1,528
5	Single Family	250	DU	47	141	188	158	93	251	2,380
6	Single Family	460	DU	86	259	345	290	170	460	4,379
7	Single Family	260	DU	49	146	195	164	96	260	2,475
8	Single Family	60	DU	11	34	45	38	22	60	571
9	City Park	13.82	Acres	35	27	62	28	21	49	26
	Shopping Center	90.060	TSF	54	33	87	160	174	334	3,846
10	Less 30% Pass-By Reduction[2]			-16	-10	-26	-48	-52	-100	-1,154
	Sub-Total PA 10			38	23	61	112	122	234	2,692
	Total Project Trip Generation			**402**	**917**	**1,319**	**1,261**	**903**	**2,164**	**22,078**

1.70

Therefore, the CalEEMod model should have divided the trip purpose between primary and diverted trips for the retail land uses, as pass-by trips are already accounted for in the daily trip totals. By

spreading the trip purpose percentages amongst the three categories, the model is accounting for pass-by trips that have already been accounted for in the EIR's Traffic Impact Study. Because the proposed Project's CalEEMod model incorrectly allocates the Project's operational trips to the various categories of trip purposes, the emissions associated with these trips are underestimated and as a result, the Project's mobile-source operational emissions are underestimated. An updated CalEEMod model should be prepared in order to accurately estimate the Project's operational emissions. 1.70 cont.

Unsubstantiated Application of Operational Mitigation Measures

Review of the Project's CalEEMod output files demonstrates that the model incorrectly includes several mobile-, energy-, water-, and waste-related operational mitigation measures. As a result, the Project's operational emissions may be underestimated, and the model should not be relied upon to determine Project significance. 1.71

First, the Project's CalEEMod output files reveal that the Project's emissions were modeled including the following mobile mitigation measures: "Increase Density," "Increase Diversity," "Improve Destination Accessibility," "Increase Transit Accessibility," and "Improve Pedestrian Network" (see excerpt below) (Appendix D1, pp. 110, 156, 202, 248, 295, 349, 403). 1.72

4.1 Mitigation Measures Mobile

Increase Density
Increase Diversity
Improve Destination Accessibility
Increase Transit Accessibility
Improve Pedestrian Network

Second, the Project's CalEEMod output files reveal that the Project's emissions were modeled including the following energy mitigation measures: "Exceed Title 24," "Install High Efficiency Lighting," and "Install Energy Efficient Appliances" (see excerpt below) (Appendix D1, pp. 112, 158, 204, 250, 297, 351, 405). 1.73

5.1 Mitigation Measures Energy

Exceed Title 24
Install High Efficiency Lighting
Install Energy Efficient Appliances

Third, the Project's CalEEMod output files reveal that the Project's emissions were modeled including the following water mitigation measure: "Apply Water Conservation Strategy" (see excerpt below) (Appendix D1, pp. 118, 164, 210, 256, 305, 359, 413). 1.74

7.1 Mitigation Measures Water

Apply Water Conservation Strategy

1.74 cont

Finally, the Project's CalEEMod output files reveal that the Project's emissions were modeled including the following waste mitigation measure: "Institute Recycling and Composting Services" (see excerpt below) (Appendix D1, pp. 118, 164, 210, 256, 307, 361, 415).

8.1 Mitigation Measures Waste

Institute Recycling and Composting Services

However, the inclusion of the above-mentioned mobile-, energy-, water-, and waste-related operational mitigation measures is unsubstantiated. According to the CalEEMod User's Guide, 1.75

> "The mitigation measures included in CalEEMod are largely based on the CAPCOA Quantifying Greenhouse Gas Mitigation Measures (http://www.capcoa.org/wp-content/uploads/downloads/2010/09/CAPCOA-Quantification-Report-9-14-Final.pdf) document. The CAPCOA measure numbers are provided next to the mitigation measures in CalEEMod to assist the user in understanding each measure by referencing back to the CAPCOA document."[9]

However, the EIR fails to demonstrate consistency with several of the mitigation measures included in the model based on CAPCOA's Quantifying Greenhouse Gas Mitigation Measures document (see table below). 1.76

Measure	Consistency
CAPCOA's Quantifying Greenhouse Gas Mitigation Measures[10]	
Mobile Measures	
Measure LUT-1 Increase Density ***"The reductions in GHG emissions are quantified based on reductions to VMT. The relationship between density and VMT is described by its elasticity."*** % VMT Reduction = A * B, where: A = % increase in housing units or jobs/acre	Here, while the "User Entered Comments & Non-Default Data" table attempts to substantiate this measure by stating: "7.89 du/acre, 6.46 acres = 87 jobs/acre," this fails to mention VMT, emission factors, elasticity, and the anticipated % increase in housing units or jobs/acre (Appendix D1, pp. 75, 121, 167, 213, 259, 313, 367). Furthermore, the EIR fails to include a discussion of the proposed Project's

[9] "CalEEMod User's Guide." CAPCOA, November 2017, ***available at:*** http://www.caleemod.com/, p. 53.
[10] "Quantifying Greenhouse Gas Mitigation Measures." CAPCOA, August 2010, ***available at:*** http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf.

B = Elasticity of VMT with respect to density	VMT reductions based on elasticity. Thus, the EIR fails to demonstrate consistency with the measure and as a result, it is unsubstantiated.
Measure LUT-3 Increase Diversity ***"The mixed-use development should encourage walking and other non-auto modes of transport from residential to office/commercial/ institutional locations (and vice versa). The residential units should be within ¼-mile of parks, schools, or other civic uses. The project should minimize the need for external trips by including services/facilities for day care, banking/ATM, restaurants, vehicle refueling, and shopping."*** % VMT Reduction = Land Use * B, where: Land Use = % increase in land use index versus single use development B = Elasticity of VMT with respect to land use index	Here, while the "User Entered Comments & Non-Default Data" table attempts to substantiate this measure by stating: "Increase diversity w/commercial, residential and park uses," the EIR fails to address the Project's proximity to parks, schools, or other civic uses, as well as the incorporation of services/facilities for day care, banking/ATM, restaurants, vehicle refueling, and shopping on the Project site (Appendix D1, pp. 75, 121, 167, 213, 259, 313, 367). Furthermore, the EIR fails to include a discussion or quantification of the Project's VMT reduction with regard to land use index. Thus, the EIR fails to demonstrate consistency with the measure and as a result, its inclusion in the model is unsubstantiated.
Measure LUT-4 Improve Destination Accessibility ***"The VMT reductions for this strategy are based on changes in distance to key destinations versus the standard suburban distance…This distance is used as a baseline to mirror the distance to destinations reflected in the land uses for the ITE Trip Generation Manual, which is the baseline method for determining VMT."*** % VMT Reduction = Center Distance * B, where: Center Distance = % decrease in distance to downtown or major job center vs typical development B = Elasticity of VMT with respect to distance to downtown or major job center	Here, while the "User Entered Comments & Non-Default Data" table attempts to substantiate this measure by stating: "~1.7 miles to dwtwn Coachella," the EIR fails to address the typical distance to downtown in a typical development or the elasticity of VMT with respect to distance (Appendix D1, pp. 75, 121, 167, 213, 259, 313, 367). Furthermore, the EIR fails to include a discussion or quantification of the proposed Project's VMT elasticity with respect to distance or typical distance of a typical development to downtown. Thus, the EIR fails to demonstrate consistency with the measure and as a result, its inclusion in the model is unsubstantiated.

1.76 cont.

Measure LUT-5 Increase Transit Accessibility *"The use of transit results in a model shift and therefore reduced VMT…The project description should include, at a minimum, the following design features:* • *A transit station/stop with high-quality, high-frequency bus service located within a 5-10 minute walk (or roughly ¼ mile from stop to edge of development), and/or* ○ *A rail station located within a 20 minute walk (or roughly ½ mile from station to edge of development)* • *Fast, frequent, and reliable transit service connecting a high percentage of regional destinations* • *Neighborhood designed for walking and cycling"* % VMT = Transit * B, where: Transit = Increase in transit mode share B = Adjustments from transit ridership increase to VMT	Here, while the "User Entered Comments & Non-Default Data" table attempts to substantiate this measure by stating: "1.5 miles to Sunline bus routes 91 and 95 at Harrison/Grapefruit," this is not located within a 5-10 minute walk to the Project site, and thus, fails to be consistent (Appendix D1, pp. 75, 121, 167, 213, 259, 313, 367). Furthermore, while the EIR fails to include the indicated design features, it also fails to address the increase in transit mode share or adjustments from transit ridership increase to VMT. Furthermore, while the EIR includes "**Goal 5. Transit Supportive Development Patterns…5.4 Transit accessible development:** Encourage new large residential or commercial developments to locate on existing and planned transit routes," this is merely a goal (pp. 359). As a result, the EIR fails to indicate that any mitigation will actually occur. Thus, the EIR fails to demonstrate consistency with the measure and as a result, its inclusion in the model is unsubstantiated.	1.76 cont.
Measure SDT-1 Improve Pedestrian Network *"Providing a pedestrian access network to link areas of the Project site encourages people to walk instead of drive. This mode shift results in people driving less and thus a reduction in VMT. The project will provide a pedestrian access network that internally links all uses and connects to all existing or planned external streets and pedestrian facilities contiguous with the project site. The project will minimize barriers to pedestrian access and interconnectivity."* Inputs: *"The project applicant must provide information regarding pedestrian access and connectivity within the project and to/from off-site destinations."*	Here, while the "User Entered Comments & Non-Default Data" table attempts to substantiate this measure by stating: "Sidewalks connecting off-site," the EIR fails to demonstrate that the Project will provide a pedestrian access network that internally links all uses and connects to all existing or planned external streets and pedestrian facilities contiguous with the project site (Appendix D1, pp. 75, 121, 167, 213, 259, 313, 367). Furthermore, while the EIR states that the "Project shall improve the pedestrian network by incorporating sidewalks within the property," this again fails to demonstrate that the Project will provide a pedestrian access network that internally links all uses and connects to all existing or planned external streets and pedestrian facilities	

	contiguous with the project site (pp. 201). Thus, the EIR fails to demonstrate consistency with the measure and as a result, its inclusion in the model unsubstantiated.
Energy Measures	
Measure BE-1 Exceed Title 24 ***"The California Energy Commission (CEC) has published reports estimating the percentage deductions in energy use resulting from these new standards. Based on CEC's discussion on average savings for Title 24 improvements, these CEC savings percentages by end user can be used to account for reductions in electricity and natural gas use due to updates to Title 24."*** GHG Reduction % = Reduction * Reduction Commitment, where: Reduction = Applicable reduction based on climate zone, building type, and energy type (Tables BE-1.1 and BE-1.2) Reduction Commitment = Project's reduction commitment beyond Title 24 standards The following information needs to be provided by the Project Applicant: • Square footage of non-residential buildings • Number of dwelling units • Building/Housing Type • Climate Zone3 • Total electricity demand (KWh) per dwelling unit or per square feet • % reduction commitment (over 2008 Title 24 standards)	Here, while the "User Entered Comments & Non-Default Data" table attempts to substantiate this measure by stating: "Residential 2013 Title 24 standards are at least 25% more efficient than 2008 Title 24 standards," the EIR fails to demonstrate how the Project would achieve the 25% reduction through Project-specific measures that reduce the total electricity demand (Appendix D1, pp. 75, 121, 167, 213, 259, 313, 367). Furthermore, while the EIR states: "A 25% improvement was used under Energy Mitigation in CalEEMod, as the 2013 Title 24 Standards for residential construction are at least 25% more efficient than 2008 Standards," this also fails to demonstrate how the Project would actually achieve a GHG reduction greater than the 2008 Title 24 standards (p. 4.4-51). Thus, the EIR fails to demonstrate consistency with the measure, and its inclusion in the model is unsubstantiated.
Measure LE-1 Install High Efficiency Lighting	Here, the EIR states: "MM-AQ-12 Project Operations. Prior to issuance of any construction permits, the Project applicant shall submit for

1.76 cont.

"Lighting sources contribute to GHG emissions indirectly, via the production of the electricity that powers these lights. Public street and area lighting includes streetlights, pedestrian pathway lights, area lighting for parks and parking lots, and outdoor lighting around public buildings." $\text{GHG emission reduction} = \frac{\text{Power}_{baseline} - \text{Power}_{mitigated}}{\text{Power}_{baseline}}$, where: GHG emission reduction = % reduction in GHG emissions $\text{Power}_{baseline}$ = Power rating of lights (kW) $\text{Power}_{mitigated}$ = Power rating of lights (kW)	review and approval by the City of Coachella Public Works Director, building plans that incorporate measures such as, but not limited to, the following: … "Energy-efficient light-emitting diode (LED) lighting and solar photovoltaic lighting fixtures in all common areas of the site" (emphasis added) (p. 4.4-58). Thus, the EIR includes measures that the Project *may* include, such as LED lighting and solar photovoltaic lighting fixtures, but fails to actually commit to these measures. Furthermore, the EIR fails to indicate the quantified percent GHG emission reduction based on power savings achieved. Thus, the EIR fails to demonstrate consistency with the measure, and its inclusion in the model is unsubstantiated.	1.76 cont.
Measure BE-4 Install Energy Efficient Appliances *"Using energy-efficient appliances reduces a building's energy consumption as well as the associated GHG emissions from natural gas combustion and electricity production. To take credit for this mitigation measure, the Project Applicant (or contracted builder) would need to ensure that energy efficient appliances are installed."* $\text{GHG emissions}_{mitigated} = \text{Electricity Emissions}_{baseline} \times (1-(\text{Sum of Reductions})) + \text{Natural Gas Emissions}_{baseline}$, where: $\text{Electricity Emissions}_{baseline}$ = Emissions due to electricity generation (adjusted for Title 24 Standards) Sum of Reductions = Applicable reduction based on energy efficient appliances installed $\text{Natural Gas Emissions}_{baseline}$ = Emissions due to natural gas combustion, adjusted for Title 24 Standards	Here, while the "User Entered Comments & Non-Default Data" table attempts to substantiate this measure by stating: "Energy Star appliances will be installed," this justification fails to demonstrate a commitment to the installation of Energy Star appliances (Appendix D1, pp. 75, 121, 167, 213, 259, 313, 367). According to the EIR, "Prior to issuance of any construction permits, the Project applicant shall submit for review and approval by the City of Coachella Public Works Director, building plans that incorporate measures such as, but not limited to, the following: … "Energy-efficient appliances (ENERGY STAR or equivalent), and high efficiency heating, ventilation, and air conditioning (HVAC) systems in all on-site buildings" (emphasis added) (p. 4.4-58). As you can see in the excerpt above, the Project ***may*** include the installation of Energy Star appliances but does not commit to the measure. Thus, the EIR fails to demonstrate consistency with the measure, and its inclusion in the model is unsubstantiated.	

Water Measures		
Measure WUW-2 Apply Water Conservation Strategy *"This mitigation measure describes how to calculate GHG emissions reductions from a Water Conservation Strategy which achieves X% reduction in water use (where X% is the specific percentage reduction in water use committed to by the Project Applicant). The steps taken to achieve this X% reduction in water use can vary in nature and may incorporate technologies which have not yet been established at the time this document was written. In order to take credit for this mitigation measure, the Project Applicant would need to provide detailed and substantial evidence supporting the percent reduction in water use."* GHG emission reduction = PercentReduction, where: GHG emission reduction = % reduction in GHG emissions for water use PercentReduction = Expected percent reduction in water use after implementation of Water Conservation Strategy	Here, the "User Entered Comments & Non-Default Data" table attempts to substantiate this measure by stating: "20% reduction in water use inside and out per CalGreen" (Appendix D1, pp. 75, 121, 167, 213, 259, 313, 367). While the EIR reiterates this, it fails to provide an explanation of how the 20% was quantified and how this measure will be implemented, monitored, and enforced for the Project (p. 4.4-57). Thus, the EIR fails to demonstrate consistency with the measure, and its inclusion in the model is unsubstantiated.	1.76 cont.
Waste Measures		
Measure SW-1 Institute Recycling and Composting Services *"Current protocols for quantifying emissions reductions from diverted landfill waste developed by the USEPA and the California Center for Integrated Waste Management Board (CIWMB) are based on life-cycle approaches, which reflect emissions and reductions in both the upstream and downstream processes around waste management. The Project Applicant should seek local agency guidance on comparing and/or combining operational emissions inventories and life cycle emissions inventories… To take credit for*	Here, while the "User Entered Comments & Non-Default Data" table attempts to substantiate this measure by stating: "AB 341 requires at least 75% recycling by 2020," the Project's construction does not begin until after 2020 and as a result, this reduction does not apply to the proposed Project (Appendix D1, pp. 75, 121, 167, 213, 259, 313, 367). Furthermore, the EIR states that "[t]he project will be required to comply with City programs, such as City's recycling and waste reduction program, which initially comply, with the 50 percent reduction required in AB 939, then the 75% reduction by 2020 required in AB 341" (p. 4.4-53, Table 4.4.4-	

this measure, the Project Applicant would need to provide detailed and substantial evidence supporting the amount of waste reduced or diverted to recycling and composting due to the institution of extended recycling and composting services." ***"USEPA's Waste Reduction Model (WARM) is used to quantify baseline emissions and emissions reductions from diverting landfill waste to composting or recycling. This webbased tool is available online… The required inputs are the tons of waste associated with one of three waste management practices: landfill (baseline scenario), recycled (mitigated scenario), combusted (not applicable in California), and composted (mitigated scenario)."***	11). Thus, these 50 percent and 75 percent reductions are not only targets for 2020, which are outdated, but also are to be completed by the City's programs. The EIR fails to indicate any Project-specific recycling and composting measures and, as a result, the EIR fails to demonstrate consistency with the measure, and its inclusion in the model is unsubstantiated.

1.76 cont.

As you can see in the table above, the EIR fails to justify several of the mitigation measures utilized in the Project's CalEEMod model. As a result, the inclusion of these measures in the model are unsubstantiated and the model should not be relied upon to determine Project significance.

Diesel Particulate Matter Health Risk Emissions Inadequately Evaluated

The EIR concludes that the Project's construction and operational health risk impacts would be less than significant without conducting a quantified construction or operational health risk assessment (HRA). More specifically, the EIR attempts to justify this claim by stating: 1.77

> "Given the relatively limited number of heavy-duty construction equipment and the short-term construction schedule, the proposed Project would not result in a long-term (i.e., 70 years) substantial source of toxic air contaminant emissions and corresponding individual cancer risk" (p. 1-3).

Furthermore, the EIR states:

> "[R]esults of the LST analysis, which were developed in response to environmental justice and health concerns, indicate that the Project will not exceed the SCAQMD localized significance thresholds during construction, with the incorporation of Mitigation Measures MM-AQ-1 through MM-AQ-10. Therefore, sensitive receptors would not be subject to significant air toxic impacts during construction at the Project site" (p. 4.4-47-48). 1.78

However, these justifications and the subsequent less than significant impact finding are incorrect for several reasons. 1.79

First, the use of the LST method to determine the Projects health risk impacts on nearby, existing sensitive receptors is incorrect. While the LST method assesses the impact of pollutants at a local level, it only evaluates impacts from criteria air pollutants. According to the Final Localized Significance Threshold Methodology document prepared by the SCAQMD, the LST analysis is only applicable to NO_x, CO, PM_{10}, and $PM_{2.5}$ emissions, which are collectively referred to as criteria air pollutants.[11] Because the LST method can only be applied to criteria air pollutants, this method cannot be used to determine whether emissions from DPM, a known human carcinogen, will result in a significant health risk impact to nearby sensitive receptors. As a result, health impacts from exposure to toxic air contaminants (TACs), such as diesel particulate matter (DPM), were not analyzed, thus leaving a gap within the EIR's analysis. 1.79 cont.

Second, the omission of a quantified HRA is inconsistent with the most recent guidance published by the Office of Environmental Health Hazard Assessment (OEHHA), the organization responsible for providing guidance on conducting HRAs in California. In February of 2015, OEHHA released its most recent ***Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments***.[12] This guidance document describes the types of projects that warrant the preparation of an HRA. Construction of the Project will produce emissions of DPM, a human carcinogen, through the exhaust stacks of construction equipment over a construction period of approximately 2,895 days (Appendix D1, pp. 84, 130, 176, 222 269, 323, 377). The OEHHA document recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors.[13] Therefore, per OEHHA guidelines, we recommend that health risk impacts from Project construction be evaluated by the EIR. Furthermore, once construction of the Project is complete, the Project will operate for a long period of time. As previously stated, Project operation will generate approximately 22,078 daily vehicle trips, which will generate additional exhaust emissions and continue to expose nearby sensitive receptors to DPM emissions (Appendix O, pp. 59, Table 3-2). The OEHHA document recommends that exposure from projects lasting more than 6 months be evaluated for the duration of the project, and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the maximally exposed individual resident (MEIR).[14] Even though we were not provided with the expected lifetime of the Project, we can reasonably assume that the Project will operate for at least 30 years, if not more. Therefore, we recommend that health risks from Project operation also be evaluated, as a 30-year exposure duration vastly exceeds the 2-month and 6-month requirements set forth by OEHHA. This guidance reflects the most recent health risk policy, and as such, we recommend that an updated 1.80

[11] "Final Localized Significance Threshold Methodology." SCAQMD, Revised July 2008, ***available at:*** http://www.aqmd.gov/docs/default-source/ceqa/handbook/localized-significance-thresholds/final-lst-methodology-document.pdf.

[12] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** http://oehha.ca.gov/air/hot_spots/hotspots2015.html

[13] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf, p. 8-18

[14] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** http://oehha.ca.gov/air/hot_spots/2015/2015GuidanceManual.pdf, p. 8-6, 8-15

assessment of health risks to nearby sensitive receptors from Project construction and operation be included in a revised CEQA evaluation for the Project. 1.80 cont.

Third, by claiming a less than significant impact without conducting a quantified HRA to nearby, existing sensitive receptors as a result of Project construction, the EIR fails to compare the excess health risk to the SCAQMD's specific numeric threshold of 10 in one million.[15] Thus, the EIR should not conclude less than significant health risk impacts resulting from Project construction without quantifying emissions to compare to the proper threshold. 1.81

Screening-Level Assessment Indicates Significant Impact

In an effort to demonstrate the potential health risk posed by Project construction and all Project operation to nearby sensitive receptors, we prepared a simple screening-level HRA. The results of our assessment, as described below, provide substantial evidence that the Project's construction and operational DPM emissions may result in a potentially significant health risk impact not previously identified by the EIR. 1.82

In order to conduct our screening level risk assessment, we relied upon AERSCREEN, which is a screening level air quality dispersion model.[16] The model replaced SCREEN3, and AERSCREEN is included in the OEHHA[17] and the California Air Pollution Control Officers Associated (CAPCOA)[18] guidance as the appropriate air dispersion model for Level 2 health risk screening assessments ("HRSAs"). A Level 2 HRSA utilizes a limited amount of site-specific information to generate maximum reasonable downwind concentrations of air contaminants to which nearby sensitive receptors may be exposed. If an unacceptable air quality hazard is determined to be possible using AERSCREEN, a more refined modeling approach is required prior to approval of the Project. 1.83

We prepared a preliminary HRA of the Project's construction and operational health-related impact to residential sensitive receptors using the annual PM_{10} exhaust estimates from SWAPE's updated CalEEMod model. According to the EIR, the closest sensitive receptor is located approximately 100 meters west of the Project site (Appendix D1, p. 4-3). Consistent with recommendations set forth by OEHHA, we assumed exposure begins during the third trimester stage of life. The Project's construction CalEEMod output files indicate that construction activities will generate approximately 415 pounds of diesel particulate matter (DPM) over the 2,895-day construction period. The AERSCREEN model relies on a continuous average emission rate to simulate maximum downward concentrations from point, area, 1.84

[15] "South Coast AQMD Air Quality Significance Thresholds." SCAQMD, April 2019, ***available at:*** http://www.aqmd.gov/docs/default-source/ceqa/handbook/scaqmd-air-quality-significance-thresholds.pdf?sfvrsn=2

[16] "AERSCREEN Released as the EPA Recommended Screening Model," USEPA, April 11, 2011, ***available at:*** http://www.epa.gov/ttn/scram/guidance/clarification/20110411_AERSCREEN_Release_Memo.pdf

[17] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf

[18] "Health Risk Assessments for Proposed Land Use Projects," CAPCOA, July 2009, ***available at:*** http://www.capcoa.org/wp-content/uploads/2012/03/CAPCOA_HRA_LU_Guidelines_8-6-09.pdf

and volume emission sources. To account for the variability in equipment usage and truck trips over Project construction, we calculated an average DPM emission rate by the following equation:

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{414.8\ lbs}{2{,}895\ days} \times \frac{453.6\ grams}{lbs} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.0007522\ g/s}$$

Using this equation, we estimated a construction emission rate of 0.0007522 grams per second (g/s). Subtracting the 2,895-day construction duration from the total residential duration of 30 years, we assumed that after Project construction, the sensitive receptor would be exposed to the Project's operational DPM for an additional 22.07 years, approximately. The Project's operational CalEEMod emissions, calculated by subtracting the existing emissions from the proposed Project, indicate that operational activities will generate approximately 1,279 pounds of DPM per year throughout operation. Applying the same equation used to estimate the construction DPM rate, we estimated the following emission rate for Project operation:

1.84 cont.

$$Emission\ Rate\ \left(\frac{grams}{second}\right) = \frac{1{,}279\ lbs}{365\ days} \times \frac{453.6\ grams}{lbs} \times \frac{1\ day}{24\ hours} \times \frac{1\ hour}{3{,}600\ seconds} = \mathbf{0.01840\ g/s}$$

Using this equation, we estimated an operational emission rate of 0.0184 g/s. Construction and operational activity was simulated as a 304-acre rectangular area source in AERSCREEN with dimensions of 1,550 meters by 794 meters (EIR, p. 1-10). A release height of three meters was selected to represent the height of exhaust stacks on operational equipment and other heavy-duty vehicles, and an initial vertical dimension of one and a half meters was used to simulate instantaneous plume dispersion upon release. An urban meteorological setting was selected with model-default inputs for wind speed and direction distribution.

The AERSCREEN model generates maximum reasonable estimates of single-hour DPM concentrations from the Project site. EPA guidance suggests that in screening procedures, the annualized average concentration of an air pollutant be estimated by multiplying the single-hour concentration by 10%.[19] While the closest residential sensitive receptor is approximately 100 meters away, the maximally exposed sensitive receptor is approximately 800 meters away, according to AERSCREEN. The single-hour concentration estimated by AERSCREEN for Project construction is approximately 0.05024 µg/m^3 DPM at approximately 800 meters downwind. Multiplying this single-hour concentration by 10%, we get an annualized average concentration 0.005024 µg/m^3 for Project construction at the maximally exposed sensitive receptor. For Project operation, the single-hour concentration is estimated by AERSCREEN is approximately 1.229 µg/m^3 at approximately 800 meters downwind. Multiplying this single- hour concentration by 10%, we get an annualized average concentration of 0.1229 µg/m^3 for Project operation at the maximally exposed sensitive receptor.

1.85

[19] "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources Revised." EPA, 1992, ***available at***: http://www.epa.gov/ttn/scram/guidance/guide/EPA-454R-92-019_OCR.pdf; ***see also*** "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf, p. 4-36

We calculated the excess cancer risk to the closest sensitive receptor using applicable HRA methodologies prescribed by OEHHA and the SCAQMD. Consistent with the construction schedule included in the EIR, the annualized average concentration for construction was used for the entire third trimester of pregnancy (0.25 years), the infantile stage of life (0 – 2 years), and the first 5.68 years of the child stages of life (2 – 16 years). The annualized average concentration for operation was used for the remainder of the 30-year exposure period, which makes up the remainder of the child stages of life (2 – 16 years) and adult stages of life (16 – 30 years). Consistent with OEHHA, SCAQMD, BAAQMD, and SJVAPCD guidance, we used Age Sensitivity Factors (ASFs) to account for the heightened susceptibility of young children to the carcinogenic toxicity of air pollution.[20, 21, 22, 23] According to this guidance, the quantified cancer risk should be multiplied by a factor of ten during the third trimester of pregnancy and during the first two years of life (infant) as well as multiplied by a factor of three during the child stage of life (2 to 16 years). We also included the quantified cancer risk without adjusting for the heightened susceptibility of young children to the carcinogenic toxicity of air pollution in accordance with older OEHHA guidance from 2003. This guidance utilizes a less health protective scenario than what is currently recommended by SCAQMD, the air quality district responsible for the City, and several other air districts in the state. Furthermore, in accordance with guidance set forth by OEHHA, we used the 95th percentile breathing rates for infants.[24] Finally, according to SCAQMD guidance, we used a Fraction of Time At Home (FAH) Value of 1 for the 3rd trimester and infant receptors.[25] We used a cancer potency factor of 1.1 (mg/kg-day)$^{-1}$ and an averaging time of 25,550 days. The results of our calculations are shown below.

1.86

[20] "Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf.

[21] "Draft Environmental Impact Report (DEIR) for the Proposed The Exchange (SCH No. 2018071058)." SCAQMD, March 2019, ***available at:*** http://www.aqmd.gov/docs/default-source/ceqa/comment-letters/2019/march/RVC190115-03.pdf?sfvrsn=8, p. 4.

[22] "California Environmental Quality Act Air Quality Guidelines." BAAQMD, May 2017, ***available at:*** http://www.baaqmd.gov/~/media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en, p. 56; see also "Recommended Methods for Screening and Modeling Local Risks and Hazards." BAAQMD, May 2011, ***available at:*** http://www.baaqmd.gov/~/media/Files/Planning%20and%20Research/CEQA/BAAQMD%20Modeling%20Approach.ashx, p. 65, 86.

[23] "Update to District's Risk Management Policy to Address OEHHA's Revised Risk Assessment Guidance Document." SJVAPCD, May 2015, ***available at:*** https://www.valleyair.org/busind/pto/staff-report-5-28-15.pdf, p. 8, 20, 24.

[24] "Supplemental Guidelines for Preparing Risk Assessments for the Air Toxics 'Hot Spots' Information and Assessment Act," June 5, 2015, ***available at:*** http://www.aqmd.gov/docs/default-source/planning/risk-assessment/ab2588-risk-assessment-guidelines.pdf?sfvrsn=6, p. 19.
"Risk Assessment Guidelines Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, ***available at:*** https://oehha.ca.gov/media/downloads/crnr/2015guidancemanual.pdf

[25] "Risk Assessment Procedures for Rules 1401, 1401.1, and 212." SCAQMD, August 2017, ***available at:*** http://www.aqmd.gov/docs/default-source/rule-book/Proposed-Rules/1401/riskassessmentprocedures_2017_080717.pdf, p. 7.

The Closest Exposed Individual at an Existing Residential Receptor						
Activity	**Duration (years)**	**Concentration (ug/m3)**	**Breathing Rate (L/kg-day)**	**Cancer Risk without ASFs***	**ASF**	**Cancer Risk with ASFs***
Construction	0.25	0.005024	361	6.8E-09	10	6.8E-08
3rd Trimester Duration	***0.25***			***6.8E-09***	***3rd Trimester Exposure***	***6.8E-08***
Construction	2.00	0.005024	1090	1.7E-07	10	1.7E-06
Infant Exposure Duration	***2.00***			***1.7E-07***	***Infant Exposure***	***1.7E-06***
Construction	5.68	0.005024	572	2.5E-07	3	7.4E-07
Operation	8.32	0.1229	572	8.7E-06	3	2.6E-05
Child Exposure Duration	***14.00***			***8.7E-06***	***Child Exposure***	***2.6E-05***
Operation	14.00	0.1229	261	4.9E-06	1	4.9E-06
Adult Exposure Duration	***14.00***			***4.9E-06***	***Adult Exposure***	***4.9E-06***
Lifetime Exposure Duration	**30.00**			**1.4E-05**	**Lifetime Exposure**	**3.3E-05**

* We, along with CARB and SCAQMD, recommend using the more updated and health protective 2015 OEHHA guidance, which includes ASFs.

1.86 cont.

The excess cancer risk posed to adults, children, infants, and during the third trimester of pregnancy at the closest receptor, located approximately 800 meters away, over the course of Project construction and operation, utilizing age sensitivity factors, are approximately 4.9, 26, 1.7, and 0.068 in one million, respectively. The excess cancer risk over the course of a residential lifetime (30 years) at the closest receptor, with age sensitivity factors, is approximately 33 in one million. The infant, child, and lifetime cancer risks, using age sensitivity factors, all exceed the SCAQMD threshold of 10 in one million, thus resulting in a potentially significant impact not previously addressed or identified by the EIR. Results without age sensitivity factors are presented in the table above, although we **do not** recommend utilizing these values for health risk analysis, as they are less conservative and health-protective according to the most recent guidance. Regardless, the excess cancer risk over the course of a residential lifetime (30 years) at the closest receptor, without age sensitivity factors, is approximately 14 in one million. Thus, the Project may result in a significant impact regardless of the use of age sensitivity factors.

1.87

An agency must include an analysis of health risks that connects the Project's air emissions with the health risk posed by those emissions. Our analysis represents a screening-level HRA, which is known to be conservative and tends to err on the side of health protection. The purpose of the screening-level construction HRA shown above is to demonstrate the link between the proposed Project's emissions and the potential health risk. Our screening-level HRA demonstrates that construction of the Project could result in a potentially significant health risk impact, when correct exposure assumptions and up-to-date, applicable guidance are used. Therefore, since our screening-level construction HRA indicates a

1.88

potentially significant impact, an updated CEQA analysis should include a reasonable effort to connect the Project's air quality emissions and the potential health risks posed to nearby receptors. Thus, an updated CEQA analysis should include a quantified air pollution model as well as an updated, quantified, refined health risk assessment which adequately and accurately evaluates health risk impacts associated with both Project construction and operation. 1.88 cont.

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The EIR concludes that the Project's GHG impact would be less than significant, stating:

> "[T]he project's emissions would be 3.27 MTCO2e/SP/yr which is below both the SCAQMD's and the City's CAP service population target" (Appendix D1, pp. 47).

1.89

This justification and subsequent less-than-significant impact finding are incorrect and unsubstantiated for two reasons:

(1) Incorrect and unsubstantiated analysis demonstrates a significant impact; and
(2) Updated analysis demonstrates a significant impact that was not previously identified or addressed by the EIR.

1) Incorrect and Unsubstantiated Analysis Demonstrates Significant Impact

The EIR fails to adequately compare the Project's annual GHG emissions to the applicable SCAQMD threshold. This is incorrect for three reasons.

First, as previously discussed, the EIR's CalEEMod model relies upon incorrect input parameters to estimate the Project's criteria air pollutant and GHG emissions, resulting in an underestimation of Project emissions. Therefore, we find the EIR's quantitative GHG analysis to be incorrect and unreliable. 1.90

Second, the EIR's GHG analysis includes an unsubstantiated reduction as a result of carbon sequestration from 2,406 new trees (see excerpt below) (Appendix D1, pp. 71, Table 15)

TABLE 15

Year 2020 Project Greenhouse Gas Emissions with Mitigation and Regulations[1]

Emission Source	Emissions ($MTCO_2e$)[1]
Area Source	3,641.21
Energy Source	5,953.43
Mobile Source	15,541.76
Waste	203.07
Water	742.24
Construction (averaged over 30 years)	653.85
Sequestrian from 2,406 new on-site trees[3]	-85.17
Total Annual Emissions[2]	**26,650.38**
SCAQMD 2020 target for service population (SP) (which includes residents and employees): 4.8 $MTCO_2e$/SP/year	4.8 $MTCO_2e$/SP/year
Coachella City CAP GHG emission target (15% below 2010 emissions by 2020)	7.0 $MTCO_2e$/SP/year
Project Service Population?[4]	8,155.00
Project's $MTCO_2e$/SP	**3.27**
Exceeds Threshold (?)	**No**

1.90 cont.

As you can see in the excerpt above, the EIR's GHG analysis included a reduction of 85.17 metric tons of carbon dioxide equivalent (MT CO_2e) as a result of carbon sequestration from 2,406 trees. However, this reduction was already included in the emissions calculated by the EIR's CalEEMod model (see excerpt below) (Appendix D1, pp. 79, 125, 171, 217, 263, 317, 371).

Table Name	Column Name	Default Value	New Value
tblSequestration	NumberOfNewTrees	0.00	2,406.00

Thus, the EIR's GHG analysis includes a reduction that was already accounted for by the EIR's CalEEMod model. As a result, the Project's GHG analysis is underestimated and should not be relied upon to determine Project significance.

Third, the EIR's GHG analysis relies upon service population efficiency targets that are not applicable to the proposed Project. The EIR relies upon the SCAQMD's 2020 target service population efficiency of 4.8 metric tons of carbon dioxide equivalent per service population per year (MT CO_2e/SP/yr) and the City's CAP threshold of 7.0 MT CO_2e/SP/yr in order to determine that the Project would have a less than significant GHG impact (Appendix D1, p. 7-1). However, review of the City's CAP demonstrates that the 7.0 MT CO2e/SP/yr is for the year 2020 (see excerpt below).[26]

1.91

[26] "CLIMATE ACTION PLAN CITY OF COACHELLA PUBLIC DRAFT." City of Coachella, June 2014, ***available at:*** https://www.coachella.org/home/showdocument?id=2880%20, p. 35.

	2020 REDUCTION POTENTIAL $MTCO_2E$	2020 REDUCTION POTENTIAL ($MTCO_2E/SP$)	2035 REDUCTION POTENTIAL $MTCO_2E$	2035 REDUCTION POTENTIAL ($MTCO_2E/SP$)
Projected BAU Emissions	923,091	9.8	1,543,672	9.3
Adjusted BAU with State Programs and General Plan Policies	585,045	6.2	904,042	5.4
Proposed Greenhouse Gas Emissions Targets	735,829	7.0	756,679	4.2
Reduction Beyond Target (2020) and Emissions Gap (2035)	150,784	0.8	-147,363	-1.2

1.91 cont.

As you can see in the excerpt above, both the SCAQMD's and the City's CAP thresholds utilized in the EIR are for the year 2020. However, reliance on targets for 2020 is incorrect, as the EIR's CalEEMod model demonstrates the Project would not become operational until 7 years after the Project begins construction (Appendix D1, pp. 74, 166, 212, 258, 312, 366). As it is already 2020 and the Project is yet to be approved, we can reasonably say the Project will not become operational until at least 2027. Thus, the EIR should have used the SCAQMD's 2030 substantial progress service population efficiency threshold of 3.0 MT CO_2e/SP/year and the City of Coachella CAP's 2035 target of 4.2 CO_2e/SP/year in order to evaluate the Project's 2022 emissions. If the correct SCAQMD threshold had been used to adequately evaluate the Project's underestimated emissions, a significant impact would be revealed that was not previously identified in the EIR (see table below).

Annual Greenhouse Gas Emissions Efficiency		
Source	**Project Emissions**	**Unit**
EIR Annual Emissions	26,650.4	MT CO_2e/year
Service Population	8,155.0	Residents & Employees
Per Service Population Annual Emissions	**3.3**	**MT CO_2e/sp/year**
2035 SCAQMD Project Level Efficiency Threshold	3	MT CO_2e/sp/year
Exceed?	***Yes***	-

As you can see in the table above, when we compare the per service population emissions estimated in the EIR to the relevant SCAQMD threshold, the Project's 2022 service population efficiency value of 3.3 MT CO_2e/SP/year exceeds the 2035 service population efficiency threshold of 3.0 MT CO_2e/SP/year. Thus, we find a significant GHG impact not previously identified in the EIR. As a result, an updated CEQA analysis must be prepared for the Project, and mitigation should be implemented where necessary, per CEQA guidelines.

2) Updated Analysis Indicates a Potentially Significant Impact

Notwithstanding the flawed GHG evaluation discussed above, applicable thresholds and site-specific modeling demonstrate that the Project will have a significant GHG impact. The updated CalEEMod output files, modeled by SWAPE with Project-specific information, disclose the Project's mitigated emissions, which include approximately 22,480 MT CO_2e of total construction emissions (sum of 2015, 2016, 2017, 2018, 2019, 2020, 2021, and 2022) and approximately 34,611 MT CO_2e/yr of annual operational emissions (sum of area, energy, mobile, waste, and water-related emissions). When we compare the Project's GHG emissions to the 3,000 MT CO_2e/yr mixed-use threshold (SCAQMD Tier 3 Option 1), we find that the Project's GHG emissions exceed the threshold (see table below).

SWAPE Annual Greenhouse Gas Emissions	
Project Phase	**Proposed Project (MT CO_2e/year)**
Construction (amortized over 30 years)	749.3
Area	3,640.8
Energy	7,387.8
Mobile	21,635.5
Waste	897.9
Water	1,048.7
Total	**35,360.1**
Threshold	3,000
Exceed?	***Yes***

1.92

As demonstrated in the table above, the proposed Project would generate a total of approximately 35,360 MT CO_2e/yr when modeled correctly, which exceeds the SCAQMD's 3,000 MT CO_2e/yr mixed-use/non-industrial project screening threshold. Hence, a Tier 4 analysis is warranted. When dividing the Project's GHG emissions by a service population value of 8,155 people, as indicated by the EIR, we find that the Project would emit approximately 4.34 MT CO_2e/SP/yr. This exceeds the SCAQMD 2035 efficiency target of 3.0 MT CO_2e/SP/yr as well as the City of Coachella's 2035 Reduction Target of 4.2 MT CO_2e/SP/yr (see table below).

Annual Greenhouse Gas Emissions Efficiency		
Source	**Project Emissions**	**Unit**
SWAPE Annual Emissions	35,360.10	MT CO_2e/year
Service Population	8,155.00	Residents & Employees
Per Service Population Annual Emissions	**4.34**	**MT CO_2e/sp/year**
2035 SCAQMD Project Level Efficiency Threshold	3	MT CO_2e/sp/year
Exceed?	***Yes***	-
City of Coachella CAP 2035 Reduction Target	4.2	MT CO2e/sp/year
Exceed?	***Yes***	-

As you can see in the table above, when we compare the Project's per service population emissions, estimated by SWAPE's Project-specific CalEEMod model, to the 2035 SCAQMD threshold of 3.0 MT CO_2e/SP/yr and the City of Coachella's 2035 Reduction Target of 4.2 MT CO_2e/SP/yr, we find that the Project's emissions would exceed thresholds. Thus, the proposed Project would conflict with the City of Coachella CAP and would result in a potentially significant impact not identified in the EIR. As a result, an updated CEQA analysis should be prepared for the Project, and additional mitigation should be implemented where necessary, per CEQA guidelines. 1.92 cont.

Feasible Mitigation Measures Available to Reduce Operational Emissions

Our analysis demonstrates that the Project's air quality and GHG emissions may result in potentially significant impacts. In an effort to reduce the Project's operational emissions, we identified several mitigation measures that are applicable to the Project. Feasible mitigation measures can be found in CAPCOA's ***Quantifying Greenhouse Gas Mitigation Measures,*** which attempt to reduce GHG levels, as well as criteria air pollutants, such as particulate matter emissions.[27] Therefore, to reduce the Project's operational emissions, consideration of the following measures should be made: 1.93

- Integrate affordable and below market rate housing
- Energy-related mitigation:
    - Install programmable thermostat timers
    - Establish onsite renewable energy systems, including solar power and wind power
    - Limit outdoor lighting requirements
    - Reduce unnecessary outdoor lighting by utilizing design features such as limiting the hours of operation of outdoor lighting.
    - Provide education on energy efficiency to residents, customers, and/or tenants. Provide information on energy management services for large energy users.
    - Meet "reach" goals for building energy efficiency and renewable energy use.
    - Limit the use of outdoor lighting to only that needed for safety and security purposes.
    - Require use of electric or alternatively fueled sweepers with HEPA filters.
    - Include energy storage where appropriate to optimize renewable energy generation systems and avoid peak energy use.
    - Prohibit gas powered landscape equipment and implement electric yard equipment compatibility
- Transportation-related mitigation:
    - Provide EV parking
    - Require residential area parking permits
    - Implement ride-sharing, vanpool, shuttle, bike-sharing programs
    - Provide bike parking near transit
    - Provide local shuttles
    - Implement area or cordon pricing
    - Install a park-and-ride lot

[27] http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf

- Water-related mitigation:
    - Install an infiltration basin to provide an opportunity for 100% of the storm water to infiltrate on-site.
    - Install a system to reutilize gray water
    - Use locally-sourced water supply
    - Plant native and drought-resistant trees and vegetation

- Develop and follow a "green streets guide" that requires:
    - Use of minimal amounts of concrete and asphalt;
    - Use of groundcovers rather than pavement to reduce heat reflection.[28]
- Implement Project design features such as:
    - Shade HVAC equipment from direct sunlight;
    - Install high-albedo white thermoplastic polyolefin roof membrane;
    - Install formaldehyde-free insulation; and
    - Use recycled-content gypsum board.
    - Require all buildings to become "LEED" and "WELL" certified.
- Plant low-VOC emitting shade trees, e.g., in parking lots to reduce evaporative emissions from parked vehicles.

1.93 cont.

Finally, the Kimball Business Park Project Final Environmental Impact Report includes various feasible mitigation measures that would reduce on-site area emissions that are applicable to the proposed Project's retail land use, and include, but are not limited to:[29]

- Increase in insulation such that heat transfer and thermal bridging is minimized.
- Limit air leakage through the structure and/or within the heating and cooling distribution system.
- Installation of dual-paned or other energy efficient windows.
- Installation of automatic devices to turn off lights where they are not needed.

These measures offer a cost-effective, feasible way to incorporate lower-emitting design features into the proposed Project, which subsequently, reduces emissions released during Project operation. An updated EIR should be prepared to include additional mitigation measures, as well as include an updated air quality analysis to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The EIR also should demonstrate commitment to the implementation of these measures prior to Project approval, to ensure that the Project's significant emissions are reduced to the maximum extent possible.

1.94

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional

1.95

[28] Cool Houston Plan; http://www.harcresearch.org/sites/default/files/documents/projects/CoolHoustonPlan_0.pdf

[29] Mitigation Monitoring Plan for the Kimball Business Park Project Final Environmental Impact Report, July 2016.

information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

1.95 cont.

Sincerely,

Matt Hagemann, P.G., C.Hg.

Paul E. Rosenfeld, Ph.D.

Start date and time 02/25/20 11:19:47

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Vista Del Agua Construction

Vista Del Agua Construction

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Start date and time 02/25/20 15:10:03

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Riverside-Salton Sea County, Annual

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Riverside-Salton Sea County, Summer

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Riverside-Salton Sea County, Winter

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Responses to Comment Letter No. 1

1.1 Comment noted. These are informational statements and a summary of the Project Description that do not require a response.

1.2 Comment noted. This is a summary of the Project Description that does not require a response.

1.3 Comment noted. This is a description of the Southwest Carpenters that does not require a response.

1.4 Comment noted. No further response is required.

1.5 Comment noted. No further response is required.

1.6 Comment noted. See responses to comments in FEIR and Supplement to FEIR.The comment further suggests that Southwest Carpenters may "supplement" their comments at an unspecified later date. The City notes that the Draft EIR was circulated to the public for two public review periods and was widely available to the public for review and comment from June 8,2018 through July 23, 2018, and again from August 10, 2018 through September 24, 2018, and that there was adequate time for comments to be submitted during that period. CEQA does not require that an agency respond to late comments (Pub Resources Code §21091(d)(1)). Nor is a lead agency required to delay the review process to prepare responses to late comments (14 Cal Code Regs §15207). No further response is required.

1.7 Comment noted. The City will provide all notices related to this proposed Project to the Commenter. No further response is required.

1.8 This comment under the heading of "Expert" serves to introduce two additional commenters from the SWAPE organization. Mr. Hagemann and Dr. Rosenfeld can be considered scientists and the resumes for each, provided in Exhibit A and B respectively, demonstrate extensive though very general backgrounds in research in the western United States, research that is only marginally related and not directly applicable to the specific issues of this Project within its geographic and environmental setting. Each of these commenters has worked at environmental organizations and have published many papers, however, neither has specific experience with land development projects or issues specifically in Riverside or San Bernardino Counties (i.e. the Inland Empire or IE). The only local experience demonstrated by the commenters is their private organization from the Bay Area has been hired in the past to make similar comments on other types of projects in the IE that were being challenged by union organizations. Neither commenter appears to have actual research-oriented experience in this area, only indirect experience commenting on other projects. In addition, neither commenter visited the Project site or surrounding area to familiarize themselves with actual local conditions or constraints. As will be demonstrated in subsequent responses below, most of their "specific" comments are actually general comments about methodologies for assessing potential environmental impacts that are very generic and could apply to almost any type of land development project anywhere in the western United States. Based on this information, it is difficult to determine if these individuals are actually experts within the definition of CEQA (i.e., with knowledge and experience directly applicable to the

issues raised in the EIR and the project site).

1.9 This is some additional information regarding the experience of Matt Hagemann, P.G., C.Hg. that has been addressed in Response to Comment 1.7 above.

1.10 This is some additional information regarding the experience of Matt Hagemann, P.G., C.Hg. that has been addressed in Response to Comment 1.7 above.

1.11 This is some additional information regarding the experience of Matt Hagemann, P.G., C.Hg. that has been addressed in Response to Comment 1.7 above.

1.12 This is some additional information regarding the experience of Paul Rosenfeld, Ph.D. that has been addressed in Response to Comment 1.7 above.

1.13 This is some additional information regarding the experience of Paul Rosenfeld, Ph.D. that has been addressed in Response to Comment 1.7 above.

1.14 This is some additional information regarding the experience of Paul Rosenfeld, Ph.D. that has been addressed in Response to Comment 1.7 above.

1.15 Comment noted. This comment provides a general summary and the commenter's own interpretation of CEQA but does not include any specific allegations regarding this project or the EIR and does not require a response.

1.16 Comment noted. This comment provides a general summary and the commenter's own interpretation of CEQA, does not include any specific allegations regarding this project or the EIR, and does not require a response.

1.17 Comment noted. This comment provides a general summary and the commenter's own interpretation of CEQA, does not include any specific allegations regarding this project or the EIR, and does not require a response.

1.18 Comment noted. This comment provides a general summary and the commenter's own interpretation of CEQA, does not include any specific allegations regarding this project or the EIR, and does not require a response.

1.19 Comment noted. This comment provides a general summary and the commenter's own interpretation of CEQA, does not include any specific allegations regarding this project or the EIR, and does not require a response.

1.20 Comment noted. This comment discusses the standards for recirculation of an EIR under CEQA without any specific application to the Project and does not require a response.

1.21 Comment noted. This comment discusses the standards for recirculation of an EIR under CEQA without any specific application to the Project and does not require a response.

1.22 Comment noted. This comment discusses the standards for recirculation of an EIR under CEQA without any specific application to the Project and does not require a response.

1.23 This comment is introductory in nature and does not raise any specific environmental issues. As contained in these Responses to Comments, the City, in exercising its discretion as lead agency has determined that the DEIR does not meet the criteria listed in State CEQA Guidelines Section 15088.5 (Recirculation of an EIR Prior to Certification) that would necessitate a revised and recirculated EIR.

1.24 Comment noted. The comment provides a slightly condensed statement of the Draft EIR's rationale for the preparation of a Program EIR and does not raise any environmental issues. No further response is required.

1.25 Comment noted. This comment discusses the level of disclosure in a program EIR under CEQA without any specific application to the Project. No further response is required.

1.26 This is an opinion of the commenter. Pursuant to *CEQA Guidelines* Section 15168:

> "*A Program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:*
> *(1) Geographically,*
> *(2) As logical parts in the chain of contemplated actions,*
> *(3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or*
> *(4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.*"

The DEIR analyzed the proposed Project under CEQA at a program level for the entire Project, which consists of residential, commercial (suburban retail and neighborhood commercial), and open space (neighborhood park and paseos) development, with asscociated on-site and off-site infrastructure improvements for Vista Del Agua, an approximate 275.4-acre site, in the City of Coachella (City), Riverside County, California. The DEIR was prepared as a Program EIR for the following reasons:

- The proposed Project would be implemented over a moderately geographic area, of approximately 275.4 acres.
- Final grading and construction plans and details have not been developed for each planning area, as of yet.

A worst-case construction scenario was developed to analyze construction impacts throughout the DEIR.

Subsequent activities associated with implementation of the Specific Plan would be evaluated for compliance with CEQA in light of the DEIR to determine whether additional environmental documentation must be prepared. Specifically, if Tentative Tract Maps, improvement plans, or other discretionary approvals associated with implementation of the Specific Plan are submitted and proposed, the environmental impacts of implementing those maps, plans, and approvals will be compared against the analysis set forth in the DEIR and CEQA's mandates for subsequent and/or supplemental environmental review. *CEQA Guidelines* Section 15168(c) provides that later activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared. The

DEIR, therefore, provides for the evaluation of future activities in the program in accordance with the CEQA Guidelines and the Project does not require the preparation of a subsequent EIR.

The comment does not provide a specific allegation regarding the Project, DEIR or FEIR. To the extent the Commenter alleges the FEIR does not provide substantial evidence regarding the analysis of Planning Area 10, see Response 1.27 below.

1.27 The Specific Plan Land Use Summary referenced by the commenter provides that Planning Area ("PA") 10 has a land use designation of Neighborhood Commercial and is anticipated to develop 90,060 square feet of commercial uses. In the event Planning Area 10 does not develop as commercial uses, a maximum number of 41 single-family residential units may be developed. In the event PA 10 is developed with 41 single-family residential units, the unit count in other planning areas must be reduced to maintain the overall number of units allowed in the Project, as under no circumstances will the maximum number of 1,640 units be exceed. (DEIR, p. 2-2.) Thus, if PA 10 is developed with residential uses instead of commercial uses, impacts would be less than what was analyzed in the FEIR, as the number of residential units in the Project would not increase and 90,060 square feet of commercial uses would not be developed.

The commenter asserts that traffic impacts would differ substantially. According to Table 4.14.4-2 of the DEIR (p. 4.4-15), PA 10 was analyzed utilizing 90,600 square feet of shopping center uses, which would generate 3,846 Daily Trips. If the 10-acre site was developed as 41 single family units, it would generate approximately 395 Daily Trips (41 single family units x 9.63 Daily Trips). This is considerably less (almost 90% less) than the commercial trips analyzed in the DEIR. As development of residential units in PA 10 would not result in an increase in impacts and the DEIR analyzed a worst-case scenario, no additional analysis is required.

1.28 Please refer to Responses to Comments 1.26 and 1.27. No additional response is required.

1.29 As set forth in the DEIR, FEIR, and herein, the City has adequately analyzed the Project's air quality, health risk, and greenhouse gas impacts and no updated EIR is necessary. Please refer to Responses to Comments 1.59 through 1.100 regarding responses to the SWAPE comment letter.

1.30 Comment noted. This is a summary of information contained in the FEIR that does not require a response.

1.31 The commenter asserts that CEQA requires that an EIR propose and describe mitigation measures to minimize the significant environmental effects identified in the EIR. (Pub. Res. Code § 21002.1(a); State CEQA Guidelines § 15126.4.) However, the commenter does not provide examples of mitigation measures it felt the City should consider or that would lessen (if not avoid) the significant and unavoidable impacts of the Project related to the conversion of Prime Farmland and Farmland of Local Importance to urban uses.

The City has found that no mitigation measures are feasible to minimize the direct conversion of approximately 275 acres of farmland to urban uses. (DEIR, p. 4.3-11.)

According to the Coachella General Plan Update Draft EIR (p. 4.2-17), https://cityofcoachellageneralplanupdate.weebly.com/final-eir.html, no mitigation measures are feasible for impacts to Agricultural Resources.

As stated on p. 4.3-7 of the DEIR:

> *"The conversion of sites from vacant land to residential, commercial and open space uses will permanently remove the potential for the land to be farmed in the future. However, this change is consistent with future land uses planned for the City in the General Plan."*

The most recent case law related to the conversion of agricultural land also supports the City's finding of infeasibility. In *King & Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, as modified on denial of rehearing (Mar. 20, 2020), the court held that based on cases and the statutes addressing agricultural conservation easements, "entering into a binding agricultural conservation easement does not create new agricultural land to replace the agricultural land being converted to other uses. Instead, an agricultural conservation easement merely prevents the future conversion of the agricultural land subject to the easement. Because the easement does not offset the loss of agricultural land (in whole or in part), the easement does not reduce a project's impact on agricultural land. The absence of any offset means a project's significant impact on agricultural land would remain significant after the implementation of the agricultural conservation easement." The court then restated its conclusion using the data from the case, providing "the implementation of agricultural conservation easements for the 289 acres of agricultural land estimated to be converted each year would not change the net effect of the annual conversions. At the end of each year, there would be 289 fewer acres of agricultural land in Kern County. Accordingly, under the thresholds of significance listed in the EIR, this yearly impact would qualify as a significant environmental effect. Therefore, we agree with KG Farms' contention that MM 4.2-1.a does not provide effective mitigation for the conversion of agricultural land."

The court in *King & Gardiner Farms* noted that the determinations reached in *Masonite Corp. v. County of Mendocino* (2013) 218 Cal.App.4th 230 did not contradict the court's conclusion. "In *Masonite*, the court did not consider the net effect of implementing an agricultural conservation easement and whether a significant impact could be reduced to a less than significant level by such an easement. In *Masonite*, the court concluded "the EIR's determination that [agricultural conservation easements] are legally infeasible cannot be sustained and remanded for further environmental review. (Id. at p. 241.)"

Like the project in *King & Gardiner Farms*, the DEIR here concluded that no mitigation was feasible given the direct conversion of 275 acres of farmland. Entering a conservation easement would not bring back the converted land. At the end of the Project, there would be 275 less acres of farmland in the City, which is also envisioned by the City's General Plan. For the reasons outlined above, no mitigation measures need to be added.

1.32 Please refer to Response to Comment 1.31. In addition, as stated on p. 4.3-7 of the

DEIR:

> *"The Project is consistent with the adopted General Plan and no new impacts on agricultural resources are anticipated as a result of the Project. Cumulative impacts to agricultural resources were determined to be adequately evaluated in the 2035 General Plan EIR and, therefore, pursuant to §15152(f)(1), cumulative impacts to agricultural resources are not treated as significant for purposes of this EIR and no further cumulative impact analysis is required."*

No violation of CEQA has occurred.

1.33 The first portion of this comment pertains to an opinion of the commenter in terms of the use of Project Design Features and Standard Conditions. The "Standard Conditions" cited relate to compliance with state and local requirements. For instance, SC-AES-1 sets forth the City's submittal requirements for architectural review. This is not a mitigation measure, as SC-AES-1 and SC-AES-2, which sets forth submittal requirements for landscape review, ensure development on the Project site is consistent with the City's design requirements in the Specific Plan. (DEIR, p. 4.2-8.) SC-AG-1 requires compliance with AB 2881. CEQA requires mitigation only if impacts are still significant after an evaluation of a project with identified "project design features" and compliance with all applicable established laws and regulations (i.e. regulatory compliance). Many jurisdictions like Coachella codify many regulatory requirements as "standard conditions".

The commenter cites *Lotus v. Department of Transportation* (2014) 223 Cal. App.4th 645, 656, and indicates that the use of Project Design Features and Standard Conditions disregards the requirements of CEQA. In *Lotus*, the court discussed what constitutes mitigation under CEQA (i.e., avoiding, minimizing, rectifying, reducing, and compensating for a significant impact) (*Id.*), and overturned an EIR in part for relying upon measures that were included in the project description but should have been presented as mitigation measures in response to the identification of significant environmental impacts. The Court found that by compressing the analysis of impacts and mitigation measures into a single issue, the EIR in that case disregarded the requirements of CEQA. CEQA requires a lead agency to consider a proposed project, evaluate its environmental impacts and, if significant impacts are identified, to describe feasible mitigation measures to reduce the impacts. The court explained that "simply stating there will be no significant impacts because the project incorporates 'special construction techniques' is not adequate or permissible." *Id.* at 656-657.

The Standard Conditions included in the EIR are measures that are required by law or regulation or the City's development review process that have been codified into standard conditions by the City. For instance, SC-AES-1 and SC-AES-2 require submittal of an architectural review and landscape review pursuant to the City's Municipal Code. While implementation of these measures would ensure development on the Project site is consistent with the City's design requirements and would ensure consistency with visual character of existing development within the City the impact on visual character due to site development was still significant and unavoidable. The DEIR went on to state that no other feasible mitigation measures could reduce potential impacts to changes in visual character due to site development to a less than significant level as the Project would result in the conversion of the existing undeveloped site to a developed site. (DEIR, p. 4.2-8). The EIR thus evaluated

potential environmental effects as well as whether the Standard Conditions would effectively reduce significant impacts. It did not, as in *Lotus*, conclude that as the Project will comply with the City's Municipal Code, there were not impacts to visual character.

Similarly, SC-UTIL-3 incorporates a number of design features for water conservation, low impact development and xeriscape requirements to reduce water used for landscaping, etc. These actions are a type of regulatory compliance which are applied at the building permit stage by the City and are standard for this type of development, therefore, SC-UTIL-3 does not constitute mitigation but rather regulatory compliance.

1.34 Please reference Response to Comment 1.33. No additional response is required.

1.35 Please reference Response to Comment 1.33. No additional response is required.

1.36 Standard Conditions and Project Design Features are not contained in the Mitigation Monitoring and Reporting Program (MMRP, FEIR pp. 4-1 through 4-39). Standard Conditions are conditions that apply to all Projects in the City. It would be a voluminous effort to include all Federal, State and Local regulations on a Project in an EIR, and potential lead to a voluminous document, which is discouraged by CEQA. These Standard Conditions are contained in the City's Municipal Code, as well as the Project-specific conditions of approval. Project Design Features are contained within the body of the DEIR. Subsequent implementing projects (tract maps, development plans, etc.) will be reviewed for consistency with the DEIR. These procedures, when combined with the Project-specific MMRP, will ensure that methods to reduce the Project physical effects upon the environment will be implementable and enforceable. While the Standard Conditions do not amount to Mitigation Measures, as discussed in Response to Comment 1.33, they have been included in the MMRP for clarity and reference.

1.37 The first portion of this comment reiterates sections from the State CEQA Guidelines which pertain to cumulative impacts. No response is required. The comment expresses the commenter's general opinion that the DEIR fails analyze the Project's cumulative impacts but does not contain a specific allegation to that effect enabling the City to respond Specific comments are addressed in Responses to Comments 1.38 through 1.44.

1.38 The commenter incorrectly conflates the DEIR's significance conclusions regarding operational air quality emissions, with the DEIR's significance conclusions regarding global climate change. Operational air quality emissions and greenhouse gas emissions, while related, address different issue areas which have different areas and components for analysis. They utilize different thresholds, each of which are appropriate for their respective issue areas. As stated on page 59 of the DEIR, cited by the commenter, when the Project is fully operational, the Project would exceed SCAQMD regional thresholds for VOC, NOx and CO. Even with the incorporation of Mitigation Measures MM-AQ-10 through MM-AQ-13 the Project would have a significant and unavoidable impact. This is a significant and unavoidable *air quality* impact. The commenter conflates this analysis with the GHG analysis. Regarding GHGs, the Project is consistent with the City's Climate Action Plan with the incorporation of MM-AQ-10 through MM-AQ-13 and the planting of approximately 2,406 new trees. (DEIR, p. 4.-60.) This results in a less than significant impact

regarding whether the Project would conflict with an applicable plan for the purpose of reducing the emissions of *greenhouse gases*.

The commenter states that the conclusions in the EIR are irreconcilable, and as a result, the EIR's conclusion that the Project will have less than significant *cumulative air quality impacts* is flawed and unsupported. As stated, the commenter conflated the air quality and GHG analyses. Cumulative air quality impacts are discussed on page 4.4-47 of the DEIR, and are significant and unavoidable, as individual project-related construction and operational emissions that exceed SCAQMD thresholds for project-specific impacts would be considered cumulatively considerable. These findings are consistent. The conclusions reached on DEIR pp. 4.4-59 and 60 are sound and do not need to be altered. No additional response is required.

1.39 The commenter indicates that cumulative hazard impacts were not adequately analyzed in the DEIR. Section 4.8.6, Cumulative Impacts (DEIR pp. 4.8-17 and 4.8-18) states:

> *"Pursuant to Section 15130(b) of the State CEQA Guidelines, the geographic scope of the cumulative setting for hazards and hazardous materials analysis is the City of Coachella, the Coachella Valley, and Riverside County. No cumulative project list is required here, as the setting is broader than the list of cumulative projects utilized for the analysis for air quality, greenhouse gasses, noise and traffic (see the list referenced in these Subchapters, as applicable)."*

This provides the area or universe for consideration of cumulative impacts that may result from Project implementation. CEQA allows for two main methods of analyzing cumulative impacts, typically referred to as the list method or the regional plan method or approach. For cumulative impacts relative to this Project, it is most reasonable to use the regional plan approach since it is assumed each jurisdiction will require individual projects within its jurisdiction to comply with the myriad of federal, state, and local laws and regulations on hazardous materials. For this particular issue, it is unreasonable to attempt to develop a list of projects in the surrounding area that would contribute to an overall increase in hazards or hazardous materials due to the aforementioned compliance with established laws and regulations. As cited by the commenter, "since the Project is below the established thresholds, cumulative impacts will remain less than significant."

1.40 As explained in Response to Comment 1.39 above, in this case for this environmental issue it is assumed each jurisdiction will require individual projects to comply with the many laws and regulations for hazardous materials. As long as each project complies with established laws and regulations, development in the surrounding region, including the proposed Project, would not create or make any direct significant impacts or contribute to any cumulatively considerable impacts regarding hazardous materials. The commenter has provided no evidence to refute this conclusion. No additional analysis is required.

1.41 This is an opinion provided by the commenter. The comment expresses the commenter's general opinion that the DEIR fails analyze the Project's cumulative impacts pertaining to Utilities and Service Systems Impacts but does not contain a specific allegation to that effect enabling the City to respond. Specific comments are addressed in Response to Comment 1.42.

1.42 Because an impact is incremental, it is not necessarily cumulatively considerable, as the commenter states. According to DEIR p. 4.15-36:

> *"Cumulative impacts to landfill capacity will be less than significant due to the Project construction debris and operational waste representing a less than substantial cumulative increment with mitigation. Therefore, due to available capacity and implementation of the above mitigation measures, which provide for recycling on site to reduce Project operational waste, cumulative impacts to the existing landfills resulting from waste generated by Project implementation are considered less than significant."*

As explained in Response to Comment 1.39 above, in this case for this environmental issue, it is assumed each jurisdiction will require individual projects to comply with the various laws and regulations regarding solid waste reduction, recycling, or disposal. As long as each project complies with those established laws and regulations, development in the surrounding region, including the proposed Project, would not create or make any direct significant impacts or contribute to any cumulatively considerable impacts regarding solid waste disposal. The commenter has provided no evidence to refute this conclusion. No additional analysis is required.

1.43 The Phase I Environmental Site Assessment for the Project site did not identify pesticide or former agricultural chemical use as an environmental issue. In spite of that, MM-HAZ-4 was proposed so there would be no potential for significant impacts to future workers or residents on the site from exposure to hazardous materials. All work described in MM-HAZ-4 shall be performed in accordance with County and City standards at the time of ground disturbance. According to the Mitigation Monitoring and Reporting Program (Section 4.0 of the FEIR), monitoring shall be performed by the Department of Environmental Health or the Department of Toxic Substances Control. This will assure that any thresholds are not exceeded and that all work is conducted per the appropriate protocols. Mitigation measures with these types of performance standards are acceptable under CEQA and there is no deferral of mitigation.

1.44 Please refer to Response to Comment 1.43. Here, the commenter cites to case law regarding the impermissible deferral of mitigation in order to support its assertion regarding MM-HAZ-4. The commenter notes impermissible deferral of mitigation occurs when an EIR calls for mitigation measures to be created based on future studies, but the agency fails to commit itself to specific performance standards. What the commenter failed to note, however, is that a lead agency may rely on future studies to devise the specific design of a mitigation measure when the results of later studies are used to tailor mitigation measures to fit on-the-ground environmental conditions. See *City of Maywood v. Los Angeles Unified Sch. Dist.* (2012) 208 Cal.App.4th 362, 411 (upholding mitigation measure, based on further investigation of contamination at project site, calling for development of hazardous materials remediation plan); *City of Hayward v. Board of Trustees of Cal. State Univ.* (2015) 242 Cal.App.4th 833, 855 (upholding transportation demand management program that identified measures to be evaluated and included monitoring plan, performance goals, and schedule for implementation). Mitigation performance standards are sufficient if they identify the criteria the agency will apply in determining that the impact will be mitigated. *Citizens for a Sustainable Treasure Island v. City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1059.

Here, there is no improper deferral of mitigation, as the requirements imposed through MM-HAZ-4 *are* enforceable performance standards. MM-HAZ-4 provides that prior to the issuance of a grading permit, the applicant shall conduct sampling of the near surface soil to assess whether residual concentrations exceed State of California action levels. This is an identifiable criterion. This is to occur in areas that were used for agriculture prior to 1972. This tailors testing to the on-the-ground conditions of the Project site. Representative samples are taken using a grid and testing is done using EPA Method 8081. This is a specific criteria/methodology. Work is done in compliance with guidelines set by an oversight committee such as the Department of Environmental Health or the Department of Toxic Substances Control. Once again, these are specific standards. Accordingly, MM-HAZ-4 does not constitute an improper deferral of mitigation, as the agency is committed to testing based on identifiable performance standards.

1.45 Comment noted. This is information regarding General Plans that does not assert any comments specific to the Project and, therefore, does not require a response.

1.46 Comment noted. This is information regarding General Plans that does not assert any comments specific to the Project and, therefore, does not require a response.

1.47 Comment noted. This is information regarding General Plans that does not assert any comments specific to the Project and, therefore, does not require a response.

1.48 Comment noted. This is information regarding the Subdivision Map Act that does not assert any comments specific to the Project and, therefore, does not require a response.

1.49 Comment noted. This is information regarding Subdivision Map Act that does not assert any comments specific to the Project and, therefore, does not require a response.

1.50 The Draft EIR found a significant and unavoidable impact related to the conversion of farmland to non-agricultural use, noting the ultimate vision for the Project site and immediate environs is suburban and urban land development – not agriculture. (DEIR, p. 4.3-10.) Further, the Draft EIR explained that no buffering pursuant to Policy 10.8 was proposed due to the ultimate vision for the Project site and surrounding area (DEIR, p. 4.3-10). However, the Project does include some buffering in accordance with this policy. Specifically, and according to Figure 7-1 of the Vista Del Agua Specific Plan (Appendix A of the DEIR) a screening buffer is provided on the western boundary of the Project site to the adjacent existing agricultural lands. This buffer is depicted on Figure 7-8, Landscape Screening of the Specific Plan. These adjacent lands are part of the Shadow View Specific Plan and will ultimately be developed in an urban/suburban pattern similar to Vista Del Agua. This buffer is provided on the western boundary of Planning Areas 1, 2 and 4. No buffer is provided on the western portion of PA5, as it will be adjacent to a future public park within the Shadow View Specific Plan. A buffer is proposed on the eastern and northern boundary of PA3 where it abuts agricultural land. Further, Avenues 47, 48 and Polk Street will also serve as buffers. In fact, the Project has included providing “a transition blend of rural and suburban lifestyles” into the Project objectives (DEIR, p. 3-3) to ensure land use conflicts with existing surrounding uses do not occur.

Regarding Policy 10.9 (Right to Farm), the Draft EIR notes the Project is subject to Assembly Bill 2881 – Right to Farm Disclosure, and Standard Condition SC-AG-1 is included to comply with Assembly Bill 2881 by requiring disclosure prior to the close of escrow on the sale of individual homes that "The property is located within 1 mile of farmland as designated on the most recent Important Farmland Map." (DEIR, p. 4.3-10.) The Draft EIR notes a significant and unavoidable impact would occur in the interim until such time that adjacent properties are developed with suburban and urban scale development. (Id.) Therefore, the EIR does adequately analyze these Policies as relates to the Project and the Project is consistent with Policies 5.8. and 5.9. No additional analysis is needed.

1.51 General Plan Policy 6.14 encourages the avoidance of locating new sensitive uses in proximity to sources of pollution. Sources of pollution include agricultural land where pesticides and chemical fertilizers are used regularly. Where such uses are located in proximity to sources of air pollution, building design, construction and technology techniques can mitigate the negative effects of air pollution on indoor air quality. The site and surrounding area are not currently being used for agriculture – see also Response to Comment 1.43 above regarding the possibility of the presence of agricultural chemicals. Based on this information, the Project is consistent with General Plan Policy 6.14 as described in the Chapter 4.4 of the DEIR. (DEIR, p. 4.10-22.)

Please refer to Responses to Comments 1.43 and 1.44 regarding deferral of mitigation. No additional analysis is needed.

1.52 Comment noted. The comment expresses the commenter's opinion regarding consistency with the City's General Plan. For specific responses, refer to Responses to Comments 1.50 and 1.51.

1.53 The commenter requests recirculation of the EIR to address concerns raised in the comment letter. However, significant new information has not been added to the EIR in response to commenter's concerns. Recirculation is not required when the changes merely clarify, amplify, or make insignificant modifications to an adequate EIR. *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1993) 6 Cal.4th 1112, 1130; see State CEQA Guidelines § 15088(b). This is the case here.

1.54 Comment noted regarding attached exhibits. Responses to comments raised in the exhibits are discussed in detail below. No additional response is required.

1.55 See Responses to Comments 1.08 and 1.09 above relative to the commenter's qualifications. It is unclear if Mr. Hagemann is considered an expert under CEQA for the purposes of making comments on this EIR given the commenter's general scientific background, area or areas of expertise (which do not apply to this Project), and the geographic distribution of the commenter's experience (i.e., not in the Inland Empire). In addition, the commenter lacks any direct experience with this Project or similar types of land development projects in this area or the specific environmental conditions found in this area. Be that as it may, the various specific comments made by the commenter have been responded to below. Mr. Hagemann's resume is attached electronically to these Responses.

1.56 See Responses to Comments 1.08 and 1.12 above relative to the commenter's

qualifications. It is unclear if Dr. Rosenfeld is considered an expert under CEQA for the purposes of making comments on this EIR given the commenter's general scientific background, area or areas of expertise (which do not apply to this Project), and the geographic distribution of the commenter's experience (i.e., not in the Inland Empire). In addition, the commenter lacks any direct experience with this Project or similar types of land development projects in this area or the specific environmental conditions found in this area. Be that as it may, the various specific comments made by the commenter have been responded to below. Dr. Rosenfeld's resume is attached electronically to these Responses.

1.57 Comment noted. These are informational statements and a summary of the Project Description that do not require a response.

1.58 This comment summarizes the findings of the subsequent issues raised by SWAPE. However, as described below (Responses to Comments 1.59 through 1.100), the DEIR has fully disclosed and analyzed the Project's impacts per City of Coachella, South Coast Air Quality Management District and State of California standards and no updated EIR is necessary.

1.59 The comment provides a summary of the EIR's finding regarding operational air quality impacts and states that they agree the Project would result in a significant VOC, NOx and CO impact. The commenter also provides the opinion that the "significant and unavoidable" conclusion in the EIR is incorrect but does not provide support for that assertion. The last part of the comment provides a discussion of responsible agency findings under State CEQA Guidelines Section 15096(g)(2). Responsible agency findings are not applicable at this stage and no response is required.

1.60 The commenter is incorrect that implementation of AQ-1 through AQ-13 do not represent all feasible mitigation. Mitigation requires specificity in terms of recommended actions or improvements. In this case, the percent of lighting electrical consumption and number of trees to be planted were based on the characteristics and limitation of the Project site plan as proposed. The commenter has conflated all feasible with all possible mitigation but provided no documentation or evidence as to why the suggestion of additional mitigation are actually feasible for this Project, the commenter has just recommended "more" than proposed. The commenter has also not considered if mitigation is under the control of the lead agency or some other entity, in that case compliance with particular measures could be infeasible simply because the lead agency cannot guarantee their implementation or monitoring.

The commenter has not provided substantial evidence that would suggest additional mitigation measures would further reduce emissions to less than significant levels. They have instead simply listed generic mitigation measures from CAPCOA and other unsubstantiated sources. Many of the measures described on Page 24 of the SWAPE letter are standard building code requirements that will be implemented by the Project. Furthermore, the 2019 California Building Standards Code now requires all new residential developments to have net zero energy generation. This means that GHG emissions will be near zero. This new requirement, which was not previously discussed in the 2016 Air Quality Study, is a standard condition for any new home built after January 1, 2020. Additionally, all lighting fixtures will be fitted with ultra-low LED lighting, further reducing electricity demand. Therefore, considering the mitigation measures that are in place in the EIR and the additional requirements from the latest

CA Building Standards Code, GHG emissions associated with electricity will be reduced to near zero. Therefore, the comment regarding adding additional lighting mitigation does not significantly reduce project emissions. As described in Response to Comment 1.59, the commenter has not provided substantial evidence that would suggest additional mitigation measures would further contribute to reduced project emissions. For these reasons, the EIR correctly concluded that air emissions would be significant (mainly due to its size and type relative to the established SCAQMD daily thresholds).

Compliance with SCAQMD Rule 1113 is considered compliance with existing regulations so it does not need to be included as specific mitigation. Rule 1113 is a standard condition that governs the VOC content for paints, solvents, coatings, etc. and the application thereof by the SCAQMD. This Project will be required to go above and beyond the standard Rule 1113 requirements and use ultra-low and no-VOC paints as part of mitigation measure AQ-4. With the implementation of AQ-4, all construction VOC emissions impacts will be mitigated to less than significant levels. Therefore, no additional mitigation would be required to mitigate VOC emissions.

The project will provide native/draught tolerant landscaping that is suitable for the desert climate of the site, which local climate data shows the average annual high temperature is over 88 degrees Fahrenheit and the average annual rainfall is less than 4 inches. The type of vegetation that will be planted on the site will not be the broad-leafed, large tree species that provide significant carbon sequestration, but would instead be smaller draught tolerant species. Therefore, the carbon sequestration from on-site tree planting is limited and could actually have a negative impact by requiring more water usage. Therefore, the comment that additional carbon sequestration would be achievable by planting more trees is not appropriate in this case. The analysis has already taken into account some carbon sequestration from landscaping, however, the suggestion to provide more trees for purposes of carbon offsetting would not be recommended as a viable mitigation due to the local climate setting.

1.61 This comment provides a general description of CalEEMod modeling methodology. No further response required.

1.62 All changes to default values in CalEEMod are identified and described in the Vista Del Agua Air Quality and Greenhouse Gas Impact Study, City of Coachella, September 2016. The commenter claims that several values input into the model are not consistent with the information disclosed in the EIR but does not identify which values are referenced such that the City can respond. To the extent the commenter raises concerns regarding specific modeling inputs, detailed responses are provided below. No further response required.

1.63 Architectural coating values have been reduced per the requirements of Mitigation Measures MM-AQ-4 and MM-AQ-12 (DEIR, pp. 4.4-54 through 4.4-59), which requires that architectural coatings be applied with VOC content no greater than 10 g/L and the use paints with VOC content lower than SCAQMD Rule 1113 requires for application to surfaces of homes within the Project site. All changes to default values in CalEEMod are identified and described in the *Air Quality and GHG Impact Analysis, Vista Del Agua, City of Coachella, CA*, prepared by RK Engineering, dated September 1, 2016 (*AQ/GHG Analysis,* Appendix D1). The modification to the model has been performed in a manner that is consistent with the recommendations described in the

CalEEMod User Guide, Section 3.4, Altering Default Data. CalEEMod was designed to allow the user to change the defaults to reflect project-specific information. An explanation has been provided in the Remarks box and the modification is reported in the CalEEMod output sheets to justify and support the change to default values. Therefore, the VOC reductions mitigation measures required by MM-AQ-4 and MM-AQ-12, have been appropriately applied to CalEEMod and may be relied upon to determine significance.

1.64 The Project will be required to comply with the engine tier requirements and construction fleet contractors must meet the State's Best Available Control (BACT) requirements (Mitigation Measure MM-AQ-3, pp. 4.4-54 and 4.4-55 of the DEIR). As more and more demand for Tier 4 engines occurs, contractors will have to purchase new equipment that complies with the applicable standards in order to secure contracts and meet the requirements of projects they intend to serve. No further response required.

1.65 Figure 4 shows a graphic from 2014, before the mandatory requirements from the EPA and CARB for Tier 4 engines and BACT were fully enacted. Therefore, the data shown in this graphic is outdated and may not represent the current fleet engine usage mix. Tier 4 engine demand continues to expand each year and contractors are upgrading their fleets to meet the demand. No further response required.

1.66 The Project will be required to use Tier 4 engines during construction and in doing will comply with the BACT requirements from the State. No further analysis or mitigation is required Mitigation Measure MM-AQ-3, pp. 4.4-54 and 4.4-55 of the DEIR). A limited supply of tier 4 fleet engines does not mean the measure is infeasible. The developer has accepted the condition and will be required to comply with it. No further response required.

1.67 The mobile emissions analysis in the AQ/GHG Analysis (DEIR, Appendix D1 – *AQ/GHG Analysis*) assumed an 11% pass-by and the Project traffic study (DEIR, Appendix O) utilized a 30% pass-by credit for the Shopping Center. The latest Institute of Transportation Engineers (ITE) Trip Generation Manuel, 2017 provides surveyed data that indicates shopping center uses experience pass-by reduction up to 34% during peak times. Therefore, the 30% estimate in the traffic study and the 11% estimate in the air quality study are within a reasonable margin for expected pass-by. Furthermore, the he Traffic Study does not analyze diverted trips, this is a metric specific to the AQ/GHG Analysis. The default diverted trip assumption in CalEEMod has not been changed, therefore, the use of diverted trips in the emissions analysis is consistent with the CalEEMod user guide recommendations. Furthermore, neither the traffic study nor the AQ/GHG Analysis has taken into account any trip reduction potential for walking and bicycling trips which will likely occur throughout the site, as residents will be connected to the retail areas via dedicated walking trails and protected bikeways. The project is designed to encourage walking and bicycling trips and integrate the diversity of land uses without having to drive in a car. Therefore, the mobile emissions estimates provided in the AQ/GHG Analysis are reasonable and all potential impacts have been fully disclosed.

1.68 Reference Response to Comment 1.67. No additional analysis is required.

1.69 Reference Response to Comment 1.67. No additional analysis is required.

1.70 The trip generation estimates that have been used in the Traffic Study (DEIR, Appendix O) and the Air/GHG Study are consistent with the latest published data from the Institute of Transportation Engineers (ITE) Trip Generation Manuel, 2017. The ITE shows shopping center uses experience pass-by reduction up to 34% during peak times. Therefore, the 30% estimate in the traffic study and 11% are within a reasonable margin for expected pass-by trips. Furthermore, neither the traffic study nor the Air Quality Study has taken into account any trip reduction potential for walking and bicycling trips which will likely occur throughout the site, as residents will be connected to the retail areas via dedicated walking trails and protected bikeways. The project is designed to encourage walking and bicycling trips and integrate the mix of land uses without having to drive in a car. Therefore, the mobile emissions estimates provided in the AQ/GHG Analysis are reasonable and all potential impacts have been fully disclosed.

1.71 This comment provides a general statement and gives the commenter's opinion that operational emissions may be underestimated but does not provide any specific examples of operational mitigation measures that should not have been included. Response to specific comments related to operational mitigation measures are discussed in Response to Comments 1.72 through 1.76.

1.72 The CalEEMod computer model was developed by the South Coast Air Quality Management District (SCAQMD) specifically to better estimate air pollutant emissions from land development projects in southern California compared to its predecessor the Urbemis model. SCAQMD specifically designed CalEEMod to have more project characteristics in terms of construction and operation parameters to provide more accurate estimates of project emissions. The application of the CalEEMod input parameters referring to mobile source mitigation measures (Section 4.1 on the CalEEMod output sheets) have been applied based on the projects physical setting and its proposed land use mix and multi-modal infrastructure. The use of the mobile emissions mitigation tools is consistent with the CAPCOA Quantifying Greenhouse Gas Mitigation Measures methodology, which demonstrates that increasing the density and diversity of a site, improving destination accessibility and pedestrian network, and increase transit accessibility can reduce VMT. The project will increase the density and diversity of the site compared to the existing land use designation in the City of Coachella General Plan by allowing higher density residential development and providing a mix of uses including single-family homes, multi-family homes, open space, parks, and commercial uses. Furthermore, the project will provide increased access to transit and improved pedestrian networks through the creation of expansive pedestrian trails and bikeways. This mobile source mitigation measures are correctly applied per CalEEMod and CAPCOA methodology to account for the trip reduction potential of the project. No further analysis is required.

1.73 The application of the CalEEMod input parameters referring to energy source mitigation (Section 5.1 on the CalEEMod output sheets) are sufficient for the project use, supported by the mitigation requirements in the EIR, and meet the standards of the project design, per the CAPCOA Quantifying Greenhouse Gas Mitigation Measures methodology. These inputs were chosen help reduce the project's GHG emissions and reflect the building code standards and requirements that will be implemented. The use of these parameters is identified in the CalEEMod output sheets and enforced through the AQ-MM6 through AQ-MM-11. No further analysis is required.

1.74 The application of the CalEEMod input parameters referring to water conservation measures (Section 7.1 in the CalEEMod output sheets) are sufficient for the project use, supported by the mitigation requirements in the EIR, and meet the standards of the project design, per the CAPCOA Quantifying Greenhouse Gas Mitigation Measures methodology. These inputs were chosen help reduce the project's GHG emissions and reflect the City policy, building code standards and requirements that will be implemented. The use of these parameters is identified in the CalEEMod output sheets and enforced through the AQ-MM6 through AQ-MM-11. The project will be required to install low-flow fixtures, including faucets, toilets, and showers such that indoor water demand is reduced by 20%. The project will also be required to utilize landscaping and irrigation that reduces outside water demand by at least 20%. No further analysis is required.

1.75 The application of the CalEEMod input parameters referring to waste reduction measures (Section 8.1 in the CalEEMod output sheets) are sufficient for the project use, supported by the mitigation requirements in the EIR, and meet the standards of the project design, per the CAPCOA Quantifying Greenhouse Gas Mitigation Measures methodology. These inputs were chosen help reduce the project's GHG emissions and reflect the City policy, building code standards and requirements that will be implemented. The use of these parameters is identified in the CalEEMod output sheets and enforced through the AQ-MM6 through AQ-MM-11. The project will be required to ensure that at least 75 percent of waste is diverted from landfills. No further analysis is required.

1.76 Project Mitigation Measures MM-AQ-11 through MM-AQ-13, DEIR, pp. 4.4-56 through 4.4-59) are consistent with CAPCOA's Quantifying Greenhouse Gas Mitigation Measures for land use development for the following reasons, which are all identified in the CalEEMod Output sheets in the Air/GHG Analysis:

- The project will increase the density of the site compared to the currently existing land use designations in the City's General Plan
- The project will increase the diversity of the site by providing a mix of land uses including single family and multi-family residential, parks and open space, and retail commercial uses.
- The project will increase destination accessibility by providing new jobs/housing within 1.7 miles of downtown Coachella.
- The project will increase transit accessibility by being located within 1.5 miles to Sunline bus routes 91 and 95 at Harrison/Grapefruit,
- The project will improve the pedestrian network by providing sidewalks and off-site connection with an expansive pedestrian trail system and bikeways which a described in the Specific Plan.

The amount of GHG reduction achieved through each of the measures described above is calculated internally by CalEEMod and is based off of the specific site parameters and inputs that are shown in the User Entered Comments and Non-Default Data fields. The use of the mitigation tools is consistent with CAPCOA because CalEEMod takes into account distances and other elasticity factors which limit the amount of GHG reducing potential from each measure. In addition, the CalEEMod and CAPCOA measures are consistent with the latest (2019) State Green Building Code with which the Project will be required to be consistent.

1.77 This statement provides a general summary of the findings of the EIR. No further response is required.

1.78 This statement provides a general summary of the findings of the EIR. No further response is required.

1.79 The Localized Significance Thresholds (LST) thresholds are applied to determine the impact of criteria air pollutants from the Project per the methodologies recommended by SCAQMD. The LST methodology is also not the solely relied upon metric used for concluding that the project would have a less than significant impact from TAC emissions. The LST methodology provides information on how much particulate emissions, including Diesel Particulate Matter (DPM), will be produced by the project. The EIR informs the reader that the project generated PM_{10} and $PM_{2.5}$ emissions would be below the localized thresholds of significance.

According to p. 4.4-41 of the DEIR:

> *"Table 4.4.4-7, Construction Localized Significance, below, illustrates the construction related LSTs for the Project area. The emissions will be below the SCAQMD thresholds of significance for localized construction emissions."*

In addition, according to p. 4.4-41 of the DEIR:

> *"According to SCAQMD LST methodology, LSTs would apply to the operational phase of a project, if the Project includes stationary sources, or attracts mobile sources (such as heavy-duty-trucks) that may spend long periods of time queuing and idling at the site; such as industrial warehouse/transfer facilities. The proposed Project does not include such uses. During operation, on-site emissions would be negligible and would primarily consist of the intermittent on-site travel of motor vehicles. There, due to the lack of stationary source emissions, no long-term localized significance threshold analysis is warranted."*

The Project is not identified as a significant stationary source polluter that would require additional health risk analysis of operations per the California Air Resources Board's Recommendations on Siting New Sensitive Land Uses. Furthermore, regarding construction, OEHHA recommends that a 30-year exposure duration be used as the basis for estimating cancer risk at the maximum exposed individual resident (MEIR) in the Hot Spots Program. This exposure duration represents the time of residency for 90 to 95% of Californians at a single location and should provide adequate public health protection against individual risk. OEHHA admits that there is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime, such as construction. Furthermore, per Mitigation Measure MM-AQ-4 (DEIR, p. 4.4-55), all off-road diesel equipment shall be equipped with California's most stringent Tier 4 final engines to reduce diesel particulates and NOx exhaust emissions. Finally, the project will be built out in phases, and construction activities will take place spread out throughout the site. As a result, sensitive receptors are not expected to be exposed to substantial pollutant concentrations over a 30-year exposure duration. For these reasons, a quantified health risk assessment is not warranted or needed to reach a conclusion of less than significant.

1.80 For additional information relative to an HRA for this Project, see Response to Comment 1.79 above. A quantified HRA study is not warranted or needed to make the determination of the project having less than significant health risks because the type of use being proposed does not meet the established recommendations by the California Air Resources Board, in their Air Quality and Land Use Handbook: A Community Health Perspective, April 2005. This document indicates that residential and commercial land use projects are not significant stationary source polluters and sources of toxic air contaminants that would pose significant risk. The CARB lists the following uses as being significant sources of air pollution which may pose risk to sensitive populations:

- High traffic freeways and roads
- Distribution centers
- Rail yards
- Ports
- Refineries
- Chrome plating facilities
- Dry cleaners
- Large gas dispensing facilities

Furthermore, the Office of Environmental Health Hazard Assessment (OEHHA) recommends that a 30-year exposure duration be used as the basis for estimating cancer risk at the maximum exposed individual resident (MEIR) in the Hot Spots Program. This exposure duration represents the time of residency for 90 to 95% of Californians at a single location and should provide adequate public health protection against individual risk. OEHHA admits that there is considerable uncertainty in trying to evaluate the cancer risk from projects that will only last a small fraction of a lifetime. Furthermore, per Mitigation Measure MM-AQ-4 (DEIR, p. 4.4-55), all off-road diesel equipment shall be equipped with California's most stringent Tier 4 final engines to reduce diesel particulates and NOx exhaust emissions. As a result, the potential exposure to diesel particulate matter would be reduced by over 85%. Additionally, the Project will be built out in phases, and construction activities will take place spread out throughout the site. As a result, sensitive receptors would not be exposed to substantial pollutant concentrations over a 30-year exposure duration. In addition, the reader is referred to the related discussion on DEIR pp. 4.4-46 and 4.4-47 as it pertains to "Health Risk Assessment." No additional analysis is necessary or warranted.

1.81 For additional information relative to an HRA for this Project, see Response to Comment 1.79 above. The Project is not a significant long-term generator of toxic air contaminants, such as stationary source polluters like refineries, power plants or large-scale industrial/truck uses. Therefore, a quantified health risk assessment was not performed for this use. Please also see Responses to Comments 1.79 and 1.80. No additional analysis is required.

1.82 The commenters screening-level HRA analysis is flawed and does not take into account the Tier 4 non-road engine requirements that this Project will utilize per Mitigation Measure MM-AQ-4 (DEIR, p. 4.4-55). Tier 4 engines can reduce Diesel Particulate Matter emissions by over 85%, and as a result, the emissions and risk exposure findings in the SWAPE letter are substantially over-estimated and do not represent the Project conditions. Accordingly, the commenter has not provided substantial evidence of a potentially significant health risk impact and no additional

analysis is required.

1.83 This statement provides a general overview of the AERSCREEN model. For additional information relative to an HRA for this Project, see Response to Comment 1.79 above. No additional response is required.

1.84 The SWAPE HRA analysis utilizes SWAPE's updated CalEEMod model. However, as shown on Page 3 of 56 of the CalEEMod output sheets provided by SWAPE, this model only includes Tier 3 engine requirements for construction equipment, not Tier 4 engines. Tier 4 engines are mandated in MM-AQ-4 (DEIR, p. 4.4-55) for all off-road equipment used by the project during construction. Tier 4 engines can reduce Diesel Particulate Matter emissions by over 85%, and as a result, the emissions and risk exposure findings in the SWAPE letter are substantially over-estimated and do not represent the Project conditions. Accordingly, the commenter has not provided substantial evidence of a potentially significant health risk impact and no additional analysis is required.

1.85 The HRA Analysis does not represent project conditions because it fails to take into account the Tier 4 engine requirement for all off-road diesel construction equipment. Therefore, the analysis significantly over estimates potential health risks from diesel exhaust exposure.

1.86 The HRA Analysis does not represent realistic project conditions because it fails to take into account the Tier 4 engine requirement for all off-road diesel construction equipment. Tier 4 engines can reduce Diesel Particulate Matter emissions by over 85%. Therefore, the analysis significantly over estimates potential health risks from diesel exhaust exposure. Please reference Response to Comment 1.82 and 1.84. No additional analysis is required.

1.87 For additional information relative to an HRA for this Project, see Response to Comment 1.79 above. The HRA Analysis performed by SWAPE does not represent realistic project conditions because it fails to take into account the Tier 4 engine requirement for all off-road diesel construction equipment. Tier 4 engines can reduce Diesel Particulate Matter emissions by over 85%. Therefore, the analysis significantly over estimates potential health risks from diesel exhaust exposure. Please reference Response to Comment 1.82 and 1.84. No additional analysis is required.

1.88 The potential health risks from the project are assessed with the context of the California Air Resources Board Air Quality and Land Use Handbook: A Community Health Perspective, April 2005. Which indicates that residential and commercial land use projects are not significant stationary source polluters and sources of toxic air contaminants that would pose significant risk. The CARB lists the following uses as being significant sources of air pollution which may pose risk to sensitive populations:

- High traffic freeways and roads
- Distribution centers
- Rail yards
- Ports
- Refineries
- Chrome plating facilities
- Dry cleaners

• Large gas dispensing facilities

Furthermore, Tier 4 engines are mandated in MM-AQ-4 (DEIR, p. 4.4-55) for all off-road equipment used by the project during construction. Tier 4 engines can reduce Diesel Particulate Matter emissions by over 85%. The upgraded engine requirement was not considered in the SWAPE HRA analysis and thus it does not represent project conditions. Therefore, the analysis significantly overestimates potential health risks from diesel exhaust exposure. Please reference Responses to Comments 1.79, 1.80, 1.82 and 1.84 for additional analysis.

1.89 The comment provides a summary of the Project's GHG emissions and provides the commenter's opinion that the less than significant finding in the EIR and the justification for the finding are incorrect and unsubstantiated. The comment provides general reasons to support the commenter's opinion but does not provide a specific comment allowing for a specific response. Responses to specific allegations are provided in Responses to Comments 1.90 through 1.92.

1.90 The CalEEMod (DEIR, Appendix D1 – *AQ/GHG Analysis*) input parameters accurately and correctly model the Project emissions. Furthermore, the credit for carbon sequestration has been applied correctly. Carbon sequestration is applied over a 20 year growing period. 2,406 trees would provide approximately 1,703 metric tons of total carbon sequestration or 85.17 $MTCO_2e$ annually. No additional analysis is required.

1.91 The DEIR's GHG analysis correctly applied the efficiency threshold at the time the report was prepared, and the notice of preparation was filed, which was pre-2020. The commenter incorrectly applies a Project level threshold to a programmatic level Project. However, looking at year 2035, the Project would still meet SCAQMD's efficiency thresholds for year 2035 programmatic level projects (4.1 $MTCO_2e$ per service population) and the City of Coachella 2035 reduction potential targets (4.2 $MTCO_2e$ per service population). No further analysis is required.

1.92 The SWAPE GHG analysis fails to take into account many of the Project design features and mitigation measures that will reduce project GHG emissions. This includes the land use, transportation, energy, water and waste reduction measures described in Mitigation Measures MM-AQ-2 through MM-AQ-13 (DEIR pp. 4.4-54 through 4.4-59). Furthermore, the SWAPE analysis, which was prepared post-2019 California Building Code requirements, fails to take into account the latest net-zero energy standards required of all new residential construction in California. Therefore, the SWAPE analysis is inherently flawed and blatantly attempts to over exaggerate emissions beyond what is reasonable. No additional analysis is required.

1.93 The commenter provides a generic list of mitigation measures from CAPCOA without any consideration for how they apply to the Project. Many of these measures are already included in the Project design and mitigation requirements, others are simply not applicable to the Project. As a result, substantial evidence has not been provided to demonstrate how the Project could further reduce emissions.

1.94 Refer to Response to Comment 1.93.

1.95 This is a general comment regarding the preparer's limitations of limitability. No further

response required.

1.96 This is an AERSCREEN Analysis for construction provided by the commenter. The DEIR has adequately disclosed and analyzed the Project's air quality impacts per City of Menifee, South Coast Air Quality Management District and State of California standards, utilizing the appropriate methodology for analysis. No additional response is required. The AERSCREEN results provided in the Comment Letter as part of Exhibit C is attached electronically to these Responses.

1.97 Please see Response to Comment 1.96.

1.98 The CalEEMod output files alone do not provide substantial evidence that additional impacts may result from the Project, beyond that which has been disclosed in the DEIR. Given the nature of the comments provided by SWAPE, including over-estimates of vehicle trips and energy usage and misinterpretation of mitigation measures, the City finds that the CalEEMod analysis prepared by SWAPE does not accurately depict Project impacts. The conclusions that have been reported in the SWAPE letter are inaccurate and would result in overestimated Project impacts. No further analysis or revisions to the findings related to air quality or GHG emissions is recommended. The CalEEMod results provided in the Comment Letter as part of Exhibit C is attached electronically to these Responses.

1.99 Please see Response to Comment 1.98.

1.100 Please see Response to Comment 1.98.

Attachments to Comment Letter #1 may be accessed at the link below:

https://www.dropbox.com/s/as8o4l4rvgxxry1/VDA%201%20-%20Tsai-SRCC%20Comment%20Letter-City%20Council%202-26-2020.pdf?dl=0