

- (2) Annexation to an existing district, which has an independent governing body (an independent district);
- (3) Annexation to an existing service area or district of which the Board of Supervisors is the governing body (a dependent district);
- (4) Formation of a County Service Area or dependent district, which provides multiple services;
- (5) Formation of a County Service Area or dependent district, which provides a single service;
- (6) Formation of a new independent (Community Service) district, which provides multiple services;
- (7) Formation of a new independent single service district; and
- (8) Incorporation of a new city.

MUSD-45

11. The approval of proposals by LAFCO must be conditioned to mitigate the following adverse impacts to a level considered less than significant:

- a. Any threat to the public health and safety;
- b. Any reduced or eliminated service availability;
- c. Any unacceptable reduction of service quality;
- d. Any loss of economics of scale;
- e. Any duplication of service capacity or facilities;
- f. Any proposal that exceeds the service provision capability as outlined in the Service Area Plan; and
- g. Any double taxation for provision of a service” (emphasis added)

The Draft EIR should be revised to include the data, and quantitative and qualitative analysis to provide the information that is needed to insure that these provisions of LAFCO are complied with. The District would suggest that the current Draft EIR does not provide this information. The Draft EIR should provide evidence that the Project results in the provision of urban services in densely developed and populated areas rather

than in uninhabited or sparsely inhabited territories. Further, the Draft EIR should show how the Project protects agricultural and open space lands from premature conversion as required under State Law. Further, the Draft EIR should show how the Project will provide urban services in areas with high growth potential, rather than in areas with limited potential for future growth. Further, the Draft EIR should show a complete analysis of the environmental consequences associated with the approval of the Project and all actions to avoid or minimize projects significant adverse environmental impacts. Finally, the Draft EIR should show how the Project a) is not a threat to the public health and safety of the District; b) does not reduced or eliminated service availability offered by the District; c) causes an unacceptable reduction of service quality of the District; or d) creates a loss of economics of scale to the District.

The Polices further state:

“The Imperial Local Agency Formation Commission has adopted specific standards for its actions to ensure that it renders fair and consistent decisions in accordance with State law. The LAFCO will use these specific standards, as well as the applicable policies and general standards, during its decision-making process.

MUSD-45

A. ANNEXATIONS TO CITIES AND DISTRICTS

1. The State Legislature has provided the LAFCO with a tool, in the form of Spheres of Influence, to use in shaping logical and orderly development and coordination of local government agencies. The LAFCO will apply this tool by adhering to the following standards:
 - a. The LAFCO may approve an application for annexation only if the proposal conforms to and lies wholly within the approved Sphere of Influence boundary for the affected agency;
 - b. The LAFCO will encourage proposals and actions that are a part of an orderly, phased annexation program by an agency for territory within its Sphere of Influence Plan; and
 - c. An annexation must be consistent with a City or District's "Service Area Plan" of its Sphere of Influence Plan; and
 - d. The LAFCO encourages the annexation to each City of all islands of unincorporated areas located within the City's boundaries.
2. The LAFCO will not permit proposals in which boundaries are not contiguous with the existing boundaries of the City to which the territory will be annexed, unless the area meets all of the following requirements:

- a. Does not exceed 300 acres;
 - b. Is owned by a City;
 - c. Is used for municipal purposes; and
 - d. Is located within the same County as the City.
3. The LAFCO encourages Cities to annex streets where adjacent municipal lands will generate additional traffic and where there are isolated sections of county road that will result from an annexation proposal.
4. An annexation may not result in islands, corridors or peninsulas of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries unless findings are made that annexation as proposed is necessary for orderly growth. (emphasis added)

MUSD-45

The Draft EIR should be revised to include the data, and quantitative and qualitative analysis to provide the information that is needed to insure that these provisions of LAFCO are complied with. The District would suggest that the current Draft EIR does not provide this information. In particular, the Draft EIR should show how the Project is a part of an orderly, phased annexation program the City for territory within its Sphere of Influence Plan, and that the Project is consistent with a City's "Service Area Plan" of its Sphere of Influence Plan. In addition, the Draft EIR should show how the Project does not result in islands, corridors or peninsulas of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries or that there can be provided evidence that the Project is necessary for orderly growth of the City. The District would suggest that this analysis is not included in the Draft EIR.

It is the District's finding that the Project does not meet the Objectives and Policies of the Imperial County LAFCO Policies for the same reasons that the Proposal does not comply with the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and is not in compliance with the City's and County's General Plan with regards to public services and facilities. Further, the District finds that the impacts and consequences of the Project are not mitigated or adequately addressed.

The District again restates that the provision of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires a "plan of services" and requests that this plan of services be provided in the Draft EIR:

“The plan for providing services shall include all of the following information and any additional information required by the commission or the executive officer:

- 1) An enumeration and description of the services to be extended to the affected territory.
- 2) The level and range of those services.
- 3) An indication of when those services can feasibly be extended to the affected territory.
- 4) An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- 5) Information with respect to how those services will be financed.”

MUSD-46

In addition the District wants to identify that LAFCO is required to consider specific information that should be contained in the Draft EIR or as an appendix to the Draft EIR to fulfill the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000:

“Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

- a) Population, population density; land area and land use; per capital assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years. Local Government Reorganization Act of 2000.
- b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas. "Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be

provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

- c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
- d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.
- e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
- f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- g) Consistency with city or county general and specific plans.
- h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
- i) The comments of any affected local agency.
- j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for such services following the proposed boundary change.
- k) Timely availability of water supplies adequate for projected needs including, but not limited to, the projected needs as specified in section 65352.5.
- l) The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the appropriate council of governments.
- m) Any information or comments from the land owner or owners.

MUSD-46

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Acting Planning Director
City of El Centro
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n) Any information relating to existing land use designations.”

The Draft EIR should be revised to address the flaws in the environmental analysis, the General Plan conformity analysis, and the compliance of the Project with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the LAFCO polices.

MUSD-46

McCabe Union Elementary School District, October 28, 2007

Note to the reader: Due to the volume of comments contained in the letter from the McCabe Union Elementary School District, each comment has been summarized then followed by the City's response to the comment.

Comment MUSD 1. The cover letter of the package of comments submitted by the McCabe Union Elementary School District (MUSD) was prepared to set the stage for the argument that the Draft EIR and Revised Draft EIR (together comprising the Draft EIR) are inadequate and must be revised and recirculated for public review. It consisted of a description of the proposed project, citation of various sections of CEQA or the CEQA Guidelines that point to the District's position that Draft EIR must be revised and recirculated. Embedded in the cover letter are three specific points that are addressed in response to Comment MUSD-1.

Comment. The District pointed out a discrepancy (page 4 of 154) between the Notice of Availability (NOA) of the Revised DEIR and the content of Section 1.3 of the Revised DEIR as to whether the reviewer can comment on both the Draft EIR (November 2006) and the Revised DEIR (September 2007) or if comments are limited to the RDEIR. Therefore, the District chose to comment on both documents.

Response. Because the District has provided comments on both the Draft EIR and Revised Draft EIR in this letter, the City will assume that any previous letters from the District with regard to either document have been superceded and will only provide responses to comments contained in the District's letter dated October 28, 2007.

Comment. The District pointed out (page 4 of 154) that Appendix A of the Draft EIR does not include a copy of the District's October 9, 2006 comments on the revised Notice of Preparation.

Response. The October 9, 2006 letter will be included in Appendix A of the Final EIR.

Comment. The District wants the City to understand its formal position with regard to the project and other development proposals within the District, particularly with regard to the collaboration and negotiation of implementation and financing agreements with developers to address the school facilities, interim facilities, District-wide support facilities, and student transportation requirements ... The District is open to all creative financing and implementation tools that developers or their consultants offer (page 7 of 154)

Response. The City acknowledges that the District has issued a letter prepared by Community Systems Associates, Inc. (CSA) which, in summary, states that the project would have significant cumulative impacts on the District that would not be fully mitigated by development impact fees

authorized by SB 50, thus requiring the preparation of an additional Revised Draft EIR. The letter states that SB 50 and its provisions are inadequate to fully mitigate school district impacts. The letter goes on to state that the City has options which are not in violation of SB 50 and that by not exercising those options, the City of El Centro City Council has failed to fulfill their responsibilities to protect the constituents of the City of El Centro, including the District and the other school districts within the City, by relinquishing their discretionary responsibilities with regards to land use decisions in the City to the State of California.

Although the project is not of a scale to require the construction of new facilities which could have an environmental impact, the City recognizes that the project would result in additional students attending school in the District; however, the increase in student population would be mitigated by school facilities fees paid pursuant to SB 50. The intent of SB 50 was to impose limitations on the power of cities and counties to require mitigation of impacts on school facilities as a condition of approving new development and suspends or repeals the series of cases known as *Mira/Hart/Murrieta*. However, it also authorizes school districts to levy statutory developer fees at levels which may be significantly higher than those previously permitted, although school districts must follow a new set of rules to do so.

The provisions of SB 50 prohibit local agencies from denying either legislative or adjudicative land use approvals on the basis that school facilities are inadequate; and reinstates the school facility fee cap for legislative actions (e.g., general plan amendments, specific plan adoption, zoning plan amendments) which was previously put into place by the 1986 School Facilities Law, but which were nullified by the *Mira/Hart/Murrieta* court cases. According to Government Code Section 65996, the development fees authorized by SB 50 are deemed to be "full and complete school facilities mitigation."

Further, SB 50 indicates that developer fees are not intended to be the sole source of funding for new school facilities, but are intended to supplement state and local bond funding for school facilities. SB 50 also permits school districts to impose higher fees (level 2 and level 3), if higher fees are justified on the basis of an adequate facilities needs analysis (nexus study) or the lack of availability of school bond revenues. The City is not aware of the District having imposed additional school fees over the base-level allowed under SB 50, and justifying such an increase through a nexus study. CEQA does not require the environmental document to provide an analysis of the District's fiscal health, or additional funding sources because they are not an environmental issue associated with the project.

The City recognizes that the project would cumulatively contribute to additional enrollment impacts to the District along with all other cumulative development projects within the District's boundaries. All new development in the City is required to pay school facility impact fees as required by SB 50.

This would provide full and complete mitigation pursuant to the statute for impacts from cumulative development affecting District schools. CEQA Guidelines Section 15130(a)(3) states that a project's cumulative contribution is less than considerable if the project is required to implement or fund its fair share of a mitigation measure designed to alleviate the cumulative impact (i.e., payment of SB 50 fees).

In summary, the City acknowledges the intent of CSA's letter written on behalf of the District to convey the District's belief that SB 50 is not adequate to fully mitigate the impact of development upon school facilities. However, the school facility impact fee schedule is based on current state law and Government Code 65996 which states that the "development impact fees authorized by SB 50 are deemed to be 'full and complete school facilities mitigation' for the impact caused by new development on school facilities," SB 50 indicates that developer fees are not intended to be the source of funding for new school facilities. Developer fees are intended to supplement state and local bond funding for school facilities. If the District determines that additional funding is necessary, this must be accomplished through separate funding mechanisms, but the formation of such funding mechanisms is beyond the scope of this CEQA document.

Because impacts to school facilities are considered by state law to be fully mitigated by the payment of fees pursuant to SB 50, the City is not required to again recirculate a Revised Draft EIR.

Comment MUSD-2. This comment (pp. 9 through 20 of 154) provides a summary of the applicable provisions of the CEQA Guidelines with regard to the District's right to comment on the whole of the document not just potential impacts to the District facilities, because "any person or entity other than a Responsible Agency may submit comments to a Lead Agency concerning any environmental effects of a project being considered by the Lead Agency (CEQA Guidelines Section 10544)." Further, the District is a public agency that does not have "discretionary approval power over the Project" but does have an obligation to its constituents, so that commenting on the whole of the Draft EIR and Revised Draft EIR is justifiable.

Response: The City acknowledges receipt of the comments and has made a good faith effort to provide responses that address the District's concern for its constituents. However, the District is advised that under Public Resources Code 21153(c), CEQA Guidelines Sections 15086(c) and 15096(d), as a public agency, the District should only be making substantive comments regarding those activities involved in a project that are within an area of expertise of the agency or which are required to be carried out or approved by a responsible agency. The District's letter strays from school issues.

Comment MUSD-3: This comment (pp. 20 through 23 of 154) provides a summary of Section 2 of the Draft EIR which in turn, a summary of the Draft EIR and the findings reached on the environmental

impacts associated with the implementation of the proposed project and concludes by agreeing with these findings. That is, that the project will generate an increased demand for and extension of public services to the project site, particularly with regard to the District's ability to provide educational services and operations.

Response. The City agrees with the District's conclusion that the Draft EIR addresses the increased demand for Public Services.

Comment MUSD-4: This comment (pp. 23 through 27 of 154) summarizes the Introduction to the Revised (Recirculated) Draft EIR and notes that the "Recirculated Draft EIR does not address project-specific or cumulative impacts and mitigation measures which address the availability of school facilities and ability of the District to provide school educational and operations provided by the District to serve the project (see last paragraph on page 24 of 154).

Response. The analysis of Public Services in Section 5.8 of the Draft EIR concluded that impacts associated with the implementation of the proposed project were either less than significant or could be reduced to less than significant levels through the payment of Development Impact Fees, or in the case of parks, the development of a park on-site. In the case of solid waste disposal, the mitigation is to recycle construction materials. Because impacts to school facilities are considered by state law to be fully mitigated by the payment of fees pursuant to SB 50, the project will not result in a significant and unavoidable impact; the Draft EIR complies with applicable CEQA requirements. (CEQA Guidelines Section 15130(a)(3).

The District is reminded that the project evaluated in the Draft EIR and Revised Draft EIR contains a school site but does not include the planning of a new school. Additional environmental evaluation may be required once the District has settled on a Site Plan and, as the lead agency, the District would make that decision. However, for now, the level of analysis is adequate to assist the District in making the determination whether to go forward and purchase the available site or by choosing another site. This is similar to the approved Linda Vista subdivision, where the District recently completed the purchase of an elementary school site.

The City recognizes that as new residential subdivisions are developed, impacts to school districts will occur through the increase in the school aged population and has worked with the applicants to have them to set aside a site for an elementary school. In addition, as discussed in Response to Comment MUSD-1, the City acknowledges the intent of CSA's letter written on behalf of the District to convey the District's belief that SB 50 is not adequate to fully mitigate the impact of development upon its school facilities. However, the school facility impact fee schedule is based on current state law and Government Code 65996 which states that the "development impact fees authorized by SB 50 are deemed to be 'full and complete school facilities mitigation' for the impact caused by new

development on school facilities," SB 50 indicates that developer fees are not intended to be the source of funding for new school facilities. Developer fees are intended to supplement state and local bond funding for school facilities. If the District determines that additional funding is necessary, this must be accomplished through separate funding mechanisms, but the formation of such funding mechanisms is beyond the scope of this CEQA document.

Comment MUSD-5: This comment (pp. 27 and 28 of 154) states that the Draft EIR does not provide quantitative and qualitative analysis that supports the conclusion that the project can meet the objectives identified in Section 3.3 of the Draft EIR.

Response. Each of the five objectives is discussed here to show that the Draft EIR has adequately addressed the project can meet the stated objectives.

- *Supply single-family housing that is contiguous with the similar development and within the City's Sphere of Influence.* The project site is adjacent to the City of El Centro westerly corporate boundary. It is contiguous to existing residential uses on the north and east. See Exhibits 3-2 and 4-1 to see the relationship between the project site and surrounding uses. Exhibit 4-1 is an aerial photograph showing that existing urban uses, including the high school are located immediately to the east and northeast. The analysis that supports this conclusion can be limited to the interpretation of the Thomas Guide exhibit and aerial photograph. No further quantitative or qualitative analysis is required.
- *Supply single-family housing to meet the growth projections of the City of El Centro* The City adopted its Housing Element update in March 2008, so the response to this comment relies on the most current information. The City has concluded that an average of 289 new housing units are constructed each year in El Centro, based on the number of building permits issued between 2000 and 2007. The average over the past seven years would not be sufficient to meet the new Regional Housing Needs Assessment (RHNA) of 390 units per year for the next 5 years. The average number of units permitted between 2004 and 2007 equals approximately 382 per year. The City believes that there is sufficient zoned and vacant land to meet, or exceed the RHNA at all income levels in the future. Therefore, the project's objective to supply single-family housing to meet the City's growth projections is consistent with the City's Housing Element.
- *Locating development to meet anticipated growth in the areas of relatively lesser environmental sensitivity.* The project site is currently zoned General Agriculture/Urban Overlay (A2U). The County has designated farmland adjacent to urban uses as A2U to indicate that it is likely that in the future, these areas would convert to urban uses. The conversion of farmland to urban uses is an integral part of the project description evaluated in the Draft EIR, particularly in sections 5.1 – Agricultural Resources, and 5.3 – Biological

Resources. The findings of the Draft EIR have been revised in response to comments from the City, County and Local Agency Formation Commission (LAFCO). After further review, the findings are that although the project would result in the conversion of 2.3 acres of Prime Farmland and 152 acres of Farmland of Statewide Importance to urban uses, the project would have a less than significant impact on agricultural resources, because the site is within the City's Sphere of Influence where the land use designation is *Low Density Residential* and the impact to agriculture has already been analyzed in the General Plan. Furthermore, the Imperial County agricultural lands replacement policy only applies to projects that convert 40 or more acres of Prime Farmland, so the 2.3 acres affected by the project does not require mitigation.

- *Provide public infrastructure improvements for the orderly expansion of urban development.* Access to the project would be via an extension of Ocotillo Drive east of the project site, and Ross Avenue along the north as described in the Project Description and as evaluated in Section 5.9 Transportation and Traffic. The conclusion of the Traffic Engineer is that all studied intersections and segments will operate at acceptable levels of service with the project. Payment of Development Impact Fees will allow the City to continue to upgrade roads and intersections as growth occurs. Water supply is adequately addressed in Section 5.10 – Utilities and in the Water Supply Assessment (WSA) included in Appendix J of the Draft EIR. The WSA concluded, based on quantitative analysis that no impacts to water supply would occur. The Initial Study prepared for the project concluded that the project would not have a significant impact on sewer and wastewater treatment facilities with the payment of Development Impact Fees. Likewise storm drains will be provided on site and the project will drain into an on-site retention basin so no impacts to storm drains would occur. Storm water drainage will be provided through a series of storm drains that are directed to the 15.49-acres of retention basins. The storm drain system and basin will be sized to meet the approval of the City's Public Works Department. Therefore, no significant impact would occur.
- *Locate housing adjacent to a major highway arterial (I-8) to better promote efficient traffic flows and minimize traffic demands on local and collective streets.* The project site is located immediately north of the I-8 corridor with access to the freeway via Forrester Road or Highway 86. The analysis that supports the conclusion that the project meets this objective can be limited to the interpretation of the Thomas Guide or AAA map where locations of freeway ramps are identified. No further quantitative or qualitative analysis is required.

Comment MUSD-6: This comment (p. 29 of 154) refers to CEQA Guidelines Section 15124(c) which states that a project description should include "A general description of the project's technical, economic and environmental characteristics, considering the principal engineering proposals, if any and supporting public facilities."

Response: The proposed project is a typical residential subdivision that includes two retention basins, parks and an elementary school site as its proposed uses. The site is located adjacent to the City of El Centro and to an existing residential neighborhood. It is also adjacent to other sites that are in various stages of project approval for similar developments. The Project Description describes the project including the need to extend and/or upgrade public services and utilities. This is typical of any project of this type and does not represent site specific or project specific technical, economic or environmental issues that would require a more detailed explanation than what has been provided.

Comment MUSD-7: This comment (pp. 29 and 30 of 154) refers to Section 3.4 of the Project Description - Intended Use of this EIR, Responsible Agencies, and Approvals Needed and that the District has not been cited as a Responsible Agency that is expected to use the Draft EIR in its decision making.

Response. Comment noted. Section 3.4 will be expanded to include the MUSD but not as a Responsible Agency, since the District would act as its own Lead Agency for the planning, design and development of the school site, should the District decide to purchase the site. Adding this statement to Section 3.4 does not constitute new and significant information that would require the recirculation of the Draft EIR, because the development of a 450-student elementary school site is intrinsic to the environmental evaluation of the proposed project. Should the District choose to use this EIR in support of the actual development of an elementary school, it would have to make its own findings and statement of overriding consideration, and process its own Notice of Determination.

Comment MUSD-8: This comment (pp. 30 through 41 of 154) provides a reiteration of the discussion in the Draft EIR of public schools, and states that the discussion is inadequate, incomplete and factually inaccurate. The comment also provides more current information for the City to use in its review of the proposed project.

Response. The City thanks the District for updating the information provided in the Draft EIR. It should be noted that the Draft EIR was circulated in 2006 and the comments received on the document are from 2007. It should also be noted that the information contained in the Draft EIR is based on consultation with the MUSD Superintendent (see correspondence attached at the end of the responses to MUSD comments). What this shows is that as the population of the City of El Centro and environs grows, so does the student population.

The City understands this and has been working with applicants of the larger residential subdivision projects to provide school sites within their projects to be set aside until such time as the District determines when or if the site will be required. The project would assist the District by providing a site for an elementary school that would accommodate 450 students. This is similar to the school site recently purchased by the District in the approved Linda Vista subdivision for future development. The District recently completed the construction of the new Corfman School located adjacent to the existing McCabe Elementary School which will be open for the Fall 2008 semester with 30 classrooms and associated facilities.

As the District is aware, the provisions of SB 50 prohibit local agencies from denying either legislative or adjudicative land use approvals on the basis that school facilities are inadequate; and reinstates the school facility fee cap for legislative actions (e.g., general plan amendments, specific plan adoption, zoning plan amendments) which was previously put into place by the 1986 School Facilities Law, but which were nullified by the *Mira/Hart/Murrieta* court cases. According to Government Code Section 65996, the development fees authorized by SB 50 are deemed to be "full and complete school facilities mitigation."

Further, SB 50 indicates that developer fees are not intended to be the sole source of funding for new school facilities, but are intended to supplement state and local bond funding for school facilities. SB 50 also permits school districts to impose higher fees (level 2 and level 3), if higher fees are justified on the basis of an adequate facilities needs analysis (nexus study) or the lack of availability of school bond revenues. The City is not aware of the District having imposed additional school fees over the base-level allowed under SB 50, and justifying such an increase through a nexus study. CEQA does not require the environmental document to provide an analysis of the District's fiscal health, or additional funding sources because they are not an environmental issue associated with the project.

Comment MUSD-9: This comment (p. 42 of 154) states that the Draft EIR does not provide an accurate understanding of the provisions, limitations and authorizations contained in the legislation and which apply to school districts.

Response. Please see responses to comments MUSD-1 and MUSD-7.

Comment MUSD-10: This comment (p. 43 of 154) states that the Draft EIR needs to acknowledge that the project is located north of I-8, but schools are located south of I-8 so students would need to be bussed and that the bussing impact needs to be addressed in the Draft EIR. Also the information contained in the District's comment letter needs to be used to update the Draft EIR.

Response. Please see responses to comments MUSD-1 and MUSD-7 for a discussion of economic impacts to school districts. With regard to the necessity to update the Draft EIR with updated information provided by the District, because the District has submitted a comment letter in response to the Draft and Revised Draft EIR documents, it will become a part of the project's Administrative Record and thus will not require further revisions to the documents.

Comment MUSD-11: This comment (pp. 43 through 45 of 154) states that the District and the State have specific requirements for an elementary school site and that the site identified on the project's site plan may not be adequate. The comment states further that the Draft EIR is incomplete because the environmental issues associated with the actual development of a school at that site have not been considered.

Response. The Draft EIR addressed environmental impacts of an elementary school being developed within the project site to the extent feasible; which consisted of evaluating the physical changes to the environment associated with grading, trenching, and other construction activities. In addition, the Draft EIR evaluated other issues such as traffic, noise, air quality, extension of public services and so forth. What the Draft EIR does not do is evaluate the specific characteristics of an elementary school on the site because whether a school is ultimately developed on-site is too speculative at this time; the District has not offered to purchase the site, nor has it provided site plans that would allow for a more thorough analysis of specific impacts. At such time as the District makes a decision to move forward with the purchase of the property and development of an elementary school, the District, as the lead agency will prepare a Subsequent EIR or a new Project EIR specifically for that project.

Comment MUSD-12. This comment (p.45 of 154) refers to student safety if they would have to walk along McCabe Road and Austin Road to get to the existing school.

Response. It is unclear in this comment whether the District is suggesting that the students would walk to school, or that they would walk to a nearby bus stop. If it is the former, the District is referred back to Comment MUSD-10 in which the District states that the Draft EIR needs to acknowledge that the project is located north of I-8, but schools are located south of I-8 so students would need to be bussed and that the bussing impact needs to be addressed in the Draft EIR. If it is the latter, then this issue can be resolved by the District identifying the optimum location or locations for a new school bus stop to be located that takes into consideration the students safety.

Comment MUSD-13: This comment (pp.45 through 47 of 154) pertain to the Draft EIR analysis of impacts to the Central Union High School.

Response. The District is referred to the comment letter submitted on behalf of the CUSD for responses to comments related to potential impacts on the CUSD.

Comment MUSD-14: This comment (p. 48 of 154) states that the Draft EIR needs to be updated based on current student generation rates.

Response. Please see response to Comments MUSD-8 and MUSD-10.

Comment MUSD-15. This comment (p. 48 of 154) states that the Draft EIR needs to be updated to identify how the District will handle new middle school students.

Response. The District recently completed an expansion of the McCabe Elementary School and constructed 30 new classrooms and related buildings for the Corfman School which will house students in grades 7 and 8. The McCabe Elementary School would continue to house grades K-6. Corfman School opened for the Fall 2008 semester.

Also, please see response to Comments MUSD-8 and MUSD-10.

Comment MUSD-16: This comment (pp. 48 and 49 of 154) states that the District's requirement for the size of an elementary school is 15 net acres and that the proposed school site is 11.77 acres. An additional 3.23 net acres would be required. The comment also states that elementary school students would go to the school within the project but that middle school students would not attend school within the project.

Response: The applicant's offer of 11.77-acres on-site site as a joint elementary school/park was revised with the Final EIR and the current offer is 9.98-acres for use as an elementary school site. Additionally, it should be noted that the MUSD agreed to the revisions in the site plan that resized the school site, and indicated that it is sufficient for their needs as it would accommodate approximately 450 students. The school would accommodate the projected elementary school students from the site as well as additional students from future residential subdivisions. For middle school students please see response to comment MUSD-15.

Comment MUSD-17: This comment (pp. 49 and 50 of 154) states that the Draft EIR does not adequately address the development of an elementary school site in terms of the site plan, design, construction and operation. The comment also identifies the cost to develop a school and the need for interim facilities prior to development of a permanent school. The Draft EIR should be revised.

Response: Please see responses to comments MUSD-1 and MUSD-4.

Comment MUSD-18: This comment (pp. 50 and 51 of 154) pertains the Central Union High School District.

Response. The District is referred to the comment letter submitted on behalf of the CUSD for responses to comments related to potential impacts on the CUSD.

Comment MUSD-19: This comment (pp. 51 and 53 of 154) states that the project cannot be mitigated by the payment of school impact fees and suggest additional measures including, but not limited to, dedication of a 15-acre site, participation in construction financing of the elementary school, and participation in construction financing of a new middle school.

Response: Please see responses to comments MUSD-1.

Comment MUSD-20: This comment (pp. 54 and 55 of 154) states that Areas of Controversy identified in Section 2.2 of the Draft EIR have not been addressed and discussed in detail in the Draft EIR.

Response: Areas of Controversy identified in Section 2.2 of the Draft EIR are discussed in within the Draft EIR's sections as indicated in parentheses at the end of each bulleted issue.

Comment MUSD-21: This comment (pp. 55 and 55 of 154) states that the Draft EIR fails to adequately evaluate direct, indirect and cumulative impacts on the environment, particularly schools. The comment states that impacts to the District would remain significant.

Response: See response to comment MUSD-1. For impacts to schools specifically, see Section 5.8 of the Draft EIR.

Comment MUSD-22: This comment (pp. 55 through 64 of 154) provides a list of additional topics that should be discussed in the Draft EIR.

Response: Responses will follow the numerical sequence of the comment.

- 1. The Draft EIR should address direct, indirect and cumulative impacts on the District*
The Draft EIR evaluated the potential environmental impacts of the development of a school site within the larger project site at a level of detail appropriate for the project. The District did not provide any site plans, design drawings, construction schedule, or an opening year for the new school. Therefore, further analysis was not feasible at this time. At such time as the District decides to purchase the property, it will make the decision as the lead agency whether additional environmental review is required.
- 2. The Draft EIR should address direct, indirect and cumulative impacts on circulation and traffic patterns. The impacts to the circulation system were adequately addressed in the Draft EIR and updated in the Revised Draft EIR for cumulative projects. Also see response 1 above.*

3. *The Draft EIR should address direct, indirect and cumulative impacts on routes and safety of students traveling to schools...* The District has indicated in its comment letter that students generated by the project would attend the elementary school. So these students would be traveling to school via residential streets. For students coming from other subdivisions, this issue is speculative since adjacent properties are either farmland, or in various stages of a development application so this issue would be speculative at best and is better addressed in the future by the District, acting as the lead agency in determining whether additional environmental review will be required once it is ready to move forward with development of the school.
4. *The Draft EIR should address direct, indirect and cumulative impacts on routes and safety of students traveling to schools...* The District has indicated in its comment letter that students generated by the project would attend the elementary school. So these students would be traveling to school via residential streets. For students coming from other subdivisions, this issue is speculative since adjacent properties are either farmland, or in various stages of a development application so this issue would be speculative at best and is better addressed in the future by the District, acting as the lead agency in determining whether additional environmental review will be required once it is ready to move forward with development of the school.
5. *The Draft EIR should address the potential for overcrowding that may have physical, social, financial, and psychological effects on students.* The District is referred to response to comment MUSD-1.
6. *Revise the Draft EIR to address the potential for need for additional schools and related facilities.* The District is referred to response to comment MUSD-1.
7. *Revise the Draft EIR to address the deficiencies in the fees paid versus the revenues required to fund the permanent and interim school facilities.* The District is referred to response to comment MUSD-1.
8. *The Draft EIR should address additional alternatives including, but not limited to an alternative that has land uses that do not generate students.* These other alternatives were not considered because the project's potential impacts are due to construction and operation of urban-type land uses, which would occur because the site was being developed and not because the site was being developed as a residential subdivision with an elementary school.
9. *The Draft EIR should address growth inducing impacts.* The Draft EIR addresses growth inducing impacts in Section 8 – Other CEQA Considerations and concludes that the project

would be growth inducing directly by the construction of new residential units that would require the expansion of public services and utilities. As stated in that section “Implementation of the proposed project will result in growth inducement directly through the construction of new residential units. However, the proposed residential land uses are in accordance with the planned development Tier II growth patterns for southwestern El Centro as outlined in the General Plan - Urban Development Program. The project does not introduce any new offsite roadways (arterials or collectors) or interchanges and it does not result in any extensions or upgrades of circulation facilities not already planned pursuant to the General Plan - Circulation Element. Thus, the project is not introducing any new facilitation to growth inducement not already envisioned to be needed to accommodate planned future growth. Hence, while it is recognized that the project will induce growth in the project area, such growth is in concurrence with the planned growth patterns established by the City through its General Plan process.”

10. *The Draft EIR should address the increased traffic and how it would affect the District's busing and transportation timing and routes.* The Draft EIR addresses impacts to transportation and traffic in Section 5.0. This analysis was based on the findings of the project's Traffic Impact Analysis which concluded that with the proposed project and cumulative projects, one intersection (Imperial Avenue/Ocotillo Drive) and one road segment (Imperial Avenue between Ross Avenue and Ocotillo Drive) would operate at LOS E or worse. However, with improvements to the intersection and road segment (mitigation measures TT6-1 and TT6-2), all road segments and intersections would operate at acceptable levels of service. Therefore, the District's busing and transportation timing and routes should not be adversely affected.
11. *The Draft EIR should identify the significant environmental effects on public services and utilities.* The Draft EIR addresses impacts to public services and utilities in sections 5.8 and 5.10 respectively. The Initial Study prepared for the project concluded that the proposed project would not have an adverse impact to sewer/wastewater treatment because existing facilities that the project would connect to are adequate to serve the new project once the project's internal sewer conveyance system is constructed. Storm drainage is addressed by the use of on-site storm drain facilities including on-site retention basins. A Water Supply Assessment (Appendix J) was prepared for the project that showed that there was adequate water available to support the new project. Other environmental issues such as traffic circulation (Appendix I) and noise (Appendix H) are also adequately addressed in the Draft EIR. Without a more specific comment, a response cannot be any more focused.
12. *The Draft EIR should identify the significant irreversible environmental changes on public services and utilities.* Please see response to comment MUSD-22 (11).

13. *The Draft EIR should address how the project is consistent with the land use map, and the ALL goals (sic) ... of the City and County general plans. As described in the Initial Study prepared for the proposed project: jurisdictionally, the project site is bordered by County lands that are zoned for agricultural uses to the south and west. In addition, the site is bordered to the north and east by City lands that are zoned for single-family residential. Specifically, the current land uses surrounding the project site include the Desert Village and Wildflower single-family subdivisions to the north, Interstate 8 and farmland to the south, the Lotus single-family subdivision to the east, and farmland to the west. In general, urban development is approaching the subject site from the north and east; whereas, west and south of the project site, the region predominantly consists of agricultural lands and associated rural residences. The Initial Study goes on further to say that the site is within the City of El Centro's Sphere-of-Influence. The project will require annexation and a zone change from County zoning Agricultural/Urban Overlay to the current City zoning of Single Family Residential. The project is consistent with the City's General Plan current land use designation of Low Density Residential and will not require a General Plan Amendment.*

The Initial Study stops at this point, however the County has designated farmland adjacent to urban uses as General Agriculture/Urban Overlay (A2U) to indicate that it is likely that in the future, these areas would convert to urban uses. Therefore, with the proposed zone change to Low Density Residential, the project would be consistent with the intent of both general plans.

14. *The Draft EIR needs to identify the deficiencies and inadequacies between the legal provisions of SB 50 and the actual implementation of the provisions regard to the project. The District is referred to response to comment MUSD-1.*
15. *The Draft EIR needs to address cumulative impact of the project based on the buildout of the City and County general plans identify the deficiencies and inadequacies between the legal provisions of SB 50 and the actual implementation of the provisions regard to the project. The District is referred to response to comment MUSD-1.*
16. *The Draft EIR should identify all agencies, organizations or private individual consulted during the preparation of the Draft EIR as well as the persons preparing the Draft EIR. This information is contained in the Draft EIR sections 9 through 11 and has been updated in the Final EIR to reflect that the EIR preparer consulted with the MUSD Superintendent in December 2005.*
17. *The Draft EIR should identify and identify all entitlements required for approval and development of the project. This information is contained in the Draft EIR 3.4 and is limited*

to those entitlements that would lead to the recordation of the Final Tract Map and annexation of the site into the City. Future activities under the proposed project related to the actual development of the site would consist of grading and building permits. Should the District choose to develop the school site with an elementary school, as the lead agency for the school project, the District would identify and notify other responsible agencies or organizations who would have input or permitting authority over the construction and operation of the school. Therefore, these permits were not specifically addressed in the Draft EIR.

18. *The Draft EIR should identify economic and social information relative to the impacts of the project, tracing the chain of cause and effect from a proposed decision on a project through anticipated economic and social changes resulting from the project to physical changes caused in turn by the economic or social changes as they relate to the District. The District is referred to response to comment MUSD-1.*
19. *The Draft EIR should identify how the City and County general plans and program EIRs address the project specific and cumulative impacts of the proposed project. It is not the function of a general plan or its related program EIR to evaluate environmental impacts of a proposed development project but instead to evaluate the overall impact of a City or County buildout scenario at a specific time in the future. The proposed project was evaluated at a project specific level (to the extent feasible with existing information) and cumulatively for other reasonably foreseeable projects in the Draft and Revised Draft EIRs.*
20. *The Draft EIR should identify the inadequacies contained in the City and County general plans and the consequences of compliance or lack of compliance of the current general plans with the applicable provisions of Section 65300 et.seq. of the Government Code. This comment is too vague and general for the City to be able to provide any meaningful response. The District should identify specific inadequacies it believes exist in both general plans.*
21. *The Draft EIR should identify the inadequacies contained in the City and County general plans and the consequences of compliance or lack of compliance of the current general plans with the applicable provisions of Section 65300 et.seq. of the Government Code. The District is referred to responses to comments MUSD-22 (13), (19) and (20).*
22. *The Draft EIR should identify the operational, administrative, financial and legal impacts of the project on the District. The District is referred to response to comment MUSD-1.*
23. *The Draft EIR should describe how the current City and County general plans and Housing Elements are or are not in compliance with State law and identify the lack of internal consistency between the general plan elements and how these deficiencies affect the project,*

if any. This comment is too vague and general for the City to be able to provide any meaningful response. It appears that the District is uncertain whether general plans are internally consistent. Moreover, this comment is beyond the appropriate scope of a comment by a school district as it does not relate to an area of expertise of the commenting agency. Also see response to comment MUSD-2.

24. *If the developer is proposing to School Facilities Impact Mitigation Agreement between the developer and the District, such an agreement must be a part of the project description. At this time the developer is not proposing such an agreement.*
25. *The Draft EIR should address the legal constitutionality of the provisions of SB 50 as applicable to the mitigation of project impacts, the limits on cities and school districts to impose additional mitigation measures in excess of the limits of SB 50... or the refusal of the applicant to pay development fees in excess of statutory provisions.* The District is referred to response to comment MUSD-1.
26. *The Draft EIR should identify how the project is in compliance with LAFCO requirements applicable to annexations.* The applicant must do a number of things subsequent to the City taking action on the project and certifying the Draft EIR. One is to apply for annexation with LAFCO who will then review the proposed project along with the Draft EIR and other documents such as the Plan for Services, to determine whether it has enough information to adequately review the merits of the project in terms of having adequate services.
27. *The Draft EIR should evaluate the interim facility requirements of the District to accommodate student enrollment that will be generated by the project and prior to permanent facilities being available for students generated by the project.* The District is referred to response to comment MUSD-1.
28. *The Draft EIR should accurately identify the projected student enrollment to be generated by the project by grade level, the specific schools that are intended to serve the project...* The District is referred to responses to comments MUSD-1 and MUSD-8.

Comment MUSD-23: This comment (pp. 64 through 66 of 154) states that the District finds that the City failed to adequately address all mitigation measures available to mitigate the impacts to the District and provides a list of mitigation measures that should be considered in the Draft EIR.

Response: The District is referred to responses to comment MUSD-1.

Comment MUSD-24: This comment (pp. 66 and 67 of 154) states that the District wants to be assured by the City that all of the environmental impacts have been considered in the Draft EIR and that there is full and complete disclosure of the data and analysis that leads to the conclusions, findings and mitigation measures in the Draft EIR.

Response: The District is referred to responses to comments MUSD-7 and MUSD-8.

Comment MUSD-25: This comment (pp. 67 through 69 of 154) states that the Draft EIR fails to provide detailed analysis of the following topics: Aesthetics, Hydrology/Water Quality, Land use and Planning, Mineral Resources, Population and Housing.

Response: The Initial Study prepared for the Draft EIR and circulated with the Notice of Preparation (NOP) in 2006 addresses these issues and concludes the following:

- **Aesthetics:**
 - **Scenic Views.** Project implementation will result in transforming the site from primarily agricultural and undeveloped land to single-family residential land uses. The project area is not designated within the City of El Centro General Plan as visually important or scenic, and no scenic vistas will be impacted by construction of this project. The project does not include the destruction of rock outcroppings or degradation of any historic buildings. The project is not adjacent to a state highway which is designated as scenic. Thus, impacts to scenic vistas or scenic resources within a state scenic highway will not occur.
 - **Visual Character.** The project will result in the transformation of the project site from primarily agricultural and undeveloped land uses to single-family residential land uses. Urban development is approaching the subject site from the north and east. Located within 500 feet east and northeast of the project site are newly constructed single-family subdivisions. Project implementation will result in a continuation of the pattern of residential development in the project area. Therefore, while the project will result in altering the visual characteristics of the site, project implementation is consistent and compatible with the existing pattern of development in the project area and therefore, it is not considered to substantially degrade the visual character or the quality of the site and its surroundings.
 - **Light and Glare.** Project implementation will result in introducing street and security lighting, residential lighting, as well as light emanating from vehicles traveling on project area roadways. All stationary lighting will be in compliance with the El Centro Municipal Code to ensure that the height and intensity of lighting does not create substantial spillover outside the project boundary. Although the project

includes lighting systems, these systems are not expected to result in significant lighting effects on the existing surrounding land uses.

- Hydrology/Water Quality:
 - Violate any water quality standards or waste discharge requirements. The proposed project will be implemented in accordance with all applicable water quality standards and waste discharge requirements, which will ensure that the quality and quantity of surface water flowing from the site would not be substantially affected.
 - Substantially deplete groundwater supplies or interfere substantially with groundwater recharge. El Centro's water supply comes from the Colorado River, and the City owns and operates a water treatment plant that provides clarification, filtration, and disinfection. According to the City's Water Master Plan Update, the existing raw water storage and treatment facilities have adequate capacity to meet the demands of the existing service area as well as several years of future development. Therefore, the groundwater supplies would not be substantially affected.
 - Substantially alter the existing drainage pattern of the site or area by increasing surface runoff or create or contribute runoff water that would exceed capacity of an existing or planned storm drain system or provide substantial additional sources of polluted runoff. There are no streams or rivers on the project site. However, the proposed project will alter the drainage pattern of the project site by introducing impervious surfaces. A Master Drainage Study was prepared for the proposed project to document the existing hydrology and drainage conditions, perform hydrologic and hydraulic calculations, and determine the appropriate size of the retention basin. Project implementation involves the construction of two retention basins (totaling 15.63-acres), which will be designed to retain project 100 percent of project runoff from a 100 year/24-hour storm event. The retention basins will discharge into the Imperial Irrigation District Lotus Drain via a 12" pipe located along Ocotillo Street. Nuisance water from the proposed project will be pumped to the discharge pipe. Moreover, substantial improvements to the stormwater and drainage collection system are under construction in the southern portion of the City in order to modernize the system and create additional capacity to handle existing flows. The proposed project will be implemented in accordance with all applicable drainage requirements, which will ensure that the quantity of surface water flowing from the site would not be substantially affected resulting in a less than significant impact.
- Land Use and Planning: This issue is addressed in response to comment MUSD-22(13).

- Mineral Resources: According to the El Centro General Plan, no mineral or oil extraction is currently occurring on the project site, nor has any such activity or operation historically occurred. Thus, there would result in no loss of availability of mineral resources.
- Population and Housing:
 - Induce substantial population growth in an area, either directly or indirectly. Project implementation will result in the construction of 485 single-family residential units, which will result in direct growth by introducing approximately 1,698 persons into the project area, based upon a generation rate of 3.5 persons per household as identified in the City of El Centro General Plan, February 2004. Additionally, implementation of the proposed project will indirectly induce growth through the extension of public and private services, including two city parks and a public school, and other support infrastructure, including new and extended roadways. However, the proposed residential development is an extension of the existing pattern of development in western El Centro and is consistent with the planned development and anticipated population outlined in the City's General Plan. Therefore, implementation of the project would result in a less than significant impact on the City's planned population projections. Also see response to comment MUSD-5 for a discussion of the project's objective for meeting the City's need for single-family residences to keep up with population growth that is occurring without the proposed project.

The Initial Study is included in Appendix A of the Draft EIR and should be reviewed in conjunction with the Draft EIR to provide a comprehensive review of the project without creating redundancy. The entire EIR from the Initial Study through the Final EIR makes up the Administrative Record for the project.

Comment MUSD-26: This comment (pp. 69 through 71 of 154) states that the City does not have adopted CEQA Guidelines and that the significance criteria in the Draft EIR does not offer an identifiable quantitative, qualitative or performance level of a particular environmental effect.

Response: The City Council adopted its *Environmental Policy Guidelines* by resolution (06-90) in July 2006. A copy of the guidelines can be obtained from the City's web site. The guidelines are consistent with and intended to supplement the State CEQA Guidelines and rely on the State's CEQA Checklist for significance criteria. In addition, where other agencies have established significance criteria beyond those set forth in the CEQA Checklist, the City would defer to those as is demonstrated in the Draft EIR.

For example, the Draft EIR used the Imperial County APCD's CEQA Air Quality Handbook, which contains specific significance thresholds, to evaluate the project's impacts on air quality. With regard

to Noise, the City has established interior and exterior noise level standards that were used to evaluate the project's potential noise impacts. For Traffic, the traffic engineer used level of service and intersection capacity criteria to determine the project's trips that would be contributed to the local road network.

For Public Services, the significance criteria are not quantified because they are different for each jurisdiction depending on a number of factors. Therefore, the general rule of thumb is whether the proposed project would result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services. These are the criteria used to evaluate the proposed project in the Draft EIR.

Comment MUSD-27: This comment (p. 71 of 154) states that an additional objective to provide public facilities and services to create a sustainable development (including schools) concurrent with the development of the project land uses, and the remedies to address the impacts on public service providers.

Response: It is inherent in the project description that the project would construct all internal roads and utilities in conjunction with the development of the residential lots. The City would not issue Certificates of Occupancy without the project being able to provide the necessary infrastructure. With regard to other public facilities and services, the City's responsible departments have indicated that the project can be served and the applicant has "Will Serve" letters from utility providers. For schools in particular, the applicant has provided a 9.98-acre elementary school site but will leave it to the discretion of the District to determine the timing of the purchase of the site and subsequent development of the site.

Comment MUSD-28: This comment (pp. 71 through 76 of 154) states that the Draft EIR does not adequately address the impacts the project will have on the District's facilities. The comment also states that the EIR does not indicate where the information for the preparation of the discussion of schools came from.

Response: The District is referred to response to comment MUSD-1 for a discussion of school mitigation requirements and MUSD-26 for a discussion of significance thresholds. With regard to the sources of information used to prepare the schools section of the Public Services section, the sources included the District's web site and the MUSD *School Facilities Needs Analysis*, 2005 and CUHSD *School Facilities Needs Analysis*, 2004. Although these documents do not show up in Section 11 –

References, they are cited as sources in the tables in Section 5.8 of the Public Services section. These references will be added to Section 11 in the Final EIR.

Comment MUSD-29: This comment (pp. 76 through 87 of 154) states that the Draft EIR does not adequately address cumulative impacts because it did not take into consideration the geographic area of all projects that can in conjunction with the project, have cumulative impacts, including the cumulative impacts of buildout of the general plan land uses..

Response: The District seeks a cumulative impacts analysis that goes beyond the level of detail CEQA requires. With regard to whether the Draft EIR is required to address the cumulative impacts of buildout of the general plan land uses: in identifying projects, which may contribute to cumulative impacts the CEQA Guidelines allow the use of: (1) a list of past, present, and probable future projects producing related or cumulative impacts even if they are not in the jurisdiction of the lead agency; or (2) a summary of projection contained in an adopted General Plan or related planning document which is designed to evaluate regional or area-wide conditions. The Draft and Recirculated Draft documents use the list approach rather than the general plan buildout approach.

With regard to not adequately addressing cumulative impacts to any of the 10 environmental topics evaluated. On the contrary, the Draft EIR and Recirculated Portion of the Draft EIR provided the analysis of cumulative impacts to each of these topics, including schools and other public services. CEQA Guidelines Section 15130 states that “an EIR shall discuss cumulative impacts of a project when the project’s incremental effect is cumulatively considerable...” As discussed in this section, “an EIR may determine that a project’s contribution to a significant cumulative impact will be rendered less than cumulatively considerable, and thus is not significant. A project’s contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. With the exception the cumulatively significant impact to Agricultural Resources, the applicant would either fund outright improvements necessary to support the project without causing a significant impact, will pay a fair share of the costs for improvements at a rate commensurate with the size of the impact (traffic for example), or will pay Developer Impact Fees that go toward the upgrade or increase in services as required as growth occurs in the region. For other topics such as Biological Resources and Cultural Resources, mitigation measures on a project by project basis would ensure that cumulative impacts would not occur since each project would be responsible for ensuring that impacts remained less than significant.

Comment MUSD-30: This comment (pp. 87 through 89 of 154) states that the Draft EIR discussion of Growth Inducement is based on the assumption that the growth inducing effects of the project are beneficial resulting in an unsupported statement of consequences and impacts and that the Draft EIR

is not in compliance with the CEQA Guidelines because it does not discuss the project in terms of how its growth inducing effects would significantly affect the environment

Response: Section 8.2 of the Draft EIR addresses the Growth Inducing potential of the proposed project. The District is mistaken in its assumption that this discussion leads to a conclusion that the project would be beneficial, or that it would not result in project specific or cumulative impacts. On the contrary, the discussion concludes that the project would induce growth by providing for the extension of urban services further out into areas where farming is still common on adjacent sites. However, both the City and County have planned for this growth by the County designating the site and vicinity as General Agriculture/Urban Overlay (A2U) in anticipation of growth in the City of El Centro where the area is within the Tier II annexation area which anticipates development and annexation. Such growth is in concurrence with the planned growth pattern established by the City in its general plan process.

Comment MUSD-31: This comment (pp. 89 through 97 of 154) states that the Draft EIR only evaluated two alternatives to the proposed project and did not evaluate an alternative location. The District suggested additional alternatives that should be considered. Finally, the District suggests that the project objectives are incomplete because they don't include objectives that address the economic viability of the project or the availability of infrastructure, or the economic return and profit to the applicant.

Response: These comments on Project Alternatives go beyond the District's area of special expertise (see response to comment MUSD-2). Nevertheless, the City will respond to the comment on project alternatives as discussed in Section 7 of the Draft EIR.

The two alternatives evaluated in the Draft EIR were the No-Project Alternative and Development Under the Existing General Plan, which under General Agriculture would be 1 dwelling unit per 40 acres or a total of 4 dwelling units. An alternative location was not evaluated because the proposed project represents a progression of residential land uses into the area from the east and north, and this site represents an adjacent site to existing single-family residential neighborhoods. Other land uses such as commercial or industrial uses were not evaluated as alternatives because given the location, adjacent to existing residential uses, this land use would not be appropriate. A commercial project was not considered as an alternative because a) the applicant is a residential developer, and b) the site is located in close proximity to commercial uses in El Centro, particularly along Highway 86. Additionally, a reduced density alternative could have been evaluated, but the level of impact associated with the proposed project would not necessarily be less under a reduced density alternative because the impact is related to the development of the site (loss of agricultural land). After further review in response to comments by the City, the County and LAFCO, potential

impacts to Agricultural Resources by the project were downgraded to less than significant so there are no longer any potentially significant or significant and unavoidable impacts to mitigate.

The economic viability of the project or the economic return and profit to the applicant are not environmental issues that would be addressed in an EIR. If the project is not economical for the applicant, the project would not be built. The availability of infrastructure was adequately addressed in the Draft EIR and the applicant will be responsible for a) constructing the infrastructure and utilities on-site and connecting to existing off-site infrastructure and b) paying Development Impact Fees as required by the City for such a development.

Lastly, it should be noted that because school impacts will be fully mitigated through compliance with SB 50, there is no need to consider the alternatives suggested by the District. CEQA Guidelines Section 15126.6(b) states that an analysis of alternatives should focus on ways to avoid or minimize significant environmental effects.

Comment MUSD-32: This comment (pp. 97 through 99 of 154) states that there is no data or quantitative and qualitative analysis to evaluate the Irreversible Environmental Changes. The District also states that the stated Irreversible changes appear to be superficial and should be addressed in detail in the Draft EIR. Finally, the District lists other irreversible changes to be evaluated.

Response: The District refers to this topic as Irreversible Environmental Changes; the Draft EIR refers to this topic as Irreversible and Irretrievable Environmental Commitment of Resources. The actual topic to be discussed in this section is *Significant Irreversible Environmental Changes Which Would be Involved in the Proposed Project Should it be Implemented*. The purpose of this section (CEQA Guidelines Section 15126.2(c)) is to evaluate whether the project's use of non-renewable resources during the initial and continued phases of the project would be irreversible. An example would be the construction of highway improvements that would provide public access to previously inaccessible areas such as roadless areas of forests. Another example would be the use of non-renewable resources such as fossil fuels and aggregate materials. Both are examples of the loss of the resource due to the project's use of the resource.

The list provided by the District on pp. 98 and 99, do not constitute nonrenewable resources but rather potential impacts associated with a development project, all of which have been evaluated in Section 5 of the Draft EIR.

Comment MUSD-33: This comment (pp. 99 through 102 of 154) states that the issue of Significant Unavoidable Impacts are not adequately addressed and provides a number of other comments.

Response: Each comment embedded in MUSD-33 will be summarized herein, as follows:

- *Conclusions stated in this section need to be supported by data, and quantitative and qualitative analysis.* This section is intended to be a summary of the findings of the environmental impact analysis of the project that there are significant unavoidable impacts. The analysis of impacts identified as remaining significant and unavoidable are included in Section 5.1 – Agricultural Resources and Section 5.2 – Air Quality of the Draft EIR, and in Section 5.0 of the RDEIR. The impacts to air quality were supported by data in the Air Quality Report and the loss of farmland was supported by data in the LESA Report. (The findings were updated to less than significant during further review when it was determined that the impact to farmland was not significant when measured against the conservation policies that are applicable).
- *The District has provided adequate evidence that impacts to schools will be significant.* The District is referred to response to comment MUSD-1.
- *There is no data, or quantitative or qualitative analysis that identifies the magnitude of these impacts.* Again, this section is intended to be a summary of the findings of the environmental impact analysis of the project that there are significant unavoidable impacts. The analysis of impacts identified as remaining significant and unavoidable are included in Section 5.1 – Agricultural Resources and Section 5.2 – Air Quality.
- *Many of the impacts listed in the Draft EIR are not mitigated to a level of insignificance and that data do not support the conclusions, therefore these should be added to the list of significant unavoidable impacts.* The Draft EIR evaluated each of the environmental topics to an adequate level of detail to make a reasoned determination that either a) the project would not have a significant impact, or b) that mitigation through the avoidance of a resource, payment of Developer Impact Fees, or a fair share of the cost of infrastructure improvements, would reduce the impact to less than significant levels.
- *The CEQA Guidelines require more than simply a short list of the unavoidable adverse impacts and that in any case, the list is short and incomplete. Also that impacts that cannot be alleviated without imposing an alternative design.* The list of significant unavoidable impacts contains two impacts, the loss of farmland and the long term operational air emissions. All other impacts identified through the preparation of the Draft EIR and public input can be mitigated to less than significant levels. The two remaining impacts are unavoidable with the project as proposed. An alternative that would reduce the impact of the loss of farmland is not feasible because it represents the No Project Alternative. An alternative that would reduce the long term operational air emissions of the proposed project is possible but it would mean a reduced density alternative that would likely not achieve the project objectives. Project objectives are addressed in response to comment MUSD-5.

- *The draft appears to contemplate that the stated unavoidable adverse impacts will be addressed in a Statement of Overriding Considerations. The Statement of Overriding Considerations, if required, is prepared as part of the Findings of the EIR for the City Council to consider when considering the merits of the project and whether to certify the EIR and approve the project. It is not a part of the Draft EIR but relies on the contents of the Draft EIR and the Final EIR to make the Findings and justify the Statement of Overriding Considerations, if necessary. An overriding statement is not uncommon and there are examples of El Centro issuing such statements, including for the General Plan (2004). For this project, because there are no longer any significant unavoidable impacts, the Statement of Overriding Considerations is not necessary and the Findings have clearly noted that determination.*

Comment MUSD-34: This comment (pp. 102 and 103 of 154) states that the District was not consulted to provide comments except through the NOP process and would have provided its comments at an earlier opportunity which may have resolved the District's need to provide lengthy commentary on the whole of the document and not just how the project would affect the District's facilities.

Response: The District provided comments to the City through its responses on the August 2006 NOP and the October 2006 Revised NOP. In addition, the District has commented on numerous other projects that are in the planning process in the City of El Centro. So the City is well aware of the District's concerns expressed in this comment letter, and has responded in detail to the comments presented in the District's letter dated October 28, 2007.

Comment MUSD-35: This comment (p. 104 of 154) states that conclusory statements made in the Initial Study are not supported by data and quantitative and qualitative analysis.

Response: The purpose of an Initial Study is to evaluate a proposed project and identify those impacts that have the potential to cause a significant impact on the environment. Those impacts are then evaluated, in greater detail, in the Draft EIR. The District is referred to response to comment MUSD-25 for a discussion of Aesthetics, Hydrology/Water Quality, Land Use and Planning, Mineral Resources and Population and Housing.

Comment MUSD-36: This comment (pp. 104 through 111 of 154) provides a summary of the District's opinion as to the adequacy of each section of the Draft EIR.

Response: Responses will follow in the order of the comments.

Land Use. See response to Comment MUSD 25.

Traffic. There were a number of comments on the Traffic Section and Traffic Impact Analysis (TIA)

1. The Traffic Impact Analysis does a comprehensive study of the area including an analysis of existing conditions, existing conditions with project traffic, near term conditions (existing with project and cumulative projects) and Horizon Year conditions (year 2025) This captures both project related traffic and traffic associates with cumulative projects. Therefore, the analysis of traffic is not done in a piecemeal fashion.
2. With regard to the trip generation rates, the District is referred to Table 5.9-9 of the Draft EIR and Table 1-1 of the TIA where the elementary school and the trips generated are clearly identified.
3. With regard to cumulative projects, the list used to prepare the TIA and Draft EIR represents a snapshot in time. In this case, the cumulative project list used to evaluate the project in the Draft EIR consisted of 10 projects. In response to comments received on the Draft EIR, the Draft EIR and TIA were revised and recirculated with an updated cumulative project list consisting of 22 projects. The findings of both the Draft EIR and Revised/Recirculated Draft EIR were that impacts could be mitigated to less than significant levels with a combination of developer funded improvements (project connection to existing roads) and payment of Development Impact Fees.
4. The District states that the TIA does not consider the District's bussing and transportation which will be required external to the project. The District is referred to Table 5.9-9 of the Draft EIR and Table 1-1 of the TIA where the elementary school and the trips generated are clearly identified. At such time as the District is ready to plan the development of an elementary school at this location, further environmental review may be requires, and the District as the lead agency would be responsible for making that determination at that time.
5. Financing of traffic improvements. The Draft EIR is not the place to discuss the financing of intersection and road segment improvements because the applicant is being assigned a fair share of the proposed improvements that would be paid in the future at such time as the project is under development. The costs to construct such improvements may change between current and future conditions. Therefore, the project is assigned a fair share percentage rather than a dollar amount.
6. For the first paragraph of this comment see MUSD-36(1) above since comments are identical. For the second part of this comment, at such time as the District is ready to plan the development of an elementary school at this location, further environmental review may be requires, and the District as the lead agency would be responsible for making that determination at that time.
7. Concluding paragraph. See responses 1-6 above.

Air Quality. The TIA has not been found to be inadequate; therefore, the assertion that the Air Quality Assessment is inadequate because it is based on the TIA is incorrect.

Public Transit and Alternative Transportation. This comment is related to the District's ability to determine the adequacy of the public transit system and how that would impact the District's ability to transport students to and from school facilities. In previous comments, the District has indicated that it would be responsible for transporting school aged children to the existing McCabe Elementary School and that in the future, when the on-site elementary school is developed, students generated by the project would go to that school, so it follows that bussing of the projects elementary school students would not be required. In the future, the District will develop a bussing schedule for these students independent of the project developer. If there is an option for students to take public transit instead of the District's transportation, that would be worked out between the two agencies, independent of the project.

Imperial Valley Transit bus schedules can be found on the internet at http://www.ivtransit.com/sub.php?page=iv_transit&subs=route. Additionally, IVAG posts the Coordinated Public Transit – Human Services Transportation Plan, Existing Conditions Report and the Imperial Valley 2007 Transportation Plan, among others, on their website at <http://www.co.imperial.ca.us/IVAG/Default.htm>. This information is universally available and shows that the project area is reasonably accessible by public transportation. Inclusion of this information in the DEIR is incidental and does not constitute significant new information that would trigger a recirculation of the DEIR.

Utilities. The Draft EIR does not address telephone, electricity, gas and cable utility services required for the project. The Initial Study indicated that these utilities are available in the area and extension of services can be provided. Therefore, additional analysis in the Draft EIR was not required.

Safety. Please see responses to comments MUSD-1 and MUSD-7 for a discussion of economic impacts to school districts. Also, as necessary, the District would be responsible for developing traffic control/safety plans if and when the on-site school is approved and constructed. Also see comment MUSD-10 where the District has indicated that students generated by the project would be bussed to schools due to the distance between the project site and the schools south of the I-8 freeway.

Law Enforcement. Please see responses to comment MUSD-1 for a discussion of economic impacts to school districts.

Fire Protection. Please see responses to comment MUSD-1 for a discussion of economic impacts to school districts.

Emergency Medical Services. Please see responses to comment MUSD-1 for a discussion of economic impacts to school districts.

Other City-wide and County-wide Services. The District has failed to provide a link between its ability to provide educational facilities and services and impacts to City-wide and County-wide services.

Comment MUSD-37: This comment (pp. 111 through 113 of 154) provides a summary of the District's opinion on the financial impact of the project on the District.

Response: Please see responses to comment MUSD-1 for a discussion of economic impacts to school districts.

Comment MUSD-38: This comment (pp. 114 through 115 of 154) provides a summary of the mitigation measures to be considered in the Draft EIR.

Response: This comment is identical to MUSD-19. Please see responses to comment MUSD-1 for a discussion of economic impacts to school districts.

Comment MUSD-39: This comment (pp. 115 through 119 of 154) provides a summary of the general plan goals and policies District's opinion on the financial impact of the project on the District.

Response: A summary of issues follows:

Public Facilities Element of the City's general plan. District cites policies 2.1 and 2.2 which state that the City will work with the local school districts to investigate potential locations and funding sources for new schools, and that it will encourage the joint use of school facilities to provide a range of recreational and educational opportunities. The City has in fact worked with the District in this regard, and the evidence as it related to this project is the District's participation in the environmental planning and site planning processes. While scheduling of school facility utilization is beyond the scope of this report, the City is agreeable to the concept and has worked with the District in the past to schedule facility sharing for educational and recreational events. With regard to the issues of financing, the City directs the District to response to comment MUSD-1 for a discussion of SB-50.

Land Use Element of the City's general plan. This comment cites a number of goals and policies related to the project development and the provision/expansion of public facilities and states that the Draft EIR provides no analysis or evidence to show that the project is in compliance. On the contrary, the project site plan shows that the project site is contiguous to residential development where utilities can be extended into the project site. Also, the County has designated this site as being within the A2U indicating that it is likely that in the future, these areas would convert to urban uses. For further discussion of these issues, the District is referred to response to comment MUSD-5. Also as a requirement of LAFCO approval, the applicant must submit a Plan for Services showing how the project's needs for public services and utilities would be met.

Comment MUSD-40: This comment (pp. 120 through 121 of 154) provides a summary of the District's opinion on general plan compliance for agricultural resources.

Response: The District is referred to response to comments MUSD-5, MUSD-22(13), and MUSD-30, for a discussion of the project's impacts on agriculture.

Comment MUSD-41: This comment (pp. 121 through 122 of 154) provides a summary of the District's opinion on the Draft EIR's compliance with CEQA policies.

Response: This comment contains opinion only and is not a comment that requires a response.

Comment MUSD-42: This comment (pp. 122 through 129 of 154) provides a summary of the District's opinion on the inadequacies of SB-50.

Response: The District is referred to response to comment MUSD-1.

Comment MUSD-43: This comment (pp. 129 and 130 of 154) states that the preparer of the Draft EIR had a lack of objectivity.

Response: The City will exercise its independent judgment with regard to the document as set forth in CEQA Guidelines Section 15084(e).

Comment MUSD-44: This comment (pp. 130 and 131 of 154) states that the Draft EIR should be revised to address the inadequacies identified in the comment letter and recirculated.

Response: In response to comments received on the Draft EIR, the City caused the revision to certain sections of the Draft EIR and recirculation of relevant portions of the document. Nothing in the District's comment letter or the responses to the comments has triggered the need to recirculate the document again (CEQA Guidelines Section 15088.5).

Comment MUSD-45: This comment (pp. 131 through 154 of 154) states that the Draft EIR should be revised and recirculated to address the inadequacies identified in the comment letter and with regard to annexation and LAFCO requirements.

Response: The applicant must do a number of things subsequent to the City taking action on the project and certifying the Draft EIR. One is to apply for annexation with LAFCO who will then review the proposed project along with the Draft EIR and other documents such as the Plan for Services, to determine whether it has enough information to adequately review the merits of the project in terms of having adequate services.



October 28, 2007

Ms. Norma M. Villicana
Acting Planning Director
City of El Centro
1275 Main Street
El Centro, California 92243

Subject: **Comments of the Central Union High School District**

Notice of Availability of the Recirculated Portion of the
Draft Environmental Impact Report
Miller Burson Tentative Subdivision Map,
Change of Zone and Annexation

Development, Design & Engineering - Applicant

Dear Ms. Villicana;

This letter is submitted by Community Systems Associates, Inc. on behalf of the Central Union High School District ("CUHSD" or "District"), and is presented as the formal position of the District on the proposal as described herein. Community Systems Associates, Inc. is the retained consultant of the Central Union High School District and this letter has been authorized to be presented to the City of El Centro.

The District is in receipt of the City of El Centro ("City") Notice of Availability ("Notice") of Recirculated Portion of the Draft Environmental Impact Report ("Draft EIR") dated September 14, 2007 with regards to the proposed **Miller Burson Tentative Subdivision Map, Change of Zone, Annexation**, and subsequent development ("Proposal" or "Project"). The District understands that there has been circulated a Draft EIR on the Project dated November 28, 2006 and that the recirculated portion of the Draft EIR only addresses certain specific topics. The Proposal includes the following applications which have been filed with the City and are being considered in the Draft EIR:

1. Annexation from County of Imperial to City of El Centro, subject to LAFCO approval (Annexation EC-8-04);
2. Change of Zone from County of Imperial General Agriculture/Urban Overlay (A2U) to City of El Centro Single Family Residential (R-1); and

CUSD-1

3. Tentative Subdivision Map approval.

The proposed Project site or area ("Project Site" or "Project Area") is within the City's adopted Sphere of Influence boundaries and located in the County of Imperial ("County"). The Project Site is located north of Interstate 8, south of Ross Road, east of Austin Road and the Evergreen and Central Main Canals, and west of the Desert Estates Subdivision and Tract 62 (City of El Centro Annexation 04-86) and consists of 160 acres.

The Project is described as follows in the In the Draft EIR:

"Project Description: Project implementation includes annexation, a zone change from County zoning, General Agricultural Urban Overlay (A2U) to City zoning Single Family Residential (R-I). Project implementation will result in the subdivision of approximately 160 acres of farmland into 496 lots, which will allow for the development of 494 single-family residences on an average lot size of 7,200 square foot lots, 8.78 acre detention basin, and the dedication of approximately 11.77 acres for a future elementary school (with a proposed joint use school/park). Project implementation will also require the extension and/or upgrade of public services and utilities and the internal circulation system. Access to the project is proposed via the extension of Ocotillo Drive, east of the project site and from Ross Avenue along the north.

It is the intent of the City of El Centro to annex the project site into the City's incorporated boundaries.

In addition, the proposed project includes the annexation of an additional 42 acres that supports 30 residential units along Lotus Avenue adjacent to the 160 acres to be subdivided. The entire annexation area is collectively referred to as Tract 74. Project implementation will not include the subdivision of or the extension and/or upgrade public services and/or utilities to this 42 acre portion of the project site. Once annexed into the City of El Centro, this portion of the project site will be zoned as Rural-Residential (RR)."

The Notice provides that the City of El Centro is the Lead Agency and has prepared the Recirculated Draft EIR on the Proposal. The Notice provides that there is a 45-day review period beginning September 14, 2007 and ending on October 29, 2007.

The City seeks the comments of the District as to adequacy of the content of the Draft EIR in connection with the Proposal. The Notice provides that the responses are to be sent to the City no later than October 29, 2007.

The District notes the provisions of Section 15088.5 (f) states:

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“(f) The lead agency shall evaluate and respond to comments as provided in Section 15088. Recirculating an EIR can result in the lead agency receiving more than one set of comments from reviewers. The following are two ways in which the lead agency may identify the set of comments to which it will respond. This dual approach avoids confusion over whether the lead agency must respond to comments which are duplicates or which are no longer pertinent due to revisions to the EIR. In no case shall the lead agency fail to respond to pertinent comments on significant environmental issues.

- (1) When an EIR is substantially revised and the entire document is recirculated, the lead agency may require reviewers to submit new comments and, in such cases, need not respond to those comments received during the earlier circulation period. The lead agency shall advise reviewers, either in the text of the revised EIR or by an attachment to the revised EIR, that although part of the administrative record, the previous comments do not require a written response in the final EIR, and that new comments must be submitted for the revised EIR. The lead agency need only respond to those comments submitted in response to the recirculated revised EIR.
- (2) When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions of the recirculated EIR. The lead agency need only respond to (i) comments received during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and (ii) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated. The lead agency's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.
- (3) As part of providing notice of recirculation as required by Public Resources Code Section 21092.1, the lead agency shall send a notice of recirculation to every agency, person, or organization that commented on the prior EIR. The notice shall indicate, at a minimum, whether new comments may be submitted only on the recirculated portions of the EIR or on the entire EIR in order to be considered by the agency.”

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In particular Section 15088.5 (f) (3) provides that as part of providing notice of recirculation, the City shall send a notice of recirculation to every agency, person, or organization that commented on the prior EIR and that the notice shall indicate, at a

minimum, whether new comments may be submitted only on the recirculated portions of the EIR or on the entire EIR in order to be considered by the City.

The District further notes that the Notice describes the Recirculated Draft EIR as “RDEIR”) and that the Draft EIR is “DEIR”. The Notice further states that “This RDEIR is hereby made available for public review and comment. The public review period for said document has duration of 45 days beginning September 14, 2007, and ending on October 29, 2007. You are invited to submit written comments on the DEIR to the City's contact person at the address provided below by October 29, 2007.” As such, the Notice appears to indicate that comments can be submitted on the entire Draft EIR (“DEIR”) and that comments are not limited to the Recirculated Draft EIR (“RDEIR”). Therefore, the District comments provided herein refer to both the Draft EIR and the Recirculated Draft EIR.

The District notes that there is an inconsistency between the Notice and the content of the Recirculated Draft EIR. Section 1.3 of the Recirculated Draft EIR states in part:

“1.3 - Circulation of New Information

Under the California Environmental Quality Act (CEQA) Guidelines Section (§) 15088.5(c), if a revision to an EIR is limited to a few chapters or portion of the EIR, the City need only circulate the chapters or portions that have been modified. Additionally, the City requests, pursuant to the CEQA Guidelines § 15088.5(f)(2), that reviewers of this document limit their comments to the new material that has been included in this recirculation document, and not make new comments on matters not included in this document, such as any of the material included in the November 28, 2006 Draft EIR...”

CUSD-1

Although the Recirculated Draft EIR states that reviewers are limited to a review of the “new materials” and that reviewers should not make new comments on matters not included in the Recirculated Draft EIR, including comments on the November 28, 2006 Draft EIR, this comment is not included in the Notice as provide for in Section 15088 (f) (3) which requires the limitation of review to be included in the Notice.

The District provided responses to the Notice of Preparation of August 14, 2006 on August 16, 2006 The City then issued a revised Notice of Preparation of September 22, 2006 which the District responded to on October 9, 2006. The District’s August 16, 2006 letter is contained in Appendix “A” of the Draft EIR. However, the District’s letter of October 9, 2006 is not contained in the Draft EIR Appendix “A”. The District’s letter of August 16, 2006 sets forth the comments of the District at that time and requested a meeting with the City to discuss how the City could assist the District in mitigation associated with the proposed development. It is noted that the City did not respond to

this request for a meeting. The CEQA Guidelines require the Draft EIR to contain all letters of comments with appropriate responses.

The District is a local and public agency that will be affected by the impacts of the adoption and implementation of the Project. This letter is intended to be entered into the public record of the City on the Project, and is further intended to present the District's comments with regards to the impacts and consequences that should be contemplated in the Draft EIR and the Recirculated Draft EIR (collectively referred to herein as "Draft EIR"), in order to protect the District's administrative and legal remedies. It further provides the District's comments as to the inadequacies of the Draft EIR and the need to revise the Draft EIR and re-circulate it for further review and comments.

It is recommended that these comments not be considered in a "piecemeal" fashion, but instead be considered as a comprehensive analysis which when the individual comments are combined and consolidated they provide evidence that the Draft EIR is inadequate and does not comply with the intent and requirements of the CEQA Guidelines. Correction of the inadequacies will require that the Draft EIR be revised and re-circulated for an additional 45-day review period to solicit comments.

The District has concluded that the Draft EIR does not comply with the CEQA Guidelines or the California Environmental Quality Act, and requires substantial revisions and re-writing to address the concerns raised and comments offered by the District. This conclusion has been reached and is based on the comments of the District as are set forth herein in Attachment "A".

CUSD-1

These attached comments are intended to insure that the District exhausts all of its administrative remedies that it has available at this point in the processing of the Draft EIR in order to transparently disclose and offer its comments with regards to the Project. These comments are focused on the direct and indirect, project-specific and cumulative effects of the Project on the District. They also address other impacts and consequences on the constituents of the District and on those components of the Project which may have a "cause-and-effect" on the District, its students, its employees, and its constituents. The comments are offered in compliance with the procedures, intention, and spirit of the California Environmental Quality Act and the CEQA Guidelines, and are intended to offer transparency that will enable the Draft EIR and subsequently the Final EIR to offer full and complete disclosures in accordance with State law.

It is recommended that the revisions requested by the District be completed by the City and that the Draft EIR as revised be re-circulated for a further 45-day review period to permit additional comments on the re-drafted Draft EIR. In addition, the District recommends that the mitigated measures offered herein by the District be incorporated into the Draft EIR and that the Project be revised accordingly.

The City is required to re-circulate an EIR when significant new information is added to the environmental impact report after public notice is given of the availability of the Draft EIR for public review. The District suggests that if the City responds in a complete and accurate way to the comments contained herein, there will be additional data and other information added to the Draft EIR that will require additional review. This new information will be "significant". Failure to offer it for public review will deprive the public of a meaningful opportunity to comment on the aspects of the Project that will further identify substantial adverse environmental effects of the Project and feasible ways to mitigate or avoid such an effects (including additional feasible project alternatives) that the Applicant has declined to consider and implement if the materials is not made available for public review.

The District suggests that the significant new information, which requires recirculation, includes further disclosures which will show that a) new significant environmental impacts would result from the Project or from a new mitigation measure proposed to be implemented; b) substantial increases in the severity of an environmental impacts will result from the Project unless mitigation measures are adopted that reduce the impacts to a level of insignificance; c) feasible project alternatives or mitigation measure considerably different from others previously analyzed in the Draft EIR will clearly lessen the environmental impacts of the Project, but that the Applicant has declined to adopt them; and d) the contents of the Draft EIR does not comply with the CEQA Guidelines and in the District's judgment, precludes the meaningful public review and full disclosure of the impacts and mitigation measures that are required by the Project.

CUSD-1

As part of the re-circulation process, the District requests that the City within the revised Draft EIR or by an attachment to the revised Draft EIR, summarize the specific revisions made to the Draft EIR.

After the review of the District's comments, should the City choose not to re-circulate the Draft EIR, the District requests that the City's decision be supported by substantial evidence in the administrative record and that this evidence is provided to the District prior to the certification of the Final EIR.

Following the revision of the Draft EIR and/or the responses to the District's comments, the District does hereby request that it be provided 30-days to review the responses to comments prior to any public hearings to consider the Final EIR.

We hereby request that a copy of the revised Draft EIR, along with the response to comments of the District be forwarded to the following for further review:

Ms. Norma M. Villicana
Acting Planning Director
City of El Centro
October 28, 2007
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Dr. Thomas Budde, Superintendent
Central Union High School District
351 Ross Avenue
El Centro, California 92243

Mr. Marshall B. Krupp
Community Systems Associates, Inc.
3367 Corte Levanto
Costa Mesa, California 92626

In addition we hereby request that all further public hearings and public meeting notices also be issued to the above addresses, and that any scheduled public hearings be deferred until the Draft EIR is brought into compliance with the CEQA Guidelines, revised accordingly, and re-circulated for further review and comments.

The District's comments on the Draft EIR as contained herein are offered to the City in conjunction with the continuing entitlement process of the Project. The District would encourage the Applicant and the City to meet and confer with the District with regards to these concerns and discuss revisions, amendments, and adjustments to the Project that would address the District's concerns before the Project proceeds to Planning Commission and the City Council public hearings on this matter. This request to meet and confer is pursuant to Section 65352.2 as further discussed in the attached comments.

In conclusion, the District wants the City to understand the formal position of the District with regards to this Project and other development proposals within the District. This position is consistent with the intent of the constituents of the District. First, the District is fully committed to the collaboration and negotiation of implementation and financing agreements with developers to address the school facilities, interim facilities, District-wide support facilities, and student transportation requirements that are and will be required by new development. To this end, the District is open to all creative financing and implementation tools that developers or their consultants may offer. However, the District will not place itself or its general fund at risk, or compromise its financial, operational, or school facility design requirements or policies at an unnecessary risk, nor will it allow the financing of facilities for projects or the impacts of those projects on the Central Union High School District's operations or facilities to be placed on the backs of existing constituents of the District.

Second, although the District wants to work expeditiously towards agreements with developers, the District must also protect the District's interest in the legal entitlement processes, and as such, will be responding to all notices issued by the City and will be participating in all public hearings so that the District does not jeopardize or compromise any remedy options should the District not reach agreements with developers.

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Ms. Norma M. Villicana
Acting Planning Director
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These two processes may appear to be conflicting. The District is committed to doing everything possible to work in good faith towards a solution to the issues that the District and the development community face with regards to development impacts.

CUSD-1

The District reserves the right to provide additional comments to the Draft EIR and the Project in conjunction with the processing of such approvals by the City, including comments, testimony, or evidence referring to any of the entitlement documents and reports, findings, and resolutions and ordinances that may be considered and adopted by the City.

Thank you for your assistance and consideration.

Sincerely,

Community Systems Associates, Inc.
on behalf of the
Central Union High School District

Marshall Krupp

Mr. Marshall B. Krupp
President

MBK:mbk
El Centro – Miller Burson Draft EIR Notice of Availability 10-25-07 CUHSD

Cc: Dr. Thomas Budde, Superintendent
Central Union High School District
351 Ross Avenue
El Centro, California 92243

Attachment "A"

**Comments of the Central Union High School District
Miller Burson
Draft Environmental Impact Report dated November 28, 2006
and
Recirculated Draft Environmental Impact Report dated September 14, 2007
SCH #2006081078**

Applicable Provisions of the CEQA Guidelines

This District review of the Draft EIR is based on particular provisions of the California Environmental Quality Act and the CEQA Guidelines. Some of these provisions are set forth herein.

Section 15200 of the CEQA Guidelines, states:

“The purposes of review of EIR's and Negative Declarations include:

- (a) Sharing expertise,
- (b) Disclosing agency analyses,
- (c) Checking for accuracy,
- (d) Detecting omissions,
- (e) Discovering public concerns, and
- (f) Soliciting counter proposals.”

Section 15368 defines a “local agency” as follows:

“ ‘Local agency’ means any public agency other than a state agency, board, or commission. Local agency includes but is not limited to cities, counties, charter cities and counties, districts, school districts, special districts, redevelopment agencies, local agency formation commissions, and any board, commission, or organizational subdivision of a local agency when so designated by order or resolution of the governing legislative body of the local agency.

The District is a local agency under the provisions of the CEQA Guidelines.

Section 15379 defines a “public agency” as follows:

CUSD-2

“ ‘Public agency’ includes any state agency, board, or commission and any local or regional agency, as defined in these Guidelines. It does not include the courts of the state. This term does not include agencies of the federal government.”

Section 15381 of the Guidelines define “responsible agency” as follows:

“ ‘Responsible Agency’ means a public agency which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term "Responsible Agency" includes all public agencies other than the Lead Agency which have discretionary approval power over the project.”

Section 10544 of the CEQA Guidelines states:

“Any person or entity other than a Responsible Agency may submit comments to a Lead Agency concerning any environmental effects of a project being considered by the Lead Agency.”

Section 15086 of the CEQA Guidelines states in part:

(a) The Lead Agency shall consult with and request comments on the draft EIR from:

(1) Responsible Agencies...

(3) Any other state, federal, and local agencies which have jurisdiction by law with respect to the project or which exercise authority over resources which may be affected by the project, including water agencies consulted pursuant to section 15083.5....

(4) Any city or county which borders on a city or county within which the project is located....

(b) The lead agency may consult directly with:

(1) Any person who has special expertise with respect to any environmental impact involved,

(2) Any member of the public who has filed a written request for notice with the lead agency or the clerk of the governing body.

(3) Any person identified by the applicant whom the applicant believes will be concerned with the environmental effects of the project.

- (c) A responsible agency or other public agency shall only make substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or which are required to be carried out or approved by the responsible agency. Those comments shall be supported by specific documentation...”

Although the District is a public agency and a local agency, it does not have “discretionary approval power over the Project”. As a public agency and a local agency, the District suggests that the comments contained herein are within the expertise of the District and are relevant to the District’s responsibility of providing school facilities, education, and District operations in a coordinated and acceptable level based upon the needs and requirements of the District’s jurisdiction.

Section 15204 of the CEQA Guidelines, states in part:

“(a) In reviewing draft EIR's, persons and public agencies should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. At the same time, reviewers should be aware that the adequacy of an EIR is determined in terms of what is reasonably feasible, in light of factors such as the magnitude of the project at issue, the severity of its likely environmental impacts, and the geographic scope of the project. CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR...”

CUSD-2

(c) Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to Section 15064, an effect shall not be considered significant in the absence of substantial evidence.

(d) Reviewing agencies or organizations should include with their comments the name of a contact person who would be available for later consultation if necessary. Each responsible agency and trustee agency shall focus its comments on environmental information germane to that agency's statutory responsibility.

(e) This section shall not be used to restrict the ability of reviewers to comment on the general adequacy of a document or of the lead agency to reject comments not focused as recommended by this section.

(f) Prior to the close of the public review period for an EIR or mitigated negative declaration, a responsible or trustee agency which has identified significant effects on the environment may submit to the lead agency proposed mitigation measures which would address those significant effects. Any such measures shall be limited to impacts affecting those resources which are subject to the statutory authority of that agency. If mitigation measures are submitted, the responsible or trustee agency shall either submit to the lead agency complete and detailed performance objectives for the mitigation measures, or shall refer the lead agency to appropriate, readily available guidelines or reference documents which meet the same purpose.”

Section 15384 of the Guidelines defines “Substantial Evidence” as follows:

“(a) ‘Substantial evidence’ as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.”

The Guidelines go on to further discuss substantial evidence as follows:

“ ‘Substantial evidence’ as used in the Guidelines is the same as the standard of review used by courts in reviewing agency decisions. Some cases suggest that a higher standard, the so called ‘fair argument standard’ applies when a court is reviewing an agency’s decision whether or not to prepare an EIR.

Public Resources Code Section 21082.2 was amended in 1993 (Chapter 1131) to provide that substantial evidence shall include ‘facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.’ The statute further provides that ‘argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence.’ ”

Section 15064 of the CEQA Guidelines states:

“(a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.

(1) If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR.

(2) When a final EIR identifies one or more significant effects, the Lead Agency and each Responsible Agency shall make a finding under Section 15091 for each significant effect and may need to make a statement of overriding considerations under Section 15093 for the project.

(b) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.

(c) In determining whether an effect will be adverse or beneficial, the Lead Agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the Lead Agency must still determine whether environmental change itself might be substantial.

(d) In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.

(1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. Examples of direct physical changes in the environment are the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.

(2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect

physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.

(3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable.

(e) Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

(f) The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency.

(1) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68).

(2) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment then a mitigated negative declaration shall be prepared.

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- (3) If the lead agency determines there is no substantial evidence that the project may have a significant effect on the environment, the lead agency shall prepare a negative declaration (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App. 3d 988).
- (4) The existence of public controversy over the environmental effects of a project will not require preparation of an EIR if there is no substantial evidence before the agency that the project may have a significant effect on the environment.
- (5) Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts and expert opinion support by facts.
- (6) Evidence of economic and social impacts that do not contribute to or are not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment.
- (7) The provisions of sections 15162, 15163, and 15164 apply when the project being analyzed is a change to, or further approval for, a project for which an EIR or negative declaration was previously certified or adopted (e.g. a tentative subdivision, conditional use permit). Under case law, the fair argument standard does not apply to determinations of significance pursuant to sections 15162, 15163, and 15164.
- (g) After application of the principles set forth above in Section 15064(f)(g), and in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.
- (h) (1) When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(2) A lead agency may determine in an initial study that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. When a project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures set forth in a mitigated negative declaration, the initial study shall briefly indicate and explain how the contribution has been rendered less than cumulatively considerable.

(3) A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program which provides specific requirements that will avoid or substantially lessen the cumulative problem (e.g., water quality control plan, air quality plan, integrated waste management plan) within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project.

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(4) The mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable."

Section 15143 of the CEQA Guidelines states:

"The EIR shall focus on the significant effects on the environment. The significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence. Effects dismissed in an Initial Study as clearly insignificant and unlikely to occur need not be discussed further in the EIR unless the Lead Agency subsequently receives information inconsistent with the finding in the Initial Study. A copy of the Initial Study may be attached to the EIR to provide the basis for limiting the impacts discussed."

Section 15144 of the CEQA Guidelines states:

"Drafting an EIR or preparing a Negative Declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can."

Section 15145 of the CEQA Guidelines states:

“If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.”

Section 15146 of the CEQA Guidelines states:

“The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.

(a) An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.

(b) An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.”

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Section 15147 of the CEQA Guidelines states:

“The information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR. Appendices to the EIR may be prepared in volumes separate from the basic EIR document, but shall be readily available for public examination and shall be submitted to all clearinghouses which assist in public review.”

Section 15088 of the CEQA Guidelines states:

“(a) The lead agency shall evaluate comments on environmental issues received from persons who reviewed the draft EIR and shall prepare a written response. The Lead Agency shall respond to comments received during the noticed comment period and any extensions and may respond to late comments.

(b) The lead agency shall provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report.

(c) The written response shall describe the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections). In particular, the major environmental issues raised when the Lead Agency's position is at variance with recommendations and objections raised in the comments must be addressed in detail giving reasons why specific comments and suggestions were not accepted. There must be good faith, reasoned analysis in response. Conclusory statements unsupported by factual information will not suffice.

(d) The response to comments may take the form of a revision to the draft EIR or may be a separate section in the final EIR. Where the response to comments makes important changes in the information contained in the text of the draft EIR, the Lead Agency should either:

(1) Revise the text in the body of the EIR, or

(2) Include marginal notes showing that the information is revised in the response to comments.”

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Section 15088.5 of the CEQA Guidelines states:

“(a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way 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) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:

(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)
- (b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.
- (c) If the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified.
- (d) Recirculation of an EIR requires notice pursuant to Section 15087, and consultation pursuant to Section 15086.
- (e) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.
- (f) The lead agency shall evaluate and respond to comments as provided in Section 15088. Recirculating an EIR can result in the lead agency receiving more than one set of comments from reviewers. The following are two ways in which the lead agency may identify the set of comments to which it will respond. This dual approach avoids confusion over whether the lead agency must respond to comments which are duplicates or which are no longer pertinent due to revisions to the EIR. In no case shall the lead agency fail to respond to pertinent comments on significant environmental issues.
 - (1) When an EIR is substantially revised and the entire document is recirculated, the lead agency may require reviewers to submit new comments and, in such cases, need not respond to those comments received during the earlier circulation period. The lead agency shall advise reviewers, either in the text of the revised EIR or by an attachment to the revised EIR, that although part of the administrative record, the previous comments do not require a written response in the final EIR, and that new comments must be submitted for the revised EIR. The lead agency need only respond to those comments submitted in response to the recirculated revised EIR.
 - (2) When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions of the recirculated EIR. The lead agency need only respond to (i) comments received

during the initial circulation period that relate to chapters or portions of the document that were not revised and recirculated, and (ii) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated. The lead agency's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.

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(3) As part of providing notice of recirculation as required by Public Resources Code Section 21092.1, the lead agency shall send a notice of recirculation to every agency, person, or organization that commented on the prior EIR. The notice shall indicate, at a minimum, whether new comments may be submitted only on the recirculated portions of the EIR or on the entire EIR in order to be considered by the agency.

(g) When recirculating a revised EIR, either in whole or in part, the lead agency shall, in the revised EIR or by an attachment to the revised EIR, summarize the revisions made to the previously circulated draft EIR.”

The Draft EIR defines the environmental document as a “project EIR”. Section 151.61 of the CEQA Guidelines describes a Project EIR as follows:

“The most common type of EIR examines the environmental impacts of a specific development project. This type of EIR should focus primarily on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project including planning, construction, and operation.”

The Draft EIR further states the purpose of the Draft EIR as follows:

“This Draft Environmental Impact Report (EIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) to evaluate the potential environmental impacts associated with the development of the Miller Burson project. The City of El Centro (City) is the lead agency for the preparation of the EIR. This document is a project-level EIR and has been prepared in conformance with CEQA, California Public Resources Code Section 2100 et. seq.; the California CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.); and the rules, regulations, and procedures for implementing CEQA as adopted by the City of El Centro.

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This Draft EIR is intended to serve as an informational document for the public agency decision makers and the public regarding the objectives and components of the proposed project. This document will address the potentially significant adverse environmental impacts that may be associated with the planning, construction, or operation of the project, as well as identify appropriate feasible mitigation measures

and alternatives that may be adopted to reduce or eliminate these impacts. This EIR considers a series of actions that are needed to achieve development of the proposed project. The actions currently being requested include approval of project components, a zone change, an annexation, and a tentative tract map. Additional approvals (i.e., grading permits and building permits) may be needed. In addition to the City, other public agencies (i.e., responsible and trustee agencies) will also use the information in the EIR in their decision-making process as well as additional information that may be presented during the CEQA process. A more detailed discussion of the potential project approvals is located in EIR Section 3.4, Intended Use of this EIR, Responsible Agencies, and Approvals Needed.

This EIR is the primary reference document for the formulation and implementation of a mitigation monitoring program for the proposed project. It is not always possible to mitigate environmental impacts to a level that is considered less than significant. In accordance with Section 15093(b) of the CEQA Guidelines, if a lead agency approves a project that has significant impacts that are not substantially mitigated (i.e. significant unavoidable impacts), the agency shall state in writing the specific reasons for approving the project, based on the final CEQA documents and any other information in the public record for the project. This is termed, per Section 15093 of the CEQA Guidelines, "a statement of overriding considerations."

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The intent of this project EIR is to provide a comprehensive single environmental document that will allow the City to carry out the proposed project. This EIR provides a reasonably anticipated scope of the project. This EIR will also be used to determine whether subsequent environmental documentation will be required. Subsequent actions on the project site may include, but is not limited to, the consideration of conditional use permits, grading permits, building permits, etc. The lead agency can approve subsequent actions without additional environmental documentation unless as otherwise required by Public Resources Code Section 21166, and the CEQA Guidelines Sections 15162 and 15163.1."

The Draft EIR further states:

"2.6 - Summary of Significant Environmental Impacts and Mitigation Measures Table 2-1 summarizes the potential environmental effects of the proposed project, the recommended mitigation measures, and the level of significance after mitigation. Impacts that are noted in the summary as "significant" after mitigation will require the adoption of a statement of overriding considerations, if the project is approved as proposed (CEQA Section 15903).

Impacts of the project are classified as (1) Less than Significant, adverse effects that are not substantial according to CEQA or adverse effects that have been mitigated to levels that are considered less than significant or (2) Significant and Unavoidable,

substantial changes in the environment that cannot be avoided even with feasible mitigation. Mitigation measures are listed, when feasible for each impact. The EIR also identifies other effects, which are either not considered significant or are beneficial effects of the proposed project; such effects are not the focus of the following summary. The reader is referred to the full text of this EIR for a description of the environmental effects of the proposed project and feasible mitigation measures recommended to reduce these effects to a level considered less than significant.”

The District notes also that the Draft EIR identifies the areas of controversy and issues to be resolved as follows;

“2.2 - Areas of Controversy/Issues To Be Resolved

The potential areas of controversy and issues to be resolved through the EIR process are derived from the Initial Study/Notice of Preparation (NOP), dated August 14,2006; and the Revised NOP, dated September 22,2006, (Appendix A) and responses thereto. These areas are summarized as follows:

- The project site currently supports agricultural production and has supported agricultural production since at least 1949. Additionally, the project site is zoned for agricultural land uses. Project implementation will result in the conversion of the project site from agricultural land uses to urban uses (Section 5.1, Agricultural Resources).
- The proposed project will have air quality impacts in the short-term during the mass grading of the site, the construction of the residential units, and associated infrastructure and in the long term as vehicular traffic increases in the project area (Section 5.2, Air Quality).
- The project site is known to provide dispersing, foraging, and nesting habitat for the borrowing owl and there are four known burrowing owls (two pairs) that are located onsite. The project site also contains suitable habitat for nesting birds (Section 5.3, Biological Resources).
- Project implementation will result in directly impacting the adjacent drain and canal system, which is part of a greater system that is considered an historic district and in the event that there are unknown cultural resources below grade, these resources could be disturbed during trenching for utilities (Section 5.4, Cultural Resources).
- The project site is located in an area that is seismically active and may experience primary and secondary seismic activity. The site may be

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subject to geological constraints including but not limited to, ground shaking, liquefaction and expansive soils (Section 5.5, Geology and Soils).

- The project site historically supported agricultural land uses, which may have involved the application of pesticides or herbicides. There is the potential for pesticide residues in onsite soils. Project implementation will increase the use of what the US Environmental Protection Agency terms Household Hazardous Wastes in the project area (Section 5.6, Hazards and Hazardous Materials).
- The proposed project will result in the generation of noise in the short-term during construction and in the long term as vehicular traffic increases in the project area (Section 5.7, Noise).
- The proposed project will result in generating an increased demand for public services and require the extension of services to the project site. (Section 5.8, Public Services).
- The proposed project will introduce 5,868 daily vehicle trips to the project area circulation system, of which 732 trips will be during the AM peak hour and 573 will be during the PM peak hour. Additionally, the project will result in the addition and/or reconfiguration of roadways within the project area (Section 5.9, Transportation and Traffic)."
- The proposed project will result in generating demand for domestic water and require the extension and/or upgrades of water supply to the site (Section 5.10, Utility Service Systems)."

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The District fully agrees that the proposed Project will result in generating an increased demand for public services and require the extension of services to the Project site, particularly on the availability of school facilities and the District's ability to provide educational services and operations.

The Recirculated Draft EIR states:

"On November 28, 2006, the Draft Environmental Impact Report (Draft EIR) for the Change of Zone 05-02, Tentative Subdivision Map and Annexation EC-8-04 (Miller Burson) project (State Clearinghouse Number 2006081078) was circulated by the Lead Agency, the City of El Centro, for comments. The comment period ended on January 11, 2007. Substantive comments were received on several issues addressed in the Draft EIR. After review of the comments, the City of El Centro decided to recirculate portions of the EIR that resulted in new significant information in accordance with Section 15088.5 of the California Environmental Act Guidelines.

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Therefore, portions of the EIR are being distributed for public review. The recirculated document will provide the public and agencies the opportunity to review and comment on the significant new information. Specifically, the project site is located north of Interstate 8, south of Ross Road, east of Austin Road and the Evergreen and Central Main Canals, west of the Desert Estates Subdivision and Tract 62 (City of El Centro Annexation 04-86) (Exhibit 2).”

The Recirculated Draft EIR further states:

“After the close of the public review period for the Draft EIR for the Miller Burson project (January 11, 2007), it was determined that there were additional cumulative development projects that needed to be included in the traffic analysis to adequately analyze cumulative traffic impacts. Based on the revised traffic impact study (Appendix C), the traffic findings presented in the Draft EIR are substantially changed, and new mitigation measures are required to reduce traffic impacts to a level of less than significant.

As a result of this new information, both air quality and noise impacts required re-examining to determine the extent to which the cumulative air quality and noise environments would be altered, based upon the findings of the revised traffic study. It was determined that no other environmental issue areas would be affected by the new traffic information provided in the April 2007 Revised Traffic Study, provided in Appendix C.

In addition to new cumulative traffic, air quality, and noise information, the City of El Centro determined that an additional cumulative air quality mitigation measure would be feasible to implement to reduce a significant and unavoidable project level impact to less than significant (see Section 3, Project Impacts). Furthermore, the City of El Centro also revised project level burrowing owl mitigation measures; however, as with the Draft EIR (November 28, 2006), the impacts to burrowing owls remain less than significant.

Finally, due to a revision to the project and cumulative air quality findings', as discussed in Section 3.1, Project Air Quality and Section 4.3 (Cumulative Air Quality) in this Recirculated Draft EIR, Section 8.1, Significant Unavoidable Impacts, requires revision. The Draft EIR (November 28, 2006) included a significant unavoidable impact finding for air quality. In this Recirculated Draft EIR, a new air quality mitigation measure was added to reduce air quality impacts to less than significant.”

It is noted that the Recirculated Draft EIR does not address project-specific or cumulative impacts and mitigation measures which address the availability of school facilities and

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ability of the District to provide school educational and operations provided by the District to serve the Project.

Section 15370 of the CEQA Guidelines defined mitigation as follows:

“ ‘Mitigation’ includes:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.”

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Section 15126.4 of the CEQA Guidelines states, in part:

“(a) Mitigation Measures in General.

(1) An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

(A) The discussion of mitigation measures shall distinguish between the measures which are proposed by project proponents to be included in the project and other measures proposed by the lead, responsible or trustee agency or other persons which are not included but the lead agency determines could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. This discussion shall identify mitigation measures for each significant environmental effect identified in the EIR.

(B) Where several measures are available to mitigate an impact, each should be discussed and the basis for selecting a particular measure should be identified. Formulation of mitigation measures should not be deferred until some future time. However, measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.

(C) Energy conservation measures, as well as other appropriate mitigation measures, shall be discussed when relevant. Examples of energy conservation measures are provided in Appendix "F".

(D) If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project as proposed, the effects of the mitigation measure shall be discussed but in less detail than the significant effects of the project as proposed. (*Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986.)

(2) Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other public project, mitigation measures can be incorporated into the plan, policy, regulation, or project design.

(3) Mitigation measures are not required for effects which are not found to be significant.

(4) Mitigation measures must be consistent with all applicable constitutional requirements, including the following:

(A) There must be an essential nexus (i.e. connection) between the mitigation measure and a legitimate governmental interest. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); and

(B) The mitigation measure must be "roughly proportional" to the impacts of the project. *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Where the mitigation measure is an *ad hoc* exaction, it must be "roughly proportional" to the impacts of the project. *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854.

(5) If the lead agency determines that a mitigation measure cannot be legally imposed, the measure need not be proposed or analyzed. Instead, the EIR may simply reference that fact and briefly explain the reasons underlying the lead agency's determination...."

The District suggests that the Draft EIR is not in compliance with the CEQA Guidelines in that it is not a complete and accurate document addressing all of the impacts on the District and other environmental areas of concern, and does not provide the qualitative and quantitative analysis substantiated by data to support the conclusions set forth in the Draft EIR. It further does not comply with the applicable provisions of the CEQA Guidelines in terms of the content that is required by State law. The District suggests that

the Draft EIR be revised to address the comments contained herein and recirculated for further review and comment.

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Description of Proposal

Section 15124 of the CEQA Guidelines sets forth the following items that need to be included in the description of the Project in the Draft EIR:

“The description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.

(a) The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.

(b) A statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.

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(c) A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.

(d) A statement briefly describing the intended uses of the EIR.

(1) This statement shall include, to the extent that the information is known to the Lead Agency,

(A) A list of the agencies that are expected to use the EIR in their decision-making, and

(B) A list of permits and other approvals required to implement the project.

(C) A list of related environmental review and consultation requirements required by federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.

(2) If a public agency must make more than one decision on a project, all its decisions subject to CEQA should be listed, preferably in the order in which they will occur. On request, the Office of Planning and Research will provide assistance in identifying state permits for a project.”

The Draft EIR is required to provide a statement of objectives sought by the proposed Project. The statement of objectives is required to include the underlying purpose of the Project. Section 3.3 of the Draft EIR provides the Project Objectives as follows:

“3.3 - Project Objectives

- Supply single-family housing that is contiguous with the similar development and within the City's Sphere-of-Influence;
- Supply single-family housing to meet the growth projections of the City of El Centro;
- Locating development to meet anticipated growth in areas of relatively lesser environmental sensitivity;
- Provide public infrastructure improvements for the orderly expansion of urban development; and
- Locate housing adjacent to a major highway arterial (Interstate-8) to better promote efficient traffic flows and minimize traffic demands on local and collective streets.”

The Draft EIR does not provide quantitative or qualitative analysis that supports the conclusion that the Project can meet these objectives, or that when developed the Project a) will provide a supply single-family housing that is contiguous with the similar development and within the City's Sphere-of-Influence; 2) will provide a supply single-family housing to meet the growth projections of the City of El Centro; 3) is locating development to meet anticipated growth in areas of relatively lesser environmental sensitivity; 4) provides public infrastructure improvements for the orderly expansion of urban development (specific including schools and school facilities; and 5) is locating housing adjacent to a major highway arterial to better promote efficient traffic flows and minimize traffic demands on local and collective streets. There is no data in the Draft EIR that supports these conclusions.

Section 3.2 of the Draft EIR provides the Project Description as follows:

“3.2 - Project Characteristics

Project implementation includes annexation, a zone change from County zoning, General Agriculture/Urban Overlay (A2U) to City zoning Single Family Residential (R-1). Project implementation will result in the subdivision of approximately 160 acres of farmland into 496 lots, which will allow for the development of 494 single-family residences on an average lot size of 7,200 square foot lots, an 8.78-acre detention basin, and dedication of approximately 11.77 acres for a future elementary school with a proposed joint use school-park (Exhibit 3-3). Project implementation will also require the extension and/or upgrade of public services and utilities and the internal circulation system. Access to the project is proposed via the extension of Ocotillo Drive, east of the project site and from Ross Avenue along the north. It is the intent of the City of El Centro to annex the project site into the City's incorporated boundaries.

In addition, the proposed project includes the annexation of an additional 42 acres that supports 30 residential units along Lotus Avenue adjacent to the 160 acres to be subdivided. Exhibit 3-4 identifies the entire annexation area, collectively referred to as Tract 74. Project implementation will not include the subdivision of this 42-acre portion of the project site; however, it does include the extension and/or upgrade of public services and/or utilities. Once annexed into the City of El Centro, this portion of the project site will be zoned as Rural-Residential (R-R). However, for purposes of discussing project-related and cumulative impacts, the impact analysis is solely in relation to the 160 acre of the project site, the only portion of the project site that will be physically developed.

The proposed project will require the following City approvals: zone change, annexation, tentative subdivision maps, grading permits, and building permits. The project will also require approvals from the Local Formation Commission (LAFCO) (annexation) and the Imperial Irrigation District (IID) (retention basin, flood control, and storm water measures).”

The Project Description as set forth in Section 3.2 of the Draft EIR does not provide a general description of the Project's “economic characteristics” considering the principal engineering proposals and the required supporting public service facilities.

Section 3.4 describes the Project’s intended use of the EIR, responsible agencies, and approvals needed, as follows:

“3.4 - Intended Use of this EIR, Responsible Agencies, and Approvals Needed This EIR is being used by the City of El Centro to assess the potential environmental

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impacts that may arise in connection with the actions related to the implementation of the proposed project. The City of El Centro is the lead agency for the proposed project and the project approvals. Discretionary approvals include the following:

- Zone Change - The project applicant is required to obtain approval for a zone change on 160 acres from County zoning General Agricultural Urban Overlay (A2U) to City zoning Single-Family Residential (R-1) and a change of zone on the adjacent 42 acres to Rural Residential (RR) prior to subsequent approvals.
- Annexation - The project applicant is requesting that the 182-acre project site (160-acre development site plus the adjacent 42-acre site in Tract 74 that is to remain in its current state) within the City of El Centro's Sphere-of-Influence be annexed into the City's jurisdictional boundaries.
- Preliminary Project Review Map and Vesting Tentative Map - The project applicant is requesting to subdivide the 160 acre project site into 496.”

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These provisions are intended to comply with Section 15124 (d) (1) (A) (B) and (C) of the CEQA Guidelines.

The Draft EIR does not identify the District as an agency that is expected to use the Draft EIR in their decision-making with regards to the mitigation of impacts on the school facilities; the planning, design and development of schools; and the acquisition of school sites within the Project. There are other examples which would support that the Draft EIR has not complied with the provisions of Section 15124 of the CEQA Guidelines. This needs to be corrected and addressed in the Draft EIR.

District Analysis and Review of Project Impacts

The District responded to the Notice of Preparation (“NOP”) on August 16, 2006 and October 9, 2006.

The Draft EIR states the following Existing Conditions in Section 4.5.1 with regards to schools:

“5.8.3 - Public Education

Existing Conditions

Regulatory Conditions

Assembly Bill 2926, signed into law in September 1986, gave school district governing boards the authority to impose fees, charges, dedications or other form of

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requirement against any development project for the construction or reconstruction of school facilities. The State Allocation Board (SAB) adjusts the statutory fees that can be levied every two years.

In August 1998, Senate Bill 50 (SB 50) was signed into law, which includes, in part, the Leroy F. Greene School Facilities Act of 1998 (SFP). This bill made significant changes in the state school building program as well as addressing the level of permissible school fees assessed on construction.

Physical Conditions

Public education in the project area is provided by the McCabe Union Elementary School District and the Central Union High School District. A description of each district is provided below.

McCabe Union Elementary School District

The McCabe Union Elementary School District provides kindergarten through 8th grade education to the students that reside in the unincorporated areas surrounding El Centro and areas that have recently annexed into the City of El Centro. The Elementary School District operates one school: McCabe Elementary School. Table 5.8-7 provides a summary of McCabe Elementary School.

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Table 5.8-7: McCabe Elementary School Summary

School	Location	Distance from Project Site	Enrollment	Capacity	% of Capacity
McCabe Elementary School	701 W. McCabe Road	3.6 miles	824	455	181%

Source: McCabe Union Elementary School District, 2005

Future School Facilities

The Elementary School District has plans to build new and expand existing school facilities. A 900 student school adjacent to the existing school at 701 W. McCabe Road is under construction and scheduled to open in August 2007. Plans indicate that this school would ultimately become a middle school. In addition, a new 600-student school site is planned within the project site.

Central Union High School District

The Central Union High School District provides 9th through 12th grade education to the students that reside in the City of El Centro and the surrounding areas. Students

from the El Centro Elementary School District, the Heber Elementary School District, the McCabe Union Elementary School District, the Meadows Elementary School District, and the Seeley Elementary School District attend the Central Union High School District for secondary education. The High School District operates two high schools and a continuation school. A summary of each school is provided in Table 5.8-8.

Table 5.8-8: High School Summary

School	Location	Distance from Project Site	Enrollment	Capacity	% of Capacity
Central Union High School	1001 Brighton Avenue	2.1 miles	1,740	1,440	121%
Southwest High School	2001 Ocotillo Drive	0.4 miles	2,147	2,200	98%
Desert Oasis High School (Continuation School)	1302 S. 3 rd Street	2.8 miles	N/A	N/A	N/A

N/A = Not Available
 Source: Central Union High School District, November 17, 2005.

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Future School Facilities

The High School District has plans to build new and expand existing school facilities. A School Facilities Needs Analysis, dated November 11, 2004, analyzed planned development projects with the district boundaries and detailed the High School District's anticipated facilities needs through 2010. Table 5.8-9 summarizes future enrollment growth and the facilities needed to accommodate these students.

Table 5.8-9: Anticipated Enrollment Growth and Facilities Needs

Planned Dwelling Units	Student Generation Factor	Calculation	Total Student Generation	Site Factor	Calculation	New School Sites Needed
8,587 dwelling units	0.38 student / dwelling unit	(8,587 dwelling units) x (0.38 student / dwelling unit)	3,264 students	2,000 students / 1 school site	(3,264 students) / (2,000 students / 1 school site)	1.63 sites

Planned Dwellings Units are for years 2005-2010.
 Source: Central Union High School District, School Facilities Needs Analysis, November 11, 2004.

As shown above, the High School District would need to acquire 1.63 new school sites to meet anticipated enrollment growth through 2010. The School Facilities Needs Analysis estimates that acquiring these sites and building school facilities will cost the High School District more than \$32 million.

Project Impacts

Thresholds of Significance

Appendix G of the CEQA Guidelines indicates that a project would result in a significant public education services impact if it would:

- Result in a substantial adverse physical impact associated with the provision of new or physically altered public education facilities; or
- Result in the need for new or physically altered public education facilities in order to maintain acceptable service ratios, response times, or other performance objectives, the construction of which could cause significant environmental impacts.

Impacts

McCabe Union Elementary School District

The estimated student generation for the Elementary School District is summarized in Table 5.8-10.

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Table 5.8-10: McCabe Elementary School District Student Generation Estimate

Student Generation Factor	Calculation	Estimated Student Generation
0.83 student per dwelling unit	(494 dwelling units) × (0.83 student per dwelling unit)	411 students

Source: McCabe Union Elementary School District, December 8, 2005.

The proposed project is expected to add 411 students to the Elementary School District. The Elementary School District's existing school is already beyond capacity and new school facilities would be needed to serve the proposed project. This is a potentially significant impact.

The proposed project would dedicate 11.77 acres on the project site to the Elementary School District for a 600-student school. The 411 elementary school students from the proposed project would attend this school. (Note that this school site is not analyzed in this EIR and will be analyzed in a separate environmental document). In addition, the proposed project would be required to pay development fees to the Elementary School District to fund capital improvements at the time building permits are sought. In 2005, the Elementary School District prepared a School Facility Needs Analysis indicating that development fees are warranted.

The dedication of the school site and the payment of development fees are considered self-mitigating features of the project and would reduce potentially significant impacts to a level of less than significant.

Central Union High School District

The estimated student generation for the Central Union High School District is summarized in Table 5.8-11.

Table 5.8-11: Central Union High School Student Generation Estimate

Student Generation Factor	Calculation	Estimated Student Generation
0.358 student per single-family dwelling unit	(494 dwelling units) x (0.358 student per dwelling unit)	177 students

Source: Central Union High School District, November 17, 2005.

The Central Union High School District's two existing mainstream high schools are at or above capacity and the addition of the proposed project's 177 students would require the construction or expansion of existing facilities. This is a potentially significant impact.

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In accordance with SB 50, the project proponent will be required to pay a school impact fee to each affected school district, to help fund new and expanded classroom and support facilities. Currently the McCabe Union Elementary School District and Central Union High School District impose fees of \$2.57 and \$2.01 per square foot of residential development respectively; however impact fees are determined by the findings of the annual School Facilities Needs Analyses prepared by each school district throughout the State. Therefore, homebuilders will be required to pay the school impact fee as published at the time of issuance of building permits. As cited in the Government Code Section 65995, the payment of this statutory fee, "is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization. Therefore, potential impacts on schools would be less than significant.

Mitigation Measures

No mitigation measures are required.

Level of Significance After Mitigation

No mitigation is required for public education services; impacts are considered less than significant.”

There is considerable additional discussion that should be added to the Draft EIR which would provide an accurate accounting of the current conditions of the District. This is discussed herein.

This is an inadequate, incomplete, and factually inaccurate explanation of the existing conditions of the District.

The District’s enrollment as of October 1, 2006 was 4,246 students housed in two (2) high schools and one (1) continuation high school. This is an increase in enrollment over 2005 of 139 students or an increase of 3.38% over the 2005 enrollment. These enrollments are shown in the following tables.

Central Union High School District						
2006 CBEDS Enrollment						
October 1, 2006						
School Name	9	10	11	12	Total	%
Central High School	617	429	437	356	1,839	43.31%
Southwest High School	692	581	504	440	2,217	52.21%
Desert Oasis High (Cont.)	48	69	51	22	190	4.47%
Total	1,357	1,079	992	818	4,246	100.00%
%	31.96%	25.41%	23.36%	19.27%	100.00%	

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The District anticipates that the October 2007/2008 final enrollment calculations will show an additional increase in students over the 2006 enrollments.

The historical enrollments of the District from 2000-2006 is show in the following table:

Central Union High School District							
Historical Enrollment							
School Name	Actual CBEDS						
	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
Central High School	1,637	1,562	1,593	1,652	1,706	1,750	1,839
Southwest High School	1,740	1,913	2,024	2,118	2,243	2,186	2,217
Desert Oasis High (Cont.)	204	203	199	177	180	171	190
Total	3,581	3,678	3,816	3,947	4,129	4,107	4,246
% Annual Increase		2.71%	3.75%	3.43%	4.61%	-0.53%	3.38%

The District has a capacity that can house a total of 4,704 students. This is made up of permanent facilities of 2,996 (63.69%) seats and portable facilities of 1,704 (36.01%)

seats, for a total current capacity of 4,704 seats. The capacity by schools is shown in the following tables.

Central Union High School District				
Current District-wide Permanent and Portable Classrooms				
October 1, 2006				
	Classrooms			
	Permanent	Portable	Total	%
Central High School	49.00	23.00	72.00	42.86%
Southwest High School	53.00	27.00	80.00	47.62%
Desert Oasis High (Cont.)	5.00	11.00	16.00	9.52%
Total	107.00	61.00	168.00	100.00%
%	63.69%	36.31%	100.00%	

Central Union High School District				
Current District-wide Capacity				
October 1, 2006				
	Capacity			
	Permanent	Portable	Total	%
Central High School	1,372	644	2,016	42.86%
Southwest High School	1,484	756	2,240	47.62%
Desert Oasis High (Cont.)	140	308	448	9.52%
Total	2,996	1,708	4,704	100.00%
%	63.69%	36.31%	100.00%	

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Central Union High School District							
District-wide Capacity							
October 1, 2006							
School Name	9-12			Total			%
	Perm.	Port.	Total	Perm.	Port.	Total	
Central High School	1,372	644	2,016	1,372	644	2,016	42.86%
Southwest High School	1,484	756	2,240	1,484	756	2,240	47.62%
Desert Oasis High (Cont.)	140	308	448	140	308	448	9.52%
Total	2,996	1,708	4,704	2,996	1,708	4,704	100.00%
%	63.69%	36.31%	100.00%	63.69%	36.31%	100.00%	

In order to accommodate the increasing enrollments at the District's two main high schools above the permanent design capacity of the schools, the District has added portable classrooms. In addition, the District is currently in the process of acquiring a new third high school site south of Highway 8 at the southwest corner of McCabe Road and Pitzer Road. However, the District currently does not have adequate funding for the acquisition of the property and the constructions of the new high school. The school when constructed will have a capacity of 2,000-2,400 students.

Based on the October 2006 CBED's enrollment and the current capacity, the District is at 90.26% capacity utilization District-wide. Southwest High School is at 98.97% capacity with only 23 seats available. The percent capacity of each of the school facilities is set forth in the following table.

Central Union High School District				
Capacity Utilization 2006/2007				
School Name	Enrollment	Capacity	Capacity Surplus/(Deficit)	% Capacity Surplus/(Deficit)
Central High School	1,839	2,016	177	91.22%
Southwest High School	2,217	2,240	23	98.97%
Desert Oasis High (Cont.)	190	448	258	42.41%
Total	4,246	4,704	458	90.26%

The Project would be served by Southwest High School.

The District is currently considered overcrowded. Based on the proposed planning of new residential development projects within the District and without substantial expansion of the District's schools and District-wide support facilities, the District will find itself in a condition of further overcrowding without the provisions of adequate facilities. Overcrowded schools have a variety of the consequences, which include, but are not limited to:

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- 1) Deteriorated educational relationships between students and teachers resulting in reduced test scores;
- 2) Student emotional, social and psychological problems in the classroom, in the yards, and in the community;
- 3) Lower moral on the part of the teachers and employees and a lack of trust and confidence by the parents;
- 4) Inability to conduct some activities due to physical limitations or results in having to change normal operations of the school to abnormal operations;
- 5) Increased traffic and circulation problems around schools and increased bussing throughout the community;
- 6) Bussing results in the need for the District to spend educational funds on busses, bus operations, and bus drivers; and

- 7) The need to re-direct general funds revenues needed for salaries and employee benefits, and operational and administrative changes that are inefficient.

All of these are considered environmental impacts under CEQA and the CEQA Guidelines. Therefore, the Draft EIR should have reviewed the project-specific and cumulative impacts of the Project in conjunction with all formal and informal planning processes that are known by the County.

Based on the Project description, the District has determined the student generation impacts on the District. These impacts should be evaluated in detail and with accuracy in the Draft EIR in order to offer a full and complete disclosure of the impacts of the Project and to enable the City to make a full and informed decision on the Project and the entitlement applications.

The District notes that the costs of facilities are increasing, land acquisition costs are increasing, and District-wide support facilities to accommodate existing students is inadequate and needs to be funded if the District is to continue to provide the quality of education, services and facilities that is desired by the constituents of the District. In addition, development fee funds and State School Facility Program financing is inadequate to fund the facilities required by the District. Therefore, Additional mitigation will be required in order to accommodate the students generated by the Project.

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The following table indicates that the 494 units will generate 174.88 grade 9-12 students, 152 students beyond the available seats at Southwest High School. This does not take into account the cumulative impacts on Southwest High School as a result of other projects which are currently being processed for entitlements and that would be served by that school. Currently there are over 16,000 single-family and multi-family residential units that are current being processed within the City of El Centro and the County of Imperial, and within the District.

Miller Burson Projected Students							
Student Generation Rates	SFNA SGR's			Calculated SGR's Average			Central 9-12
	McCabe			Total K-8			
	K-6	7-8	Total	K-6	7-8	Total	
Single Family	0.520	0.110	0.630	0.567	0.100	0.667	0.354
Cluster	0.520	0.110	0.630	0.567	0.100	0.667	0.354
Townhomes	0.520	0.110	0.630	0.567	0.100	0.667	0.354
Multi-Family	0.400	0.100	0.500	0.460	0.147	0.607	0.190
Units							
Units	McCabe			Total K-8			Central 9-12
	K-6	7-8	Total	K-6	7-8	Total	
	Single Family	494	494	494	494	494	
Cluster	-	-	-	-	-	-	-
Townhomes	-	-	-	-	-	-	-
Multi-Family	-	-	-	-	-	-	-
Total	494	494	494	494	494	494	494
Projected Students							
Projected Students	McCabe			Total K-8			Central 9-12
	K-6	7-8	Total	K-6	7-8	Total	
	Single Family	256.88	54.34	311.22	256.88	54.34	
Cluster	-	-	-	-	-	-	-
Townhomes	-	-	-	-	-	-	-
Multi-Family	-	-	-	-	-	-	-
Total	256.88	54.34	311.22	256.88	54.34	311.22	174.88

Source: Community Systems Associates, Inc.

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The District currently receives development fees at \$2.71 per square foot of building area. Assuming that the units will have an average size of 2,000 square feet each, development fees per unit paid to the District would equate to \$5,420.00.

**Miller Burson
 Current Statutory Development Fees per Square Foot**

	McCabe	Central
	K-8	9-12
% Level I Split	69.20%	30.80%
Level I	\$ 1.82	\$ 0.81
Level II	\$ 0.91	\$ 1.90
Total	\$ 2.73	\$ 2.71
Non-Residential	\$ 0.29	\$ 0.13

Source: Community Systems Associates, Inc.

The following table presents the calculated financial impact to the District for school facilities, interim facilities, and District-wide support facilities based on a cost per unit.

**Development Impact Mitigation Model
 Calculation of District Local Portion
 McCabe Union School District
 Central Union High School**

Cost per Elementary Student	\$36,892.26
Cost per Middle School Student	\$50,089.50
Cost per High School Student	\$62,541.89
Cost of Elementary School	\$22,135,356
Cost of Middle School	\$45,080,549
Cost per High School	\$125,083,764
Percent Local Share Elementary School	60.31%
Percent Local Share Middle School	65.93%
Percent Local Share High School	67.72%
Number of Elementary Students (Max.)	600
Number of Middle Students	900
Number of High Students	2,000
Elementary Student Gen. Rate	0.520
Middle Student Gen. Rate	0.110
High Student Gen. Rate	0.354
Elementary Students per Classroom	24
Middle Students per Classroom	27
High Students per Classroom	27
Average House Size (s.f.)	2,000

School Construction Component - Local Portion

	Cost of School	Percent Local Share	Number of Students	Cost per Student	Student Generation Rate	Average House Size (s.f.)	Cost per House	Cost per Square Foot
Elementary	\$ 22,135,356	60.31%	600	\$ 22,250.69	0.520	2,000	\$ 11,570.36	\$ 5.79
Middle	\$ 45,080,549	65.93%	900	\$ 33,024.25	0.110	2,000	\$ 3,632.67	\$ 1.82
High	\$ 125,083,764	67.72%	2,000	\$ 42,354.00	0.354	2,000	\$ 14,933.31	\$ 7.50
Total							\$ 30,196.34	\$ 15.10

Interim Housing Component - 100% Local Portion

	Students	Classrooms	Restrooms	Offices	Cost per Bidg.	Cost per Student	Cost per House	Cost per Square Foot
	50%		0.10	0.05	per	per	per	per
	Enrollment		per Classroom	per Classroom	\$ 150,000			
Elementary	300.00	12.50	1.25	0.63	\$ 2,156,250	\$ 7,187.50	\$ 3,737.50	\$ 1.87
Middle	450.00	16.67	1.67	0.83	\$ 2,875,000	\$ 6,388.89	\$ 702.78	\$ 0.35
High	1,000.00	37.04	1.70	1.85	\$ 6,388,889	\$ 6,388.89	\$ 2,261.67	\$ 1.13
Total							\$ 6,701.94	\$ 3.35

District Support Facilities Component - 100% Local Portion

Sq. Ft. per House	2,000	Cost per School	Cost per Student	Cost per House	Cost per Square Foot
Elementary		\$ 1,050,000	\$ 1,750	\$ 910.00	\$ 0.46
Middle		\$ 1,350,000	\$ 1,500	\$ 165.00	\$ 0.08
High		\$ 4,000,000	\$ 2,000	\$ 708.00	\$ 0.35
Total				\$ 1,783.00	\$ 0.89

Total of All Components - Local Portion

	Cost per House	Cost per Square Foot
Elementary	\$ 18,217.86	\$ 8.11
Middle	\$ 4,800.45	\$ 2.25
High	\$ 17,802.98	\$ 8.98
Total	\$ 38,881.29	\$ 19.34

Level I and Level II Revenues

Sq. Ft. per House	2,000	Level I		Level II		Total	
		Revenue Per House	Revenue per Square Foot	Revenue per House	Revenue per Square Foot	Revenue per House	Revenue per Square Foot
Elementary School District		\$ 3,640.00	\$ 1.12	\$ 1,820.00	\$ 0.91	\$ 5,460.00	\$ 2.73
High School District		\$ 1,620.00	\$ 0.81	\$ 3,800.00	\$ 1.90	\$ 5,420.00	\$ 2.71
Total		\$ 5,260.00	\$ 2.63	\$ 5,620.00	\$ 2.81	\$ 10,880.00	\$ 5.44

Revenue Surplus/(Deficit)

Sq. Ft. per House	2,000	Per House	Per Square Foot
Elementary School District		\$ (15,258.30)	\$ (7.63)
High School District		\$ (12,542.98)	\$ (6.27)
Total		\$ (27,801.29)	\$ (13.90)

Based on the current development fee structure of the District, the Project would generate \$2,677,480.00 (current 2007 dollars) assuming an average units size of 2,000 square feet. Based on the calculated financial impact on the District, the Project would have a cost to the District for permanent school facilities, interim school facilities, and District-wide support facilities of \$8,873,712.58 (current 2007 dollars). This would result in a net financial impact to the District of \$6,196,232.58 (current 2007 dollars).

In the event that the District is unable to fund the local share of the cost of school facilities, then the District will have to modify attendance area boundaries, program double-session schedules, load classrooms with students in excess of District and State standards, and house students in inadequate and inappropriate school facilities, etc. throughout the District. This will affect the overall operation and administration of the District and the students, employees, and constituents affected by such actions and needs to be addressed in the Draft EIR. This will have physical, social, financial, and psychological effects on the students, employees, and constituents of the District. These potential impacts need to be addressed in the EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.

In addition, in the event that the impacts of the Project are not mitigated, students and employees will experience overcrowding conditions in the schools that are impacted by the Project. This may result in operational and administrative modifications that would be necessary to accommodate the increased overcrowded enrollments. This may have physical, social, financial, and psychological effects on the students, employees, and constituents of the District. These potential impacts need to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.

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Finally, in order to accommodate students at current District schools, permanent and interim classrooms and support facilities may need to be installed, constructed, and developed on the school sites. The Draft EIR needs to address the impacts of these additional facilities on school site utilization, wastewater treatment, water and utility service increases, parking demands, traffic and circulation in an around the schools, loss of parking due to the utilization of these areas for structures, loss of open space, and field areas, and State site and design compliance. Mitigation measures need to be offered to reduce the impacts to a level of less than significant.

None of these direct and indirect impacts and effects were discussed in the Draft EIR. The Draft EIR needs to be revised to include the discussion as set forth above.

The Draft EIR states:

“Assembly Bill 2926, signed into law in September 1986, gave school district governing boards the authority to impose fees, charges, dedications or other form of requirement against any development project for the construction or reconstruction of school facilities. The State Allocation Board (SAB) adjusts the statutory fees that can be levied every two years.”

This is an incomplete discussion of the provisions of AB 2926 and does not provide an accurate understanding of the provisions, limitations, and authorizations contained in the legislation and which apply to school districts. The lack of full disclosure prevents decision-makers from having a clear understanding of how AB 2926 applies to the Project. This needs to be more fully addressed in the Draft EIR.

The Draft EIR states:

“In August 1998, Senate Bill 50 (SB 50) was signed into law, which includes, in part, the Leroy F. Greene School Facilities Act of 1998 (SFP). This bill made significant changes in the state school building program as well as addressing the level of permissible school fees assessed on construction.”

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This is an incomplete discussion of the provisions of SB 50 and does not provide an accurate understanding of the provisions, limitations, and authorizations contained in the legislation and which apply to school districts. The lack of full disclosure prevents decision-makers from having a clear understanding of how SB 50 applies to the Project. This needs to be addressed more fully in the Draft EIR

The Draft EIR states:

“Public education in the project area is provided by the McCabe Union Elementary School District and the Central Union High School District. A description of each district is provided below.”

This is acknowledged by the District.

The Draft EIR states:

“The McCabe Union Elementary School District provides kindergarten through 8th grade education to the students that reside in the unincorporated areas surrounding El Centro and areas that have recently annexed into the City of El Centro. The Elementary School District operates one school: McCabe Elementary School. Table 5.8-7 provides a summary of McCabe Elementary School.”

The Draft EIR needs to be acknowledged that the Project is located north of Highway 8, while the District's current schools are located south of Highway 8 requiring the District to bus students generated from the Project to the available schools within the District in the event that the elementary school proposed within the Project is not constructed and operated. In addition, with the Project school having grades K-6, the District will have to bus the 7-8 students to other schools within the District. This bussing impact on the District needs to be addressed in the Draft EIR. In addition, the information in the Draft EIR needs to be updated to the current conditions of the District, particularly as it relates to the new school facility.

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The Draft EIR provides the following table

Table 5.8-7: McCabe Elementary School Summary

School	Location	Distance from Project Site	Enrollment	Capacity	% of Capacity
McCabe Elementary School	701 W. McCabe Road	3.6 miles	824	455	181%

Source: McCabe Union Elementary School District, 2005

This table needs to be updated to reflect the current conditions of the District.

The Draft EIR states:

“The Elementary School District has plans to build new and expand existing school facilities. A 900 student school adjacent to the existing school at 701 W. McCabe Road is under construction and scheduled to open in August 2007. Plans indicate that this school would ultimately become a middle school. In addition, a new 600-student school site is planned within the project site.”

This information needs to be updated to reflect the current conditions of the District. In addition, the Draft EIR needs to identify that although the District intends to pursue the development of a new school within the Project, the District does not and would not have adequate funds to construct the school under the current financial mitigation as proposed in the Draft EIR. There needs to be further discussion as to the feasibility of the development of the school within the Project. In addition, the Project proposes that this school would consist of an 11.77-acre site. It is unclear in the Draft EIR if this is an 11.77-acre site that is exclusively a school or if the 11.77-acre site includes as a portion of the school site, a park that would be a joint use facility with the District. A 600-student school requires a 15-net acres site, exclusively set aside for a school in order to be in conformance with the State Guidelines and the District's policies. The District has however agreed to a joint use school/park facility with a 10-net acre exclusive school site

CUSD-11

and a 5-net acre adjoining park site, and a joint use development, maintenance, and operation agreement between the District and the City or a Project homeowners association. This needs to be discussed in the Draft EIR and the Project description and the site plan needs be modified.

Therefore, an additional 3.23-net acres would be required for the site. Finally, the District is cautious with regard to accepting a site that is bounded by four streets. This has internal safety, traffic safety, supervision, site design, and financial implications and impacts that need to be addressed. Therefore, this discussion in the Draft EIR needs to be revised and expanded.

The school site proposed within the Project requires a number of State agency approvals including but not limited to the California Department of Education and the Department of Toxic Substances Control. These agencies have very stringent requirements that must be met in order to ensure that the ultimate school site is an approvable site under the State's requirements. The Draft EIR needs to consider and evaluate whether or not the proposed school site meets these special school siting requirements so that any potential "fatal flaws" are identified and the impacts mitigated. The MUSD advised the City of this in September 2006. The following are the most important of the State's criteria:

1. Adjacent/near roadways with high traffic volume;
2. Within 1,500 feet of railroad tracks;
3. Within two miles of an airport runway;
4. Close to high-voltage power lines;
5. Close to high-pressure lines, including natural gas, gasoline, petroleum, sewer or water lines;
6. Contaminants in soil or groundwater;
7. On or near a fault zone or active fault;
8. Subject to 100-year flood or dam inundation;
9. Hazardous air emissions or hazardous material handlers located within ¼ mile;
and
10. Subject to liquefaction, landslide or other geologic hazards.

CUSD-11

Even though the MUSD advised the City of these concerns, the Draft EIR did not consider any of these topics. Therefore, the Draft EIR is incomplete and requires revision.

CUSD-11

Students traveling to and from the McCabe Union Elementary School and the District's new facility from the project will be required to travel on Austin Road and McCabe Road which are not improved to acceptable design standards. The current street frontages have no curbs, gutters, sidewalks, or turn lanes for access to the MUSD school sites. The two streets, McCabe Road and Austin Road, are old narrow two-lane roads with a large irrigation canal immediately adjacent to Austin Road. The existing conditions create a safety hazard for students and parents accessing the MUSD school sites. The MUSD has no local or State funding to provide for the construction of the necessary road improvements in these areas. The MUSD advised the City of these concerns in its September 2006 letter to the City. However, this was not addressed in the Draft EIR. The Draft EIR needs to address this concern.

CUSD-12

The Draft EIR states:

“The Central Union High School District provides 9th through 12th grade education to the students that reside in the City of El Centro and the surrounding areas. Students from the El Centro Elementary School District, the Heber Elementary School District, the McCabe Union Elementary School District, the Meadows Elementary School District, and the Seeley Elementary School District attend the Central Union High School District for secondary education. The High School District operates two high schools and a continuation school. A summary of each school is provided in Table 5.8-8.”

This is acknowledged by the District.

CUSD-13

The Draft EIR provides the following table

Table 5.8-8: High School Summary

School	Location	Distance from Project Site	Enrollment	Capacity	% of Capacity
Central Union High School	1001 Brighton Avenue	2.1 miles	1,740	1,440	121%
Southwest High School	2001 Ocotillo Drive	0.4 miles	2,147	2,200	98%
Desert Oasis High School (Continuation School)	1302 S. 3 rd Street	2.8 miles	N/A	N/A	N/A
N/A = Not Available Source: Central Union High School District, November 17, 2005.					

This table needs to be updated to reflect the current conditions of the District.

The Draft EIR states:

“The High School District has plans to build new and expand existing school facilities. A School Facilities Needs Analysis, dated November 11, 2004, analyzed planned development projects with the district boundaries and detailed the High School District's anticipated facilities needs through 2010. Table 5.8-9 summarizes future enrollment growth and the facilities needed to accommodate these students.”

This information needs to be updated to reflect the current conditions of the District. In addition, the Draft EIR needs to identify that although the District intends to pursue the development of a new high school, the District does not and would not have adequate funds to construct the school under the current financial mitigation as proposed in the Draft EIR. In addition, the high school is proposed to be located in an area that does not serve the Project. Also, the proposed high school would already be a capacity based on the current Projects that have received approval from the City and the County and other Projects that are already in the planning cycles of the City and County. Therefore, a further detailed analysis needs to be conducted to determine if the proposed high school would be able to address the impacts of the Project. The Draft EIR needs to provide greater detail as to the proposed new high school.

CUSD-13

The Draft EIR provides the following table

Table 5.8-9: Anticipated Enrollment Growth and Facilities Needs

Planned Dwelling Units	Student Generation Factor	Calculation	Total Student Generation	Site Factor	Calculation	New School Sites Needed
8,587 dwelling units	0.38 student / dwelling unit	(8,587 dwelling units) x (0.38 student / dwelling unit)	3,264 students	2,000 students / 1 school site	(3,264 students) / (2,000 students / 1 school site)	1.63 sites
Planned Dwellings Units are for years 2005-2010. Source: Central Union High School District, School Facilities Needs Analysis, November 11, 2004.						

This table needs to be updated to reflect the current and future conditions of the District. The table analyzes the needs of the District by using a planned development projection for the period of 2005 through 2010 of 8,578 units. However, this is only a portion of the development which is current anticipated in the District. This analysis should present the current projection of units that is currently in the planning cycles of the City and the County. The District suggests that this amount is in excess of 16,098 units, including the Project. Based on these current planned units and a capacity of 2,000 students per school,

the District currently would require 2.85 high schools in addition to the current two schools. The District understand that there are additional residential projects proposed within the District which have not been formally filed with the City or the County, and which would have additional impacts on the District requiring additional facilities. This information needs to be disclosed in the Draft EIR.

The Draft EIR states:

“As shown above, the High School District would need to acquire 1.63 new school sites to meet anticipated enrollment growth through 2010. The School Facilities Needs Analysis estimates that acquiring these sites and building school facilities will cost the High School District more than \$32 million.”

This is not an accurate analysis. The cost of a high school has been estimated to be \$125,083,784. Therefore, 1.63 high schools would have a cost of \$203,886,567.16. The District projects that State funding would provide \$65,812,543.15, leaving \$138,074,024.01 to be funded by the District. Assuming 8,587 units with an average of 2,000 square feet per unit, development fees would generate \$46,541,540.00, leaving a net deficit in funding of \$ 91,532,484.01, resulting in a significant impact on the District.

CUSD-13

Assuming the 16,098 units there would be a need for 2.85 schools. The 2.85 schools would have a cost of \$356,488,783.06. State funds would generate \$115,071,011.03, leaving a local obligation of \$241,417,772.04. Development fees are projected to fund \$87,251,160.00 leaving a net obligation to the District of \$154,166,612.04. This level of additional analysis is required in the Draft EIR in order to provide the decision-makers with an accurate understanding of the District’s concerns and to provide for full and complete disclosure. These above stated costs and revenues are in current 2007 dollars.

The Draft EIR states:

“Appendix G of the CEQA Guidelines indicates that a project would result in a significant public education services impact if it would:

- Result in a substantial adverse physical impact associated with the provision of new or physically altered public education facilities; or
- Result in the need for new or physically altered public education facilities in order to maintain acceptable service ratios, response times, or other performance objectives, the construction of which could cause significant environmental impacts.”

The District has already offered it comments with regards to these statements.

“The estimated student generation for the Elementary School District is summarized in Table 5.8-10.

Table 5.8-10: McCabe Elementary School District Student Generation Estimate

Student Generation Factor	Calculation	Estimated Student Generation
0.83 student per dwelling unit	(494 dwelling units) x (0.83 student per dwelling unit)	411 students
Source: McCabe Union Elementary School District, December 8, 2005.		

CUSD-14

This table needs to be updated based on the current student generation rates of the District. The number of students based on the current student generation rate of .630 is 311.22 students.

The Draft EIR states:

“The proposed project is expected to add 411 students to the Elementary School District. The Elementary School District's existing school is already beyond capacity and new school facilities would be needed to serve the proposed project. This is a potentially significant impact.”

CUSD-15

This statement needs to be updated. It is noted that the projected students would be 256.88 elementary school students and 54.34 middle school students. The school proposed within the Project is a K-6 elementary school. The Draft EIR has not identified how the middle school students will be addressed, if the elementary school students are house in the proposed school within the Project. This needs to be addressed in the Draft EIR.

The Draft EIR states:

“The proposed project would dedicate 11.77 acres on the project site to the Elementary School District for a 600-student school. The 411 elementary school students from the proposed project would attend this school. (Note that this school site is not analyzed in this EIR and will be analyzed in a separate environmental document). In addition, the proposed project would be required to pay development fees to the Elementary School District to fund capital improvements at the time building permits are sought. In 2005, the Elementary School District prepared a School Facility Needs Analysis indicating that development fees are warranted.”

CUSD-16

The District acknowledges that the Project will dedicate 11.77 acres. However, this is inadequate and does not meet the District's requirements. The District requires 15-net acres. Therefore an additional 3.23-net ac res would be required. The District

acknowledges that students from the Project would attend the school. However, this school would be a K-6 grade elementary school. The Project will generate 256.88 K-6 elementary school students and 54.34 middle school students grades 7-8. These middle school students would not attend the school within the Project. Therefore, the Draft EIR provides no assurance that the middle school students can be accommodated by the District.

CUSD-16

The Draft EIR suggests that the environmental analysis of the school within the Project will be conducted as a separate environmental document. However, the school is an integral part of the Project both in terms of site design environmental impacts, and actual development. Therefore, according to the CEQA Guidelines, this aspect of the Project is required to be considered in the Draft EIR. The Draft EIR has failed to consider any of the impacts of the site plan, design, construction, and operation of a school site within the Project, and has not adequately discussed the impacts of this part of the development. Therefore, the Draft EIR is not complete and does not comply with the CEQA Guidelines.

The development of a school within the Project would have a cost of \$22,135,356 (current 2007 dollars). This cost includes land acquisition at \$75,000 per acre or \$1,125,000. Because the site is being dedicated (no cost to the District), the District cost for the school would be \$21,010,356. The Project's fair share of the cost would be 42.81% or \$8,995,233.62. The State's share of this Project's cost would be \$3,569,972.03, requiring a local share of \$5,425,261.59. The 494 units would generate \$2,697,240.00 in development fees assuming an average of 2,000 square feet per unit. Allocating 23.89% of the development fees to the middle school costs or \$644,488.58 and 76.11% to the elementary school or \$2,052,751.42, the District would experience a Project fair share deficit of \$3,372,510.17.

CUSD-17

In addition, there would be a need for interim facilities prior to the development of a permanent school facility and District-wide support facilities (i.e. food services, administration and office facilities, warehouse and storage facilities, transportation facilities, and central computer facilities) that would be required to serve the Project. These need to be disclosed in the Draft EIR and additional analysis is required to provide for a full disclosure to decisions-makers.

The Draft EIR states:

“The dedication of the school site and the payment of development fees are considered self-mitigating features of the project and would reduce potentially significant impacts to a level of less than significant.”

Although the dedication of a school site and the payment of development fees may be considered “self-mitigation” features of the Project, they do not reduce the potential

significant impacts to a level of less than significant. On the contrary, if the impact will still exist after the mitigation is imposed, the impact would not be reduced to a level less than significant. This finding is not supported by data, and quantitative and qualitative analysis that is presented in the Draft EIR. The Draft EIR should therefore be revised.

CUSD-17

The Draft EIR states:

“The estimated student generation for the Central Union High School District is summarized in Table 5.8-11.”

Table 5.8-11: Central Union High School Student Generation Estimate

Student Generation Factor	Calculation	Estimated Student Generation
0.358 student per single-family dwelling unit	(494 dwelling units) x (0.358 student per dwelling unit)	177 students

Source: Central Union High School District, November 17, 2005.

This table needs to be updated based on the current student generation rates of the District. The number of students based on the current student generation rate of .354 is 174.88 students.

In addition, there would be a need for interim facilities prior to the development of a permanent school facility and District-wide support facilities (i.e. food services, administration and office facilities, warehouse and storage facilities, transportation facilities, and central computer facilities) that would be required to serve the Project. These need to be disclosed in the Draft EIR and additional analysis is required to provide for a full disclosure to decisions-makers.

CUSD-18

The Draft EIR states:

“The Central Union High School District's two existing mainstream high schools are at or above capacity and the addition of the proposed project's 177 students would require the construction or expansion of existing facilities. This is a potentially significant impact.”

This is an accurate statement. However, it does not provide the analysis of the detail of the impact and the consequences of these schools being at or above capacity.

The Project's fair share of the cost of a high school to accommodate the students generated by the Project would be 8.74% or \$10,937,075.86. The State's share of this Project's fair share cost would be \$3,530,378.62, requiring a local share of \$7,406,697.25. The 494 units would generate \$2,677,480.00 in development fees

assuming an average of 2,000 square feet per unit. The District would experience a Project fair share deficit of \$4,729,217.25

In addition, there would be a need for interim facilities prior to the development of a permanent school facility and District-wide support facilities (i.e. food services, administration and office facilities, warehouse and storage facilities, transportation facilities, and central computer facilities) that would be required to serve the Project. These need to be disclosed in the Draft EIR and additional analysis is required to provide for a full disclosure to decisions-makers.

The Draft EIR states:

“In accordance with SB 50, the project proponent will be required to pay a school impact fee to each affected school district, to help fund new and expanded classroom and support facilities. Currently the McCabe Union Elementary School District and Central Union High School District impose fees of \$2.57 and \$2.01 per square foot of residential development respectively; however impact fees are determined by the findings of the annual School Facilities Needs Analyses prepared by each school district throughout the State. Therefore, homebuilders will be required to pay the school impact fee as published at the time of issuance of building permits. As cited in the Government Code Section 65995, the payment of this statutory fee, "is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization. Therefore, potential impacts on schools would be less than significant.”

CUSD-18

This does not accurately state the development fees levied by the Districts. The MUSD levies a current fee of \$2.73. The CUHSD levies a fee of \$2.71. These fees are currently being updated for 2008. These fees are annually updated based on the criteria and formulas as provided in State law. The criteria and formulas as provided in State law should be described in the Draft EIR.

The District partially acknowledges the provisions of State law which state that the payment of this statutory fee, "is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization." However, the Draft EIR does not accurately state the applicable provisions.

CUSD-19

Section 65995 (h) states:

“(h) The payment or satisfaction of a fee, charge, or other requirement levied or imposed pursuant to Section 17620 of the Education Code in the amount specified in

Section 65995 and, if applicable, any amounts specified in Section 65995.5 or 65995.7 are hereby deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073, on the provision of adequate school facilities.”

The provisions of Section 65995 do not state “Therefore, potential impacts on schools would be less than significant”. On the contrary, there is nothing in the provisions of SB 50 which states that any development fee reduces the potential impacts on schools to a level of less than significant. Therefore, this conclusion is not supported by the recital of Section 65995 of the Government Code. It needs to be supported by other data, and quantitative and qualitative analysis as provided for in the CEQA Guidelines.

The Draft EIR further does not acknowledge the other means of mitigating impacts on schools as are described in SB 50 and Section 65995.

The Draft EIR states:

“Therefore, potential impacts on schools would be less than significant.”

This is a conclusionary statement which is not supported by data, and quantitative and qualitative analysis as presented in the Draft EIR. It does not comply with the provisions of the CEQA Guidelines and requires further support. The District has determined that the impacts on the District would be significant.

CUSD-19

The Draft EIR states:

“No mitigation measures are required.”

Based on the District’s analysis, additional mitigation measures are required. The mitigation measures that should be considered and included in the Draft EIR are as follows:

1. Participate in the financing of the acquisition and construction of one (1) 55-acre high school site to be located south of Highway 8 to relieve the demand for the use of school capacity at Southwest High School and Central Union High School serve the impacts of project located north of Highway 8.
2. Provide for the “fair share” of the financing of interim facilities and District-wide support facilities as may be required to serve the Project.

3. A Growth Management Program which provides for the annual phasing of development of the residential uses within the Project concurrent with the availability of permanent and interim facilities, District-wide support facilities, and transportation facilities and services to accommodate the students generated by the Project.
4. Impose a Mello-Roos Community Facilities District on all properties within the Project to generate revenue equal to the difference between the cost of permanent and interim facilities, District-wide support facilities, and transportation service and facilities, less a) the revenues generated by statutory development fees as provided for pursuant to SB 50; and b) revenues allocated to the District per the State School Facilities Financing Program.
5. The entering into a School Facilities Mitigation Agreement with the District to generate revenue equal to the difference between the cost of permanent and interim facilities, District-wide support facilities, and transportation service and facilities, less a) the revenues generated by statutory development fees as provided for pursuant to SB 50; and b) revenues allocated to the District per the State School Facilities Financing Program.
6. The reduction of the number of units to be developed in the Project to a level that is equal to the number of students that can be accommodated by the District based on the revenues generated by statutory development fees plus revenues of the State School Facilities Financing Program.
7. Issuance of the State of California Department of Real Estate Subdivision Report ("White Paper") including the disclosure of inadequate school facilities to serve the Project to potential homebuyers and the requirement for realtor disclosures prior to the sale of residential units.

CUSD-19

The Draft EIR states:

"No mitigation is required for public education services; impacts are considered less than significant."

This is a conclusionary statement which is not supported by data, and quantitative and qualitative analysis as presented in the Draft EIR. It does not comply with the provisions of the CEQA Guidelines and requires further support. The District has determined that the impacts on the District would be significant and require further mitigation.

District's Request for Topics of Inclusion in Draft EIR

The Draft EIR acknowledges that there are areas of controversy. The Draft EIR states:

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“2.2 - Areas of Controversy/Issues To Be Resolved

The potential areas of controversy and issues to be resolved through the EIR process are derived from the Initial Study/Notice of Preparation (NOP), dated August 14, 2006; and the Revised NOP, dated September 22, 2006, (Appendix A) and responses thereto. These areas are summarized as follows:

- The project site currently supports agricultural production and has supported agricultural production since at least 1949. Additionally, the project site is zoned for agricultural land uses. Project implementation will result in the conversion of the project site from agricultural land uses to urban uses (Section 5.1, Agricultural Resources).
- The proposed project will have air quality impacts in the short-term during the mass grading of the site, the construction of the residential units, and associated infrastructure and in the long term as vehicular traffic increases in the project area (Section 5.2, Air Quality).
- The project site is known to provide dispersing, foraging, and nesting habitat for the borrowing owl and there are four known burrowing owls (two pairs) that are located onsite. The project site also contains suitable habitat for nesting birds (Section 5.3, Biological Resources).
- Project implementation will result in directly impacting the adjacent drain and canal system, which is part of a greater system that is considered an historic district and in the event that there are unknown cultural resources below grade, these resources could be disturbed during trenching for utilities (Section 5.4, Cultural Resources).
- The project site is located in an area that is seismically active and may experience primary and secondary seismic activity. The site may be subject to geological constraints including but not limited to, ground shaking, liquefaction and expansive soils (Section 5.5, Geology and Soils).
- The project site historically supported agricultural land uses, which may have involved the application of pesticides or herbicides. There is the potential for pesticide residues in onsite soils. Project implementation will increase the use of what the US Environmental Protection Agency terms Household Hazardous Wastes in the project area (Section 5.6, Hazards and Hazardous Materials).

- The proposed project will result in the generation of noise in the short-term during construction and in the long term as vehicular traffic increases in the project area (Section 5.7, Noise).
- The proposed project will result in generating an increased demand for public services and require the extension of services to the project site. (Section 5.8, Public Services).
- The proposed project will introduce 5,868 daily vehicle trips to the project area circulation system, of which 732 trips will be during the AM peak hour and 573 will be during the PM peak hour. Additionally, the project will result in the addition and/or reconfiguration of roadways within the project area (Section 5.9, Transportation and Traffic).
- The proposed project will result in generating demand for domestic water and require the extension and/or upgrades of water supply to the site (Section 5.10, Utility Service Systems)."

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Although the Draft EIR indicates that comments have been received regarding potential impacts relating to these areas of controversies, the specific areas of controversy have not been identified and the details of these controversies are not set forth in the Draft EIR. The specific areas of controversy need to be addressed and discussed in detail in the Draft EIR, so as to provide decision-makers with the information that is required pursuant to CEQA.

In addition, CEQA 15123 of the CEQA Guidelines states:

“(a) An EIR shall contain a brief summary of the proposed actions and its consequences. The language of the summary should be as clear and simple as reasonably practical.

(b) The summary shall identify...

(2) Areas of controversy known to the Lead Agency including issues raised by agencies and the public...”

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Although the discussion states that “The proposed project will result in generating an increased demand for public services and require the extension of services to the project site”, the statement does not 1) identify schools as being an area of controversy; and 2) does not provide a summary of what the specific areas of controversy are with regards to these potential effects.

However, even though potential impacts to public services (i.e. schools) is identified as a key environmental concern as stated early in the Draft EIR, the comments contained herein provide evidence that the required data, and the quantitative and qualitative analysis that was used in the Draft EIR did not address these concerns in a comprehensive and complete manner and to the level of clarity that is required by the CEQA Guidelines. There appears to be a common thread of the lack of reasoned good faith analysis as to the project-specific and cumulative impacts and mitigation measures set forth in the Draft EIR in compliance with the CEQA Guidelines.

The Draft EIR states:

“2.6 - Summary of Significant Environmental Impacts and Mitigation Measures

Table 2-1 summarizes the potential environmental effects of the proposed project, the recommended mitigation measures, and the level of significance after mitigation. Impacts that are noted in the summary as "significant" after mitigation will require the adoption of a statement of overriding considerations, if the project is approved as proposed (CEQA Section 15903).

Impacts of the project are classified as (1) Less than Significant, adverse effects that are not substantial according to CEQA or adverse effects that have been mitigated to levels that are considered less than significant or (2) Significant and Unavoidable, substantial changes in the environment that cannot be avoided even with feasible mitigation. Mitigation measures are listed, when feasible for each impact. The EIR also identifies other effects, which are either not considered significant or are beneficial effects of the proposed project; such effects are not the focus of the following summary. The reader is referred to the full text of this EIR for a description of the environmental effects of the proposed project and feasible mitigation measures recommended to reduce these effects to a level considered less than significant.”

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The District has serious concern that the Project's significant direct impacts cannot be mitigated to less-than-significant levels by the measures identified in the various sections of the Draft EIR, particularly as they relate to schools. The Project would contribute to significant cumulative impacts for which mitigation adequate to reduce impacts is not feasible. Significant and unmitigated impacts have been identified for the Project's contribution to significant cumulative impacts. However, the Draft EIR fails to provide these stated inclusions, particularly as they relate to schools and District facilities and services.

Rather than doing the comprehensive analysis of the project-specific and cumulative impacts of the Project on the District that would be dictated by the knowledge of these controversial areas, the Draft EIR only superficially discusses these areas or provides an

analysis that does not address the issues in a manner that would be required by the CEQA Guidelines so that the decision-makers can make informed and unbiased decisions with regards to the adequacy of the Draft EIR and the mitigation of impacts to a level of insignificance.

The District has consistently advised the City that residential development project impacts would not be mitigated by the provision of the SB 50 development fees and that mitigation may be requested by the District on a project-by-project basis in order to adequately house students generated by the Project and other new projects within the District.

The Draft EIR has failed to acknowledge this District position.

The District believes that if the Draft EIR was prepared in compliance with the CEQA Guidelines, that the following finding could reasonable be made:

1. School facilities and public services offered by the District will not adequately be available to the area to which the Proposal applies, and cannot be provided in an efficient and orderly manner in accordance with the planning, financing, development, and operational policies and requirements of the District.
2. School facilities and services currently offered by the District are inadequate District-wide because of the over-crowding of the District and the lack of adequate facilities to accommodate projected and proposed enrollments. The Proposal sets forth no adequate financial plan which sets forth the resources and implementation provisions to support the finding that adequate school facilities for both existing and proposed land uses within the annexation territory will be available to accommodate the student generated by the Proposal.
3. The City has no plan of services that demonstrates that needed public services and facilities will be available for the Proposal and the Project, including sufficient revenue sources for those facilities and services.
4. City has provided no qualitative or quantitative analysis which substantiates that school facility financial resources and implementation provisions will be available to address the needs of the District as a result of the Project's impacts.

Based on the Project, the District has determined the student generation impacts on the District and the financial consequences caused by those impacts. These impacts and financial consequences need to be evaluated in the EIR to offer a full and complete disclosure of the impacts of the Project in order to enable the City to make a full and informed decision on the Project and the entitlement applications.

The District is prepared to provide additional detailed data on the schools and the current enrollments and capacities of each school within the District as additional support to the District's findings and conclusions stated herein. The District suggest that during the preparation of the responses to these District comments, that the City contact the District and obtain the additional information to insure that the Draft EIR presents a complete and accurate evaluation of the impacts of the Project on the District.

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Additional Topics That Should Be Discussed in the Draft EIR

The inadequacies of the Draft EIR suggest that the document should be revised to address the issues on the District in greater detail. Data, and quantitative and qualitative analysis should be completed on a number of topics that were not discussed in the Draft EIR. Without addressing these topics, the full disclosure of the impacts of the Project cannot be determined. The District requests that the Draft EIR be revised to address the following:

1. The direct, indirect, and cumulative impacts on the increased enrollments, increased required employees, increased school facilities, increased District-wide facilities, increased interim facilities, and increased transportation facilities and services required by the students generated by the Project on the District, needs to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
2. The direct, indirect, and cumulative impacts on the circulation and traffic patterns throughout the community as a result of overall traffic generated by the Project, as well as private and public traffic generated by the transportation needs of students to and from the Project and schools throughout the District required to accommodate students that cannot be accommodated at these schools. The impacts of this traffic on the schools and the surrounding areas need to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
3. The direct, indirect, and cumulative impacts on the routes and safety of students traveling to schools by vehicle, District busing, walking and using bicycles need to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
4. In order for the District to accommodate the students from the Project, which are not accommodated at current District schools, the District will have to modify attendance area boundaries, program double-session schedules, load classrooms with students in excess of District and State standards, and house students in inadequate and inappropriate school facilities, etc., throughout the District. This

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effect on the overall operation and administration of the District, and the students, employees, and constituents affected by such actions need to be addressed in the Draft EIR. This will have physical, social, financial, and psychological effects on the students, employees, and constituents of the District. These potential impacts need to be addressed in the EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.

5. In the event that the impacts of the Project are not mitigated, students and employees will experience overcrowding conditions in the schools that are impacted by the Project. This may result in operational and administrative modifications that would be necessary to accommodate the increased overcrowded enrollments. This may have physical, social, financial, and psychological effects on the students, employees, and constituents of the District. These potential impacts need to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
6. In order to accommodate students at current District schools, permanent and interim classrooms and support facilities may need to be installed, constructed, and developed on the school sites. The impacts of these additional facilities on school site utilization, wastewater treatment, water and utility services, parking, traffic and circulation, loss of parking, open space, and field areas, and State site and design compliance needs to be addressed in the Draft EIR. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
7. SB 50 places limitations on the statutory development fees to be paid by the development for each residential unit. The Draft EIR needs to address the deficiencies in the fees paid versus the revenues required to fund the permanent and interim school facilities, and the District-wide support facilities to accommodate the students generated by the Project. In the event the SB 50 limitations result in financial deficits that would result in facilities not being fully funded, then the Draft EIR should identify the measures that will be taken to address the unfunded facilities to accommodate the students generated by the development. If a mitigation measure would cause one or more significant effects in addition to those that would be caused by the Project as proposed, the effects of the mitigation measure should be discussed. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
8. The Draft EIR should evaluate all alternatives to the Project, including but not limited to a) the development of land uses that do not generated students (i.e. non-residential, active adult senior citizen housing, public facilities, and parks and open space, etc.); b) reduction in the number of units to be developed on the

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Property; c) the implementation of a Growth Management/Phasing Program, including the annual allocation of building permits based on the availability of school facilities; and d) the “no project” alternative. The direct, indirect, and cumulative impacts of these alternatives should be evaluated in the Draft EIR. Mitigation measures to the impacts of these alternatives need to be offered to reduce the impacts to a less than significant impact.

9. The Draft EIR should evaluate the “growth inducing” impacts of the Project on the Community and the region, including but not limited to the direct and indirect environmental impacts of the growth inducement on schools, public facilities, wastewater treatment, water availability and water table, traffic and circulation, noise, land use. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
10. The increased traffic of the Project will have an impact on increased traffic on the surrounding collector and arterial streets, as well as State Highways. These traffic increases will impact the District’s busing and transportation timing and routes. The Draft EIR should address these impacts on the District. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.
11. The Draft EIR should identify the significant environmental effects on schools, public facilities, wastewater treatment, water availability and water table, traffic and circulation, noise, and land use which cannot be avoided if the Project is implemented, together with the direct and indirect consequences of the unavoidable environmental effects.
12. The Draft EIR should identify the significant irreversible environmental changes on schools, public facilities, wastewater treatment, water availability and water table, traffic and circulation, noise, and land use, which would be caused by the Project should the Project be implemented.
13. The Draft EIR should address how the Project is consistent with the land use map, and the ALL goals, policies, objectives, and implementation programs of the City of El Centro General Plan and the County of Imperial General Plan, including but not limited to schools, public facilities, wastewater treatment, water availability and water table, traffic and circulation, noise, and land use.
14. SB 50 provides:
 - a. Section 65995 (e) “The Legislature finds and declares that the financing of school facilities and the mitigation of the impacts of land use approvals, whether legislative or adjudicative, or both, on the need for school facilities are matters of statewide concern. For this reason, the Legislature

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hereby occupies the subject matter of requirements related to school facilities levied or imposed in connection with, or made a condition of, any land use approval, whether legislative or adjudicative act, or both, and the mitigation of the impacts of land use approvals, whether legislative or adjudicative, or both, on the need for school facilities, to the exclusion of all other measures, financial or non-financial, on the subjects. For purposes of this subdivision, "school facilities" means any school-related consideration relating to a school district's ability to accommodate enrollment.

- b. Section 65995 (h) "The payment or satisfaction of a fee, charge, or other requirement levied or imposed ... are hereby deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization ..., on the provision of adequate school facilities."
- c. Section 65996 (a) "... the following provisions shall be the exclusive methods of considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property or any change of governmental organization or reorganization..."
- d. Section 65996 (b) The provisions of this chapter are hereby deemed to provide full and complete school facilities mitigation and, notwithstanding Section 65858, or Division 13 (commencing with Section 21000) of the Public Resources Code, or any other provision of state or local law, a state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property or any change in governmental organization or reorganization,... on the basis that school facilities are inadequate..."

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The Draft EIR needs to identify the deficiencies and inadequacies between the legal provisions of SB 50 and the actual implementation of the provisions with regards to the Project. In addition, the Draft EIR needs to identify any and all impacts that have not been mitigated by the provisions of SB 50.

- 15. The cumulative impacts of the Project on traffic and circulation, noise, schools, public facilities and services, wastewater treatment, water and water table, and utilities need to be evaluated in the Draft EIR based on the build-out of the City of El Centro General Plan and the County of Imperial General Plan, the build-out of

the land uses of the area, and the build-out of the land within the jurisdiction of the public agencies providing service to the Project. Mitigation measures need to be offered to reduce the impacts to a less than significant impact.

16. The Draft EIR should identify all federal, State, and local agencies, other organizations, and private individuals consulted in preparing the draft EIR, and the persons, firm, or agency preparing the Draft EIR by contract or other authorization.
17. The Draft EIR should identify and describe all entitlements required for the approval and development of the Project.
18. The Draft EIR should identify the economic or social information relative to the impacts of the Project. The Draft EIR should trace the chain of cause and effect from a proposed decision on a Project through anticipated economic or social changes resulting from the Project to physical changes caused in turn by the economic or social changes. The economic and social analysis should focus the analysis on the physical changes that will result on the District from the Project. Economic, social, and particularly housing factors shall be considered by public agencies together with technological and environmental factors in deciding whether changes in a Project are feasible to reduce or avoid the significant effects on the environment identified in the Draft EIR.
19. The Draft EIR should identify through data and quantitative and qualitative analysis supported by independent evaluation and expert analysis how the provisions and policies of the City of El Centro General Plan and the County of Imperial General Plan, and the mitigation measures as set forth in the General Plan Program EIR's address the project-specific and cumulative impacts the Proposal will have on the traffic and circulation, noise, schools, public facilities and services, wastewater treatment, water and water table, and utility impacts caused by the Proposal.
20. The Draft EIR should identify the inadequacies contained in the City of El Centro General Plan and the County of Imperial General Plan, and the consequences of compliance or lack of compliance of the current General Plans with the applicable provisions of Section 65300 et. seq. of the Government Code.
21. In the event that the data, information, analysis and mitigation measures that are set forth in the General Plans and the General Plan Program EIR's are used in the Proposal Draft EIR, the data, information, analysis and mitigation measures should be updated to address the current conditions of the community and the differences should be identified, including but not limited to the changes in the community resulting from a) the unprecedented growth that has occurred in the

past several years since the General Plan's were adopted; b) the residential development projects which have been approved by the City and County and not developed as of yet, since the General Plans were adopted; e) the changes in the General Plans and zoning of the City and County since the General Plans were adopted; and d) environmental conditions and characteristics of the City and the County and the region.

22. The Draft EIR should identify the operational, administrative, financial, and legal impacts of the Project on the District.
23. The Proposed Draft EIR should describe how the current City of El Centro and the County of Imperial General Plans and Housing Elements are or are not in compliance with State law, and identify the lack of internal consistency between the General Plan elements, and how these deficiencies affect the Project, if any.
24. If the Developer is proposing a School Facilities Impact Mitigation Agreement to be entered into between the Developer and the District, the terms and conditions of such a proposal should be identified in the Draft EIR as a mitigation measure, and a discussion should be presented as to how such an Agreement would address the impacts caused by the Project and the concerns that the District may have with regards to the adequacy of facilities to serve the Project.
25. The Draft EIR should address the legal constitutionality of the provisions of SB 50 as applicable to the mitigation of the Project impacts, the limits on cities and school districts to impose additional mitigation measures in excess of the limits of SB 50, and the limitations on the part of the City and County to deny the Project on the grounds of inadequate facilities, unmitigated impacts, or the refusal of the applicant to pay development fees in excess of statutory provisions.
26. The Draft EIR should identify how the Project is in compliance with the requirements and policies of the County of Imperial Local Agency Formation Commission applicable to annexations.
27. The Draft EIR should evaluate the interim facility requirements of the District to accommodate student enrollments that will be generated over the phasing of the Project and prior to permanent facilities being available for students generated from the Project.
28. The Draft EIR should accurately identify the projected student enrollments to be generated by the Project by grade level, the specific schools that are intended to serve the Project, the current and future capacities of all existing schools within the District by grade level, the identification of future schools and the projection of capacities, the enrollment and capacities of permanent classroom facilities of

all existing schools by grade level, the enrollment and capacities of portable classroom facilities of all existing schools by grade level, the capacity utilization of portable and permanent classrooms of all existing schools by grade level.

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Many of the issues that relate to these topics need to be addressed in the Draft EIR. Following the revisions, the revised Draft EIR should be recirculated.

Draft EIR Consideration of the District's Mitigation Measures

The Draft EIR attempts to suggest that any mitigation measure offered by the District, which in any way directly or indirectly addresses school concerns, is preempted by the provisions of SB 50 and there is no requirement that they be considered or discussed in the Draft EIR. The District suggests that it is the City's responsibility to fully disclose the impacts of the Project, regardless of the provisions of SB 50, and the failure to provide such a disclosure and offer adequate mitigation measures is not in compliance with the CEQA Guidelines.

It is clear when comparing what was requested by the District in comparison to the contents of the Draft EIR that the City has not provided a good faith reasoned response based on data, and quantitative and qualitative analysis.

It is the finding of the District that the City has failed to adequately address all mitigation measures that are available to mitigate the impacts of the Project. The District would suggest that the provisions of the CEQA Guidelines require that the preparers of the Draft EIR a) do the research; b) pursue consultation with the District or others, including seeking technical and professional consultation; c) collect the data or information; d) conduct the quantitative or qualitative analysis; e) identify reference materials or individuals; f) draft language and incorporate such language in the Draft EIR; and g) include the information, findings, and conclusions in the Draft EIR that addresses the comments/requests of the District in a good faith or reasoned manner in compliance with the CEQA Guidelines. The District would suggest that the Draft EIR does not fulfill this requirement. The Draft EIR has failed to adequately address a way of reducing the impacts on the District to a less than significant level and the purpose of the CEQA Guidelines are not complied with regards to it being a full and complete disclosure and information document. This therefore is not in compliance with the CEQA Guidelines and requires revision of the Draft EIR and re-circulation for further review and comments.

CUSD-23

The District would suggest that the following mitigation measures be considered to reduce the impacts to a level of insignificance:

1. Participate in the financing of the acquisition and construction of one (1) 55-acre high school site to be located south of Highway 8 to relieve the demand for the

use of school capacity at Southwest High School and Central Union High School serve the impacts of project located north of Highway 8.

2. Provide for the “fair share” of the financing of interim facilities and District-wide support facilities as may be required to serve the Project.
3. A Growth Management Program which provides for the annual phasing of development of the residential uses within the Project concurrent with the availability of permanent and interim facilities, District-wide support facilities, and transportation facilities and services to accommodate the students generated by the Project.
4. Impose a Mello-Roos Community Facilities District on all properties within the Project to generate revenue equal to the difference between the cost of permanent and interim facilities, District-wide support facilities, and transportation service and facilities, less a) the revenues generated by statutory development fees as provided for pursuant to SB 50; and b) revenues allocated to the District per the State School Facilities Financing Program.
5. The entering into a School Facilities Mitigation Agreement with the District to generate revenue equal to the difference between the cost of permanent and interim facilities, District-wide support facilities, and transportation service and facilities, less a) the revenues generated by statutory development fees as provided for pursuant to SB 50; and b) revenues allocated to the District per the State School Facilities Financing Program.
6. The reduction of the number of units to be developed in the Project to a level that is equal to the number of students that can be accommodated by the District based on the revenues generated by statutory development fees plus revenues of the State School Facilities Financing Program.
7. Issuance of the State of California Department of Real Estate Subdivision Report (“White Paper”) including the disclosure of inadequate school facilities to serve the Project to potential homebuyers and the requirement for realtor disclosures prior to the sale of residential units.

CUSD-23

The Draft EIR needs to address these alternatives.

Draft EIR – School Related Impacts

The Draft EIR describes the Draft EIR document as a project specific EIR.

CUSD-24

The District notes that the Proposal is to proceed with the development of the Project in conformance with the City of El Centro General Plan. However, the District suggests that the Proposal is not in conformance with the General Plan, as is discussed herein and does not conform to the goal, policies, objectives, and provisions contained therein.

The accuracy, completeness, and comprehensiveness of the Draft EIR is critical to the process in that it will subsequently be used as the “base” environmental document for future discretionary approvals. As such, the Draft EIR needs to address all of the concerns that are known at this time, regardless of the complexity or magnitude of such analysis. The City is required to conduct a “good faith and reasoned analysis” of the impacts based on the technical input and the input of others during the process. Without such analysis, the Draft and Final EIR cannot provide decision-makers with the information so that they can make an informed decision.

It is because of the subsequent use of the Draft EIR that the District wants to be assured by the City that all of the environmental impacts have been considered in the Draft EIR and that there is a full and complete disclosure of the data and analysis that leads to the conclusions, findings, and mitigation measures as is required to be stated in the Draft EIR. Failure to do this places greater burden on the subsequent environmental documentation and puts into question the adequacy of this Draft EIR and the ability for the City to find in the future that subsequent approvals are consistent with the Project and the Project’s environmental documentation.

CUSD-24

In accordance with the CEQA Guidelines, the Draft EIR needs to provide a good faith reasoned analysis substantiated by evidence in order to provide a document that will allow decision-makers to make findings and approve mitigation measures to address the impacts of the Project on the environment. The contents of this letter suggests that this level of analysis is incomplete and does not provide the comprehensive analysis or offer full and complete disclosure and transparency of the analysis, conclusions, and mitigation measures.

The District acknowledges the format of the Draft EIR which is stated in the Draft EIR as follows:

“1.4 - Components of the **EIR** Analysis

The analysis of each environmental category within Section 5, Existing Conditions, Project Impacts, Mitigation Measures, and Level of Significance After Mitigation, of this EIR is organized into the following discussions:

- Existing Conditions - describes the regulatory and physical conditions that exist at this time and which may influence or affect the issue under investigation.

- Project Impacts - describes the potential environmental changes to the existing physical conditions that may occur if the proposed project is implemented.
- Mitigation Measures - are those specific measures that may be required of the project by the decision-makers in order to (1) avoid an impact, (2) minimize an impact, (3) rectify an impact by restoration, (4) reduce or eliminate an impact over time by preservation and maintenance operations, or (5) compensate for the impact by replacing or providing substitute resources or environment.
- Level of Significance After Mitigation - discusses whether the project and the project's contribution to cumulative impacts can be reduced to levels that are considered less than significant.

CUSD-24

In addition, Section 6, Cumulative Impacts, describes the potential environmental changes to the existing physical conditions that may occur with the proposed project, together with anticipated growth in the vicinity of the project site.”

The Draft EIR states:

“1.3 - EIR Focus and Effects Found Not To Be Significant

Based on the findings of the IS/NOP, a determination was made that an EIR is required to address the potentially significant environmental effects, including the cumulative effects of the proposed project. The scope of the EIR includes issues identified by the City during the preparation of the IS/NOP for the proposed project, as well as environmental issues raised by agencies and the general public in response to the IS/NOP. The following are the issues addressed in this EIR:

- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Noise
- Public Services
- Transportation and Traffic
- Utility Service Systems (Water Supply)

CUSD-25

The environmental issues determined not to be significantly affected by the proposed project and therefore, do not require evaluation in the document, per section 15063(c) of the CEQA Guidelines, are as follows:

- Aesthetics
- Hydrology/Water Quality
- Land Use and Planning
- Mineral Resources
- Population and Housing”

Although the Draft EIR appears to follow the format discussed in the Draft EIR, the District has serious reservation that the Draft EIR has not addressed all of the topics that it should in the body of the environmental analysis. The Draft EIR offers an environmental analysis of:

- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Noise
- Public Services
- Transportation and Traffic
- Utility Service Systems (Water Supply)

CUSD-25

The Draft EIR fails to provide detailed analysis of the following topics which are normally included in the body of a Draft EIR:

- Aesthetics
- Hydrology/Water Quality
- Land Use and Planning
- Mineral Resources
- Population and Housing

The District would suggest that the Draft EIR be revised accordingly to address these topics. This is a flaw in the Draft EIR that needs to be corrected, requiring recirculation of the Draft EIR.

As it relates to the environmental impact on schools, the Draft EIR states as follows with regards to “significance” criteria”:

CUSD-26

“Thresholds of Significance

Appendix G of the CEQA Guidelines indicates that a project would result in a significant public education services impact if it would:

- Result in a substantial adverse physical impact associated with the provision of new or physically altered public education facilities; or
- Result in the need for new or physically altered public education facilities in order to maintain acceptable service ratios, response times, or other performance objectives, the construction of which could cause significant environmental impacts.”

In particular, the impact significance criteria which would affect the analysis of the school issues is that the impact would result in a substantial adverse physical impact associated with the provision of new or physically altered public education facilities; or result in the need for new or physically altered public education facilities in order to maintain acceptable service ratios, response times, or other performance objectives, the construction of which could cause significant environmental impacts.”

CUSD-26

This criterion is much too limiting. There are no specific criteria offered for the impacts on schools by which one would measure the impacts. The District would suggest that the analysis should be based on “service ratios, response times, performance objectives, number of apparatus devoted to the project vicinity, etc.” (i.e. thresholds) However, there are no such criteria of thresholds identified for schools with the exception of what appears to be “school capacity utilization”. In essence, the only criterion for determining significant impact is “school capacity”.

Section 15064.7 of the CEQA Guidelines states:

“(a) Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.

(b) Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence.”

The “significance criteria” as set forth in the Draft EIR does not offer an identifiable quantitative, qualitative, or performance level of a particular environmental effect, the non-compliance with which means the effect will normally be determined to be significant by the City and the compliance with which means the effect normally will be determined to be less than significant. In addition, the “significant criteria” as set forth in the Draft EIR has not been adopted by an ordinance, resolution, rule, or regulation of the City and has not been developed through a public review process. Further, the criterion is not supported by substantial evidence.

This same conclusion can be reached with regards to the many of the other “significant criteria” as used for the other ten (10) environmental topics set forth in the Draft EIR (i.e. agricultural resources, agricultural resources, air quality; biological resources; cultural resources, geology and soils; hazards and hazardous materials, noise; public services; transportation and traffic; and utility and service systems

Before the City proceeds with the consideration of the Draft EIR, each “significant criteria” for all ten (10) topics should be reviewed against the requirements of the CEQA Guidelines, revised accordingly, adopted by the City, and used as a measurement to further review the impacts of the ten (10) topics in order to determine if the level is significance or insignificance. This is not in compliance with the CEQA Guidelines and needs to be corrected and addressed before the Draft EIR is finally considered.

The District suggests that the Project will result a) in substantial adverse physical impacts associated with the provision of new or physically altered school facilities; and b) the need for new or physically altered school facilities. The construction of such activities will cause significant environmental impacts in order to maintain acceptable service ratios and other performance objectives for school services offered by the District. This will come in the form of permanent school facilities, interim school facilities, District-wide support facilities and student bussing and transportation. In addition, the impacts of the Project will affect a) the operations and administration of the service offered by the District; b) the physical work and learning environments offered to the students, teachers, and employees; c) the physical plant of the District including, but not limited to transportation services and facilities, food service, warehouse, and administration; and d) financial stability of the District. These short- and long-term impacts will have a secondary affect on the quality of life of the residents of the Project and the community, and the services of other local, regional, and State agencies. This letter substantiates that the standard of significance has not been met.

CUSD-26

The Draft EIR states the Project objectives, as follows:

“3.3 - Project Objectives

- Supply single-family housing that is contiguous with the similar development and within the City's Sphere-of-Influence;
- Supply single-family housing to meet the growth projections of the City of El Centro;
- Locating development to meet anticipated growth in areas of relatively lesser environmental sensitivity;
- Provide public infrastructure improvements for the orderly expansion of urban development; and
- Locate housing adjacent to a major highway arterial (Interstate-8) to better promote efficient traffic flows and minimize traffic demands on local and collective streets.”

CUSD-27

Missing from these objectives is the provisions of public facilities and services to create a sustainable development (including schools) concurrent with the development of the Project land uses, and the remedies to address the impacts on public services providers.

The Draft EIR discusses the existing conditions of “schools” as previously noted.

The Draft EIR does not identify where this information was obtained. Section 9 does not identify the District representatives that were contacted in order to develop the schools analysis in the Draft EIR. Section 11 does not identify any reference materials to develop the schools analysis. The District has numerous documents (i.e. School Facilities Needs Assessment, District facilities planning documents, etc.) that should have been used to develop the data, and the quantitative and qualitative analysis of the impacts on the District. It is interesting to note that the preparers of the Draft EIR did not contact the District to verify or update the information. In addition, they did not contact the District to determine if their statements to be included in the Draft EIR were accurate and were consistent with the District’s short- and long-range planning.

CUSD-28

There appears to be an intent to define the existing conditions of the District and to determine the potential physical impacts associated with the provision of expanded school services to meet future demand of the Project. However, this intent was not fulfilled in the further discussions set forth in the Draft EIR.

The Draft EIR discusses the potential significant impacts and sets forth specific mitigation measures relating to schools, as follows:

“Impacts

McCabe Union Elementary School District

The estimated student generation for the Elementary School District is summarized in Table 5.8-10.

The proposed project is expected to add 411 students to the Elementary School District. The Elementary School District's existing school is already beyond capacity and new school facilities would be needed to serve the proposed project. This is a potentially significant impact.

The proposed project would dedicate 11.77 acres on the project site to the Elementary School District for a 600-student school. The 411 elementary school students from the proposed project would attend this school. (Note that this school site is not analyzed in this EIR and will be analyzed in a separate environmental document). In addition, the proposed project would be required to pay development fees to the Elementary School District to fund capital improvements at the time building permits are sought. In 2005, the Elementary School District prepared a School Facility Needs Analysis indicating that development fees are warranted.

The dedication of the school site and the payment of development fees are considered self-mitigating features of the project and would reduce potentially significant impacts to a level of less than significant.

Central Union High School District

The estimated student generation for the Central Union High School District is summarized in Table 5.8-11.

The Central Union High School District's two existing mainstream high schools are at or above capacity and the addition of the proposed project's 177 students would require the construction or expansion of existing facilities. This is a potentially significant impact.

In accordance with SB 50, the project proponent will be required to pay a school impact fee to each affected school district, to help fund new and expanded classroom and support facilities. Currently the McCabe Union Elementary School District and Central Union High School District impose fees of \$2.57 and \$2.01 per square foot of residential development respectively; however impact fees are determined by the

findings of the annual School Facilities Needs Analyses prepared by each school district throughout the State. Therefore, homebuilders will be required to pay the school impact fee as published at the time of issuance of building permits. As cited in the Government Code Section 65995, the payment of this statutory fee, "is deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization.

Therefore, potential impacts on schools would be less than significant.

Mitigation Measures

No mitigation measures are required.

Level of Significance After Mitigation

No mitigation is required for public education services; impacts are considered less than significant."

The Draft EIR uses a single-family unit student generation rate of .358 per unit for the District. This is not an accurate student generation rate. The current student generation rate is .354. The Project would generate 174.88 high school students.

CUSD-28

The Draft EIR acknowledges that the implementation of the Project would increase student enrollment at local public schools beyond current and future capacity. This is an accurate statement.

Additionally, the mitigation measures offered are inaccurate. With regards to schools, the Draft EIR states:

"The dedication of the school site and the payment of development fees are considered self-mitigating features of the project and would reduce potentially significant impacts to a level of less than significant....

In accordance with SB 50, the project proponent will be required to pay a school impact fee to each affected school district, to help fund new and expanded classroom and support facilities. Currently the McCabe Union Elementary School District and Central Union High School District impose fees of \$2.57 and \$2.01 per square foot of residential development respectively; however impact fees are determined by the findings of the annual School Facilities Needs Analyses prepared by each school district throughout the State. Therefore, homebuilders will be required to pay the school impact fee as published at the time of issuance of building permits. As cited in the Government Code Section 65995, the payment of this statutory fee, "is deemed to

be full and complete mitigation of the impacts of any legislative or adjudicative act, or both involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization.

Therefore, potential impacts on schools would be less than significant.”

The Draft EIR states that the increase in student enrollment generated by the Project is considered a less than significant CEQA impact. This is not substantiated by data, and quantitative or qualitative analysis support by factual information. Because the Draft EIR does not establish “thresholds”, the Draft EIR provides no information to substantiate this conclusion. The Draft EIR acknowledges that the Project will provide additional students that will add to the already overcrowded school conditions at both MUSD and CUHSD. However, the Draft EIR does not define what this added strain is or the consequences of such strain on the already overcrowded conditions. The Draft EIR acknowledges that the Project applicant would be required to pay State-mandated developer fees to the District to help offset the costs of the additional enrollment generated by the Project. The Draft EIR does not provide and data, and quantitative or qualitative analysis which supports this conclusion or provide and analysis of what these costs may be in comparison to the actual costs the District would incur to provide for the mitigation of the impacts of the Project. Finally, the Draft EIR concludes that with payment of these fees, the Project would not result in a significant impact to schools. This again is a conclusion that is not supported by data, and quantitative or qualitative analysis supported by factual information.

CUSD-28

The District has the responsibility to provide education to the students generated by the Project. In the event that school sites are not provided within the Project, off-site school sites and facilities may be used in lieu of on-site school sites and facilities where available and appropriate. However, the District suggests that the Draft EIR needs to assume that no current schools and capacity are available and that all students generated from the Project will need to be housed in new schools located south of Highway 8. This is due to the fact that the District cannot speculate on the availability of school capacity at existing schools based on the current and future facilities and planning of the District.

The District acknowledges that the Developer will be required to pay the State-mandated school development impact fee as levied and imposed by District and that school impact fees are required to be used to construct additional new school facilities as necessary for the Project. However, the Draft EIR fails to do the analysis to determine if these fees are adequate to fund the facilities that would be required for the Project. The District suggests that statutory fees are inadequate to fund the local financing portion of school facilities. It is acknowledged that additional funding for new school facilities may come from State funds under the State School Facilities Financing Program. However, the State contributions to schools are inadequate when added to the local statutory development fees. In addition, the State does not fund interim facilities, District-wide

support facilities, or students bussing and transportation. These are all local funding responsibilities and need to be addressed in the Draft EIR.

There is no certainty that State funding would be available to meet school facility needs for the Project. The Draft EIR needs to conclude that if statutory fees are not provided sufficiently in advance to allow school facilities to be constructed prior to the arrival of students, statutory fees would likely be spent on interim school facilities (e.g., portable classrooms) and not on the construction of new school facilities. The Draft EIR needs to acknowledge that if there is no funds available for permanent facilities as a result of the use of these funds for interim, facilities, then students would not be housed in permanent facilities and that some time after the lifecycle of the interim facilities, the District would incur costs to replace or modernize these facilities, thereby placing additional financial and environmental impact burdens on the District and the Community.

The Draft EIR appears to indirectly state that based on State law, payment of school mitigation fees constitutes full mitigation of school impacts regardless of the size of the project and the District's conditions. The Draft needs to provide a full and complete disclosure of the provision of SB 50. In addition, an analysis of the inadequacies of the funding under SB 50 should be disclosures in the Draft EIR and these identified as unmitigated impacts.

With much of the Draft EIR failing to provide a comprehensive analysis of the school issues, it is interesting to note that at no time from the date of the Notice of Preparation of the Draft EIR to the date of the Notice on the Draft EIR, did the preparers of the Draft EIR contact the District, the District's consultant, or any of the District's professional advisors (i.e. legal counsel, architect, development fee justification report consultant, etc.) to obtain information, data, documents, reports, or any other materials that would have enabled the preparers to provide accurate information in the Draft EIR, to conduct the proper analysis in accordance with the CEQA Guidelines, and to identify with accuracy and completeness the impacts and mitigation measures that should and would be appropriately included in the Draft EIR. This is a failure in the process of preparing the Draft EIR and has resulted in inaccuracies contained in the Draft EIR, many of which have been identified in these comments of the District.

The environmental impacts on the District are readily apparent with a thorough analysis. Without adequate school facilities and adequate funding of facilities concurrent with the development of residential units, the District will be significantly impacted and will have to implement operational and administrative measures to address the impacts. These will have secondary and tertiary impacts on the District that need to be discussed in the Draft EIR.

In addition, the discussion of schools in the Draft EIR is incomplete and does not provide an accurate understanding of the School Facilities Financing Program of the State as it

relates to statutory development fees and the State's portion of funding facilities. This needs to be expanded so that the decision-makers have an accurate understanding of how school districts fund school facilities and the inadequacies of the School Facilities Financing Program. This is critical to understanding and clarifying the adequacy of the mitigation measures offered by the Draft EIR.

The District suggests that the Project will result in substantial adverse physical impacts associated with the provision of new or physically altered school facilities, the need for new or physically altered school facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios or other performance objectives for school services. As such, these impacts need to be addressed and mitigation measures offered to reduce the impacts to a level of less than significant.

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There is no data, and quantitative or qualitative analysis to substantiate that the mitigation measures offered will provide for adequate and well designed public school facilities to meet future demand of the Project. Only through a proactive level of commitment by the Applicant and the City, regardless of the provisions of Section 65995 et. seq. of the Government Code, can there be any assurance that the mitigation measures will address the impacts reducing them to a level of insignificance.

The District suggests that the evaluation of impacts on the Project needs to be addressed in a comprehensive way and not through the piece-meal evaluation of second-tier environmental analysis. There is no data, and quantitative or qualitative analysis to substantiate that the mitigation measures identified in the Draft EIR addresses the potentially significant impacts of the Project and provides for the adequate operation of schools and school facilities.

Draft EIR – Cumulative Impacts

The CEQA Guidelines required that the Draft EIR consider cumulative impacts. Section 15355 of the CEQA Guidelines defines "cumulative impacts" as follows:

“ ‘Cumulative impacts’ refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

(a) The individual effects may be changes resulting from a single project or a number of separate projects.

(b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects.

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Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.”

Further Section 15130 of the CEQA Guidelines states:

“(a) An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in Section 15065(a)(3). Where a lead agency is examining a project with an incremental effect that is not "cumulatively considerable," a lead agency need not consider that effect significant, but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

(1) As defined in Section 15355, a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. An EIR should not discuss impacts which do not result in part from the project evaluated in the EIR.

(2) When the combined cumulative impact associated with the project's incremental effect and the effects of other projects is not significant, the EIR shall briefly indicate why the cumulative impact is not significant and is not discussed in further detail in the EIR. A lead agency shall identify facts and analysis supporting the lead agency's conclusion that the cumulative impact is less than significant.

(3) An EIR may determine that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project's contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact. The lead agency shall identify facts and analysis supporting its conclusion that the contribution will be rendered less than cumulatively considerable.

(b) The discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone. The discussion should be guided by standards of practicality and reasonableness, and should focus on the cumulative impact to which the identified other projects contribute rather than the attributes of other projects which do not contribute to the cumulative impact. The following elements are necessary to an adequate discussion of significant cumulative impacts:

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(1) Either:

(A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or

(B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or area-wide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.

(2) When utilizing a list, as suggested in paragraph (1) of subdivision (b), factors to consider when determining whether to include a related project should include the nature of each environmental resource being examined, the location of the project and its type. Location may be important, for example, when water quality impacts are at issue since projects outside the watershed would probably not contribute to a cumulative effect. Project type may be important, for example, when the impact is specialized, such as a particular air pollutant or mode of traffic.

(3) Lead agencies should define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.

(4) A summary of the expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available; and

(5) A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects.

(c) With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.

(d) Previously approved land use documents such as general plans, specific plans, and local coastal plans may be used in cumulative impact analysis. A pertinent discussion of cumulative impacts contained in one or more previously certified EIR's may be incorporated by reference pursuant to the provisions for tiering and program EIR's. No further cumulative impacts analysis is required when a project is consistent with a

general, specific, master or comparable programmatic plan where the lead agency determines that the regional or area-wide cumulative impacts of the proposed project have already been adequately addressed, as defined in Section 15152(f), in a certified EIR for that plan.

(e) If a cumulative impact was adequately addressed in a prior EIR for a community plan, zoning action, or general plan, and the project is consistent with that plan or action, then an EIR for such a project should not further analyze that cumulative impact, as provided in Section 15183(j).”

The Draft EIR acknowledged that the District provides services and facilities to the area within and to a substantially larger area surrounding the Project. This is critical in the analysis of cumulative impacts in the Draft EIR. The analysis of cumulative impacts is required by the CEQA Guidelines to consider the geographic area of all projects that can, in conjunction with the Project, have cumulative impacts. In this case, the cumulative analysis failed to consider the build-out impacts of all developments that cumulatively would impact the District, including the cumulative impacts of the build-out of the General Plan land uses. This same conclusion can be reached with regards to the other ten (10) environmental topics set forth in the Draft EIR (i.e. agricultural resources, air quality; biological resources; cultural resources, geology and soils; hazards and hazardous materials, noise; public services; transportation and traffic; and utility and service systems).

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The Draft EIR is not in compliance with the CEQA Guidelines based on the fact that the Draft EIR acknowledges project-specific impacts and does not conduct the cumulative qualitative and quantitative analysis based on data of all developments in the larger area outside of the project. The Draft EIR should be revised to address the larger cumulative impacts on the District, the City, and the region for all of the other ten (10) environmental topics set forth in the Draft EIR (i.e. agricultural resources, air quality; biological resources; cultural resources, geology and soils; hazards and hazardous materials, noise; public services; transportation and traffic; and utility and service systems resources; geology/soils; noise; public services; and traffic/circulation/access).

The Draft EIR identifies the following with regards to cumulative impacts and related projects:

“6.1 - CEQA Requirements

Cumulative Impacts

Section 15130 of the CEQA Guidelines requires that the EIR discuss cumulative impacts of a project when the incremental effects of a project are cumulatively considerable. Cumulative impacts are defined as two or more individual effects

which, when considered together, are considerable or which, compound or increase other effects. The individual effects may be changes resulting from a single project or a number of separate projects. The cumulative impacts from several projects are the change in the environment, which results from the project when added to other closely related projects. In identifying projects, which may contribute to cumulative impacts the CEQA Guidelines allow the use of: (1) a list of past, present, and probable future projects producing related or cumulative impacts even if they are not in the jurisdiction of the lead agency; or (2) a summary of projection contained in an adopted General Plan or related planning document which is designed to evaluate regional or area-wide conditions.”

The Draft EIR further states;

“6.2 - Cumulative Impact Setting

The cumulative analysis discussed in this section depends on the environmental component that is analyzed. The cumulative analysis for Transportation and Traffic includes both a near-term cumulative scenario, which examines the project plus cumulative projects impacts in the year 2008, at the time of project buildout (see Table 6-1) and a future year 2025 scenario.

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The cumulative analysis for Air Quality and Noise are based upon the Future 2025 scenario.

The cumulative analysis for Agricultural Resources, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, and Public Services, Utility Services (Water Supply) is based on the list of projects identified in Table 6-1.”

Table 6-1: Cumulative Project List

Project Name	Type	Size	Daily Trips	AM Trips	PM Trips
8 th Street Subdivision	Residential	6.9 AC MFDU, 14.82 AC ² Manufacturing	2,000	NA	240
Adams Avenue Apartments	Residential	73 MFDU	760	NA	50
El Centro Town Center	Commercial	235 KSF ² Retail, 3.5 KSF ² Fast Food, 6-pump service station	14,789	431	1,604
Imperial Plaza	Commercial	342 KSF ² Shopping Center	15,088	NA	1,410
Kinder Castle Child Facility	Child Care	NA	330	NA	61

Table 6-1 (Cont.): Cumulative Project List

Project Name	Type	Size	Daily Trips	AM Trips	PM Trips
Morning Star Residential	Residential	468 SFDU, 198 MFDU, 650 Student Elementary School	6,490	680	704
Morningside Subdivision	Residential	95 SFDU	1,094	84	113
Santa Fe Subdivision	Residential	24 SFDU	280	NA	30
Sunset Ranch/Din Subdivision	Residential	260 SFDU	2,600	208	260
Wal-Mart Super Center	Commercial	203 KSF ¹ Retail	14,835	NA	1,141

¹ Thousand square feet.
 Source: Katz, Okitsu & Associates, Miller Barson Traffic Impact Study, March 2006.

The Recirculated Draft EIR has expanded the discussion of cumulative impacts for the purposes of the revised traffic and air quality analysis. The Recirculated Draft EIR states:

“4.2 - Cumulative Impact Setting

Table 4-1 identifies the projects considered in the cumulative analysis. The cumulative analysis includes both a near-term cumulative scenario, which examines the project plus cumulative projects impacts in the year 2008, the time of project buildout and a future-year 2025 scenario.”

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Table 4-1: Cumulative Projects List

#	Project Name	Type	Size
1	8 th Street Subdivision	Residential	6.9 AC ² MFDU ¹ , 14.82 AC ² Manufacturing
2	Imperial Plaza	Commercial	342 KSF ¹ Shopping Center
3	Kinder Castle Child Facility	Child Care	NA
4	Morning Star Residential	Residential	468 SFDU ² , 198 MFDU ¹ , 650 Student Elementary School

Table 4-1 (Cont.): Cumulative Projects List

#	Project Name	Type	Size
5	Morning Side Subdivision	Residential	95 SFDU ⁴
6	Santa Fe Subdivision	Residential	24 SFDU ⁴
7	Sunset Ranch/Din Subdivision	Residential	260 SFDU ⁴
8	Wal-Mart Super Center	Commercial	203 KSF ¹ Retail
9	Lerno-Verhaegen Specific Plan	Mixed Use	2,156 SFDU ⁴ , 84 MFDU ³ , 467 CONDO, 27.95 AC ² Commercial, 10.79 Light Manufacturing, 21.78 AC ² Parks, 2 Schools (23.09 AC ²)
11	Lotus Ranch	Residential	660 SFDU ⁴ , 6.7 AC ² Park
12	Courtyard Villas	Residential	54 SFDU ⁴ , 1 Park
13	Renaissance	Residential	70 SFDU ⁴
14	Desert Village West	Residential	Approximately 250 SFDU ⁴
15	Monterey Park	Residential	598 SFDU ⁴ , 2 AC ² RV Storage
17	Orange	Residential	38 SFDU ⁴
19	McCabe School Expansion	School	(89 KSF) 750 Students
20	Desert Village #6	Mixed Use	95 SFDU ⁴ , 260 MFDU ³ , 7.3 AC ² Commercial
21	Wake Avenue Autopark	Commercial	34.62 AC ² Autopark
22	Linda Vista	Residential	173 SFDU ⁴ , One 14 AC ² Elementary School
¹ Multi-family dwelling unit ² Acre ³ Thousand square feet ⁴ Single-family dwelling unit Source: Katz, Okitsu & Associates, April 2007.			

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The District notes that the Draft EIR provides a brief discussion of the some of the many projects that should be considered in a cumulative analysis. However, there is no total statement as to the cumulative number of units that these projects would generate to determine the cumulative impact on the District in terms of the number of students that would impact the schools within the District.

The District has a current record of over 16,000 residential units that are in the planning cycles of the City of El Centro or the County of Imperial that would impact the District.

This list is summarized as follows:

El Centro School Districts Project List			
Central Union High School District El Centro Elementary School District McCabe Union School District Heber Elementary School District			
		Date: October 26, 2007	
Name	Units	Type	Entitlements
Las Aldeas Specific Plan	2,019	SF/MF	Annexation Specific Plan
Desert Lakes Specific Plan	6,064	SF/MF	Annexation Specific Plan
Mosaic Specific Plan	1,151	SF/MF	General Plan Amendment Zone Change Specific Plan Tentative Subdivision Map
El Centro Apartments	248	MF	General Plan Amendment Zone Change
Citrus Grove Map	156	SF	Annexation General Plan Amendment Zone Change Tentative Subdivision Map
Los Flores Estates Map	150	SF	Annexation Zone Change Tentative Subdivision Map
McCabe Ranch II Specific Plan	3,711	SF/MF	Specific Plan
1650 Clark Road	134	MF	General Plan Amendment Zone Change
Miller Burson	496	SF	Annexation Zone Change Tentative Subdivision Map
Palmilla	1,838	SF/MF	Specific Plan Annexation Zone Change
Willow Bend Annexations	131	SF	Annexation Tentative Subdivision Map
Total	16,098		
Impact Central Union High School District	16,098		
Impact on McCabe Union School District	12,446		

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There is no analysis of the cumulative number of units that are stated in this table. In addition, there is no analysis of the projected number of units that could be expected from the probable future projects based on the zoning densities of the areas within the District which should be considered in the cumulative analysis.

The District also notes that even though the Draft EIR acknowledges that the projects listed in Table 6.1 of the Draft EIR and Table 4.1 of the Recirculated Draft EIR should be considered in any cumulative analysis, the Draft EIR projected a cumulative impact on the Central Union High School District based on a planned dwelling unit projection of 8,587 units based on development to occur between 2005 and 2010. There was no

cumulative analysis of the McCabe Union School District. Further, there was no cumulative analysis completed for both Districts using the El Centro School Districts Project Lists

As it relates to cumulative effects, the Draft EIR simply states the following with regards to public services (including schools):

“Public Services

The proposed project will result in an increased demand for public services. As discussed in Section 5.8 of this EIR, with the exception of solid waste impacts, the payment of development fees and/or in lieu fees and the dedication of land, the project will not result in any significant public services impacts. Like the proposed project, those cumulative projects listed in Table 6-1 will increase the demand for public services; however, these projects have or will be required to pay development fees and/or in lieu fees and dedicate land as appropriate. Additionally, similar to the proposed project solid waste impacts would be mitigated on a project by project basis through compliance with AB 930 and other solid waste regulation and recreational impacts will be mitigated on a project by project basis through the dedication of parkland as appropriate. In addition to compliance with applicable regulations to reduce public service impact the payment of development and/or in-lieu fees will assist in the financing for the construction of new facilities, purchase of new equipment, and/or the employment of additional staff needed to serve cumulative development.

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Mitigation Measures

No mitigation measures are required for all public services discussed above.

Level of Significance After Mitigation

All cumulative impacts would be less than significant.”

In essence, there was no cumulative analysis completed setting forth the data, and the quantitative and qualitative analysis that would support the conclusions in this discussion in the Draft EIR.

The comments previously offered with regards to the project-specific impacts apply to the Draft EIR statements on cumulative impacts. There is no data, and qualitative or quantitative analysis to support the conclusions or statements set forth in this discussion. Even though the Draft EIR acknowledges the related projects, the Draft EIR fails to conduct the analysis to determine the cumulative impacts or offer any mitigation measures. More importantly, it suggests that there is “no mitigation” required, even

though there was no analysis. It further suggests that the impacts would be “less-than-significant” even though there was no analysis that indicated what the magnitude of the impacts would be and did not discuss any mitigation measures because none were required.

As with the project-specific impacts, the Draft EIR states that the school cumulative impacts (which were not specifically determined) would be addressed by the fact that related development projects within the District would be required to pay school impact fees and therefore the payment of school impact fees would be considered full mitigation, and thus cumulative impacts on schools would be less-than-significant. This again is the argument that is based on the conclusion that any mitigation measure offered by the District, which in any way directly or indirectly addresses school concerns, is preempted by the provisions of SB 50 and there is no requirement that they be considered or discussed in the Draft EIR. The District suggests that it is the City’s responsibility to fully disclose the impacts of the Project, regardless of the provisions of SB 50. The failure to provide such a disclosure and offer adequate mitigation measures is not in compliance with the CEQA Guidelines.

The following elements of the CEQA Guidelines are necessary to an adequate discussion of significant cumulative impacts were not offered:

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“(1) Either:

- (A) A list of past, present, and probable future projects producing related or cumulative impacts, including, if necessary, those projects outside the control of the agency, or
- (B) A summary of projections contained in an adopted general plan or related planning document, or in a prior environmental document which has been adopted or certified, which described or evaluated regional or area-wide conditions contributing to the cumulative impact. Any such planning document shall be referenced and made available to the public at a location specified by the lead agency.”

Neither of these discussions is presented in the Draft EIR with an accurate level of detail.

In addition to considering the Project and the known approved and proposed projects in a cumulative analysis, the Draft EIR should have considered the “worst case” scenario of cumulative impacts which would be based on the Project, the approved and proposed know projects, as well the full build-out of the City and County General Plan’s as they are currently adopted and based on the land use authorizations of the General Plans. The Draft EIR did not complete such an analysis. The Draft EIR is not in compliance with the CEQA Guidelines.

The CEQA Guidelines requires that the geographic scope of the area affected by the cumulative effect be provided and that a reasonable explanation for the geographic limitations used be defined. The Draft EIR did not provide this definition. The District would suggest that the areas within the entire boundaries of the District and the entire City and sphere of influence areas are the appropriate definition of the areas to which cumulative impacts should be considered.

The Draft EIR did not provide a summary of the expected environmental effects to be produced by the Project with specific reference to additional information stating where that information is available. Further, the Draft EIR did not provide a reasonable analysis of the cumulative impacts of the relevant projects relating to the Project or examine reasonable, feasible options for mitigating or avoiding the Project's contribution to any significant cumulative effects of the development of the region. Therefore, the analysis of cumulative impacts is not in compliance with the CEQA Guidelines.

Section 15065 of the CEQA Guidelines states in part:

“(a) A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where there is substantial evidence, in light of the whole record, that any of the following conditions may occur:

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(1) The project has the potential to: substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species; or eliminate important examples of the major periods of California history or prehistory.

(2) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

(3) The project has possible environmental effects that are individually limited but cumulatively considerable. “Cumulatively considerable” means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(4) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly...”

As noted, environmental effects that are individually limited, but cumulatively considerable are required to be addressed in the Draft EIR. Cumulatively considerable means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. The Draft EIR only addresses the impacts of the Project within the Project area. The cumulative impacts need to be viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects resulting from all of the areas of the District, the City, and the City's sphere of influence area in order for the analysis to comply with the provisions of the CEQA Guidelines. The Draft EIR is not in compliance with the CEQA Guidelines because it does not provide an adequate cumulative analysis to consider the entirety of these areas.

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Draft EIR Growth Inducement

Section 15126.2 of the CEQA Guidelines states, in part:

“(d) Growth-Inducing Impact of the Proposed Project. Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth (a major expansion of a waste water treatment plant might, for example, allow for more construction in service areas). Increases in the population may tax existing community service facilities, requiring construction of new facilities that could cause significant environmental effects. Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.”

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The Draft EIR stated the following with regards to the growth inducement of the Project:

“8.2 - Growth Inducing Impacts

There are two types of growth inducing impacts a project may have: direct and indirect. To assess the potential for growth-inducing impacts, the project characteristics that may encourage and facilitate activities that individually or cumulatively may affect the environment must be evaluated. Direct growth-inducing impacts occur when the development of a project imposes new burdens on a community that directly induces population growth or the construction of additional developments in the same area of the proposed project, thereby triggering related growth-associated impacts. Included in this analysis are projects that would remove physical obstacles to population growth (such as a new road into an undeveloped area