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July 13, 2021

Honorable Mike Bonin
Councilmember, 11th Council District
Los Angeles City Council
Los Angeles City Hall, Rm. 475
200 North Spring Street
Los Angeles, CA 90012

Hearing Officer
Los Angeles City Planning Department
221 N. Figueroa Street, Suite 1350
Los Angeles, CA 90012
c/o Kathleen King, City Planner
kathleen.king@lacity.org

RE: EIR for the Mount Saint Mary's Chalon Campus Wellness Pavilion Project - Draft EIR, No. ENV-2016-2319-EIR (SCH No. 2016081015) dated April 2018, and the Final EIR, dated June 2021; CPC-1952-4072-CU-PA1; and ZA-2017-928-ZAD

Dear Councilmember Bonin, Hearing Officer and Ms. King:

On behalf of the Brentwood Residents Coalition ("BRC"),[1] Bundy Canyon Association ("BCA"),[2] Concerned Citizens of Bundy Canyon,[3] Brentwood Alliance of Canyons &

[1] Brentwood Residents Coalition is a grass roots, non-profit advocacy group concerned with preservation and enhancement of the environment, public health and safety, and quality of life in its local area. BRC advocates for strong enforcement of zoning codes, planning and environmental laws, encourages traffic and fire safety, and educates the public on these issues.

[2] Bundy Canyon Association represents 545 homes in the area north of Sunset Boulevard between Barrington Avenue and Bowling Green Avenue.

[3] Concerned Citizens of Bundy Canyon is a community advocacy group representing the residents in light of their special requirements being located in a traffic-plagued, "Very High Fire Hazard Severity Zone." It is a solutions-based group looking to reform incremental planning and zoning decisions which, when considered in the aggregate, are not workable and deleterious to the residents.

Hillsides,[4] and Sunset Coalition,[5] we submit the following letter documenting defects in the Final Environmental Impact Report ("EIR" or "FEIR")[6] for the Mount Saint Mary's ("MSMU") Chalon Campus Wellness Pavilion Project ("Project").

As detailed in this letter, the EIR is fundamentally flawed, in that it fails to accurately characterize the impacts of the proposed Project or to adequately mitigate those impacts. This is due to: the EIR's improper classification of mitigation measures as Project Design Features ("PDFs"), incorporating those mitigation measures into the description of the project, and then basing conclusions of less-than-significant impacts in part on those mitigation measures; infeasible mitigation measures ("MM") and PDFs; assumptions that MSMU will operate the proposed Project facilities in keeping with the PDFs, mitigation measures, and days of operation assumed in the EIR; and, the EIR's reliance on the City to enforce both PDFs and mitigation measures.

However, there is sufficient information about the proposed Project and its consequences in the EIR on which to base denial of the proposed Project. The California Environmental Quality Act ("CEQA") grants lead agencies the power to disapprove a project prior to completing the environment process. As detailed in this letter, the City must disapprove the proposed Project because the Project would expand uses in a Very High Fire Hazard Severity Zone, and the applicant has a well-established history of not complying with permit conditions and has failed to successfully implement fire-related plans. In addition, the EIR acknowledges that the proposed Project would result in significant unmitigable noise and significant unmitigable construction and operational traffic impacts. The proposed Project must therefore be denied.

---

[4] BACH is an alliance of homeowner and residential associations founded in response to the growing threat of climate change and the unprecedented risk of wildfire due to development encroaching into the fragile Santa Monica Mountains ecosystem. BACH members support and promote sustainable communities, habitat, wildlife connectivity, open space, trails, public safety, fire-safe policies, and the urban tree canopy.

[5] Sunset Coalition is an unincorporated organization founded by concerned residents and organizations from Pacific Palisades to Brentwood impacted by the unprecedented number of large development projects threatening to impact traffic, safety, and the environment along the Sunset Corridor between the I-405 freeway and the Pacific Ocean.

[6] The Draft EIR is available at:
https://planning.lacity.org/eir/MSMU_Chalon_Campus/Deir/MSMU%20Chalon%20DEIR.html
The Final EIR is available at:
https://planning.lacity.org/development-services/eir/mount-saint-marys-university-chalon-campus-wellness-pavilion-project-2
The Notice of Preparation and Initial Study are available at:
https://planning.lacity.org/development-services/eir/mount-saint-marys-university-chalon-campus-wellness-pavilion-project
The notice of the extension of the Draft EIR (DEIR) comment period is available at:
https://planning.lacity.org/eir/MSMU_Chalon_Campus/MSMU_NOA_EXTENED.pdf
The notice of availability of the FEIR is available at:
https://planning.lacity.org/eir/MSMU_Chalon_Campus/Feir/Notice%20of%20Completion%20and%20Availability_NOA.pdf

Documenting the magnitude of the problems with the current EIR has resulted in this very lengthy letter. Due to the length of this letter, we have included the following Table of Contents with hyperlinks for ease of use and to provide an overview of the serious defects in the EIR and the CEQA process for this Project:

Table of Contents

1. INTRODUCTION 4

1.1 THE PROPOSED PROJECT 5
1.2 THE NEW ALTERNATIVE 6
1.3 THE NEW ANALYSIS 8
1.4 CRITERIA FOR RECIRCULATION 9

2. CEQA PROCESS ERRORS - THE EIR UNDERSTATES IMPACTS BECAUSE IT IS A STALE DOCUMENT 10

2.1 CEQA STANDARD FOR TIME TO COMPLETE EIR (GUIDELINES 15108) 10
2.3 INCOMPLETE CUMULATIVE PROJECT'S LIST 13
2.3.1 The Berggruen Institute Project 14
2.3.2 The Retreat At Benedict Canyon 16
2.3.5 Expansion of MSMU Chalon Campus Enrollment from Baseline Levels 20
2.4 FAILURE TO ADDRESS POTENTIAL MOUNTAIN LION IMPACTS 21
2.5 LACK OF ADEQUATE OPPORTUNITY FOR COMMENT ON THE NEW ISSUE AREA ANALYSIS IN NEW APPENDIX B - APPENDIX G ANALYSIS 27
2.5.1 Problems with the New VMT Analysis 28
2.5.2 Problems with the New WildFire Analysis (including Topical Response 4) 31
2.6 THE FUTURE PLUS PROJECT BUILDOUT YEAR IN THE EIR IS 2020 56

3. THE EIR UNDERSTATES IMPACTS BECAUSE IT IMPROPERLY RELIES ON PROJECT DESIGN FEATURES (PDFS) 56

3.1 MISUSE OF PROJECT PDFS 61
3.1.1 Project PDFs are Clearly Mitigation Measures 61
3.1.2 The EIR Understates and Misclassifies Project Impacts Due to Use of PDFs 72
3.2 MISUSE OF ALTERNATIVE 5 PDFS 78
3.2.1 Alternative 5 PDFs Are Clearly Mitigation Measures 78
3.2.2 The EIR Understates and Misclassifies Alternative 5 Impacts Due to Use of PDFs 86

4. THE EIR IMPROPERLY CHARACTERIZES IMPACTS BECAUSE IT RELIES ON PDFS AND MITIGATION MEASURES WHICH ARE INFEASIBLE 86

4.1 THE EIR IMPROPERLY CHARACTERIZES IMPACTS BECAUSE IT RELIES ON THE PROJECT APPLICANT FOR COMPLIANCE WITH PROJECT OPERATIONAL LEVELS ASSUMED IN THE EIR ANALYSIS, PDFS AND MITIGATION MEASURES 86
4.2 THE EIR IMPROPERLY CHARACTERIZES IMPACTS BECAUSE IT RELIES ON THE CITY FOR MITIGATION MONITORING 88
4.3 THE INFEASIBILITY OF RELIANCE ON "SHELTER IN PLACE" TO AVOID IMPACTS 89

5. SUMMARY - RECIRCULATION IS REQUIRED 96

5.1 PER CEQA GUIDELINES SECTION 15088.5(A)(1) BECAUSE A NEW SIGNIFICANT ENVIRONMENTAL IMPACT WOULD RESULT FROM THE PROJECT OR FROM A NEW MITIGATION MEASURE PROPOSED TO BE IMPLEMENTED 96
5.2 RECIRCULATION IS REQUIRED PER CEQA GUIDELINES SECTION 15088.5(A)(2) BECAUSE 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 97

5.3 Recirculation is Required Per CEQA Guidelines Section 15088.5(a)(3) Because Alternative 5 is Not a Feasible Project Alternative or Mitigation Measure Considerably Different from Others Previously Analyzed that Would Clearly Lessen the Environmental Impacts of the Project Which the Applicant Has Agreed to Adopt 98
5.4 Recirculation Is Required Per CEQA Guidelines Section 15088.5(a)(4) Because the Draft EIR was so Fundamentally and Basically Inadequate and Conclusory in Nature that Meaningful Public Review and Comment were Precluded 99

6. NEED FOR AN ALTERNATIVE WHICH CONSIDERS LOCATION OF THE PROPOSED PROJECT AT MSMU'S DOHENY CAMPUS 99

7. THE PROJECT DESCRIPTION IN THE EIR IS NEITHER ACCURATE NOR STABLE 103

7.1 The Project Description is Not Accurate – It Improperly Includes PDFs Which are Mitigation Measures as Part of the Project 104
7.2 The Project Description is Not Stable – After Removal of PDFs 104

8. CONCLUSION – THE CITY MUST DENY THE PROPOSED PROJECT 104

8.1 Correcting and Recirculating the EIR will Further Extend the EIR Timeline Which has Already Taken Well Beyond the 1.25 Year Maximum 104
8.2 Alternative 5 Appears to be the Applicant's New Project 105
8.3 CEQA Grants Lead Agencies the Power to Disapprove a Project Prior to Completing the Environment Process 105
8.4 The City Must Disapprove the Proposed Project Because the Project Would Expand Uses in a Very High Fire Hazard Severity Zone, the Applicant has a History of Not Complying with Permit Conditions and Has Failed To Successfully Implement Fire-Related Plans, and the Project Would Result in Significant Unmitigated Noise and Construction and Operational Traffic Impacts 105

1. INTRODUCTION

It has been nearly five years[7] since the City of Los Angeles began the environmental review process for the proposed Project with the issuance of the Notice of Preparation ("NOP") for the Project EIR on August 4, 2016. On June 17, 2021 the City provided Notice of the Availability ("NOA") of the FEIR. The NOA indicates that a hearing on the EIR and the proposed Project will be held on July 14, 2021. This comment letter is being submitted in advance of that hearing for consideration by the City of the proposed Project and its review of the adequacy of the EIR.

As documented in this letter, given the stale nature of some of the analysis, the City has attempted to augment the Draft EIR ("DEIR") by including new information of importance regarding environmental issues in the Chapter III - Clarifications and Corrections of the FEIR and new FEIR Appendix B, thus depriving the public of the opportunity to comment on the adequacy of these analyses during the CEQA public comment period, as they were omitted from the DEIR.

In addition to responding to comments on the DEIR and making minor corrections to the DEIR, the Final EIR includes:

- The addition of a new alternative, Alternative 5, with new additional Project Design Features. Alternative 5 is then identified in the FEIR as the Environmentally

[7] 4 years, 11 months and 10 days.

Superior Alternative. It appears that it may be MSMU's intent to substitute Alternative 5 for the proposed Project;[8]

- Modifications to PDF-AES-1, PDF-AQ-1, MM-BIO-2, PDF-TRAF-1, PDF-TRAF-2, and MM-TRAF-1.

- The analysis of additional environmental issue areas contained in new "Appendix B: Appendix G Modifications" to address changes to the Initial Study ("IS") Checklist that became effective on December 28, 2018, as mandated by Public Resources Code ("PRC") Section 21083.01(a).[9] This includes an analysis of project Wildfire-related impacts and the Vehicle Miles Traveled ("VMT")[10] analysis required by CEQA Guidelines § 15064.3, subdivision (b).[11] A VMT analysis is also required by the Los Angeles Department of Transportation ("LADOT") Transportation Assessment Guidelines ("TAG") for any project that did not receive its entitlements prior to July 1, 2020.

- The Mitigation Monitoring and Reporting Program for the proposed Project.

1.1 The Proposed Project

As noted on page 1-7 of the FEIR, the proposed Project:

> . . . would include a 38,000-square-foot, two-story Wellness Pavilion within a 3.8-acre portion of the 45-acre Campus. The 3.8-acre Project Site is currently developed with a fitness building, two tennis courts, a swimming pool, two facilities management buildings (a single-story building and a two-story building), and several surface parking lots.

---

[8] A key requirement of CEQA is an accurate, stable and finite project description. The addition of Alternative 5 appears to be an attempt to revise the project without appearing to change the project description or submit a new project application.

[9] **§ 21083.01. GUIDELINES AMENDMENTS; FIRE HAZARD**
(a) On or after January 1, 2013, at the time of the next review of the guidelines prepared and developed to implement this division pursuant to subdivision (f) of Section 21083, the Office of Planning and Research, in cooperation with the Department of Forestry and Fire Protection, shall prepare, develop, and transmit to the Secretary of the Natural Resources Agency recommended proposed changes or amendments to the initial study checklist of the guidelines implementing this division for the inclusion of questions related to fire hazard impacts for projects located on lands classified as state responsibility areas, as defined in Section 4102, and on lands classified as very high fire hazard severity zones, as defined in subdivision (i) of Section 51177 of the Government Code.

[10] VMT measures the per capita number of car trips generated by a project and distances cars will travel to and from a project, rather than congestion levels at intersections (level of service or "LOS," graded on a scale of A – F). See: https://www.californialandusedevelopmentlaw.com/2019/01/07/new-regulations-for-assessing-transportation-impacts-under-ceqa-finalized/

[11] This was added to CEQA via SB738 which was signed into law in 2013. The provisions of this section shall apply prospectively as described in section 15007. A lead agency may elect to be governed by the provisions of this section immediately. Beginning on July 1, 2020, the provisions of this section shall apply statewide. https://opr.ca.gov/ceqa/updates/sb-743/faq.html#lead-agencies-begin

> Project components would include a gymnasium, multipurpose rooms, exercise rooms, office, and support space (lockers, showers, restrooms, equipment storage, etc.). The Project would also include a new outdoor pool area, landscaped open space, consolidation of existing, multiple surface parking lots into a new accessory parking deck (a two-story concrete structure), and continuous pedestrian paths between the three tiers of the Campus. The parking deck would provide 281 parking spaces, representing an increase of 55 spaces over existing conditions. Three new types of potential events/activities associated with the Wellness Pavilion were analyzed, including:
>
> - Health and Wellness Speaker Series (approximately eight times a year, with a maximum outside guest attendance of 250 and maximum student attendance of 200 for a maximum total of 450 attendees)
>
> - Other Wellness/Sports Events/Activities held throughout the year on a periodic basis with a maximum of four per month in any given month and maximum outside guest attendance of 400; and
>
> - Summer Sports Camps held during the 12 weeks of summer with attendance ranging from approximately 50 to 200 campers and a maximum attendance of 200 campers and 40 staff.

The proposed Project also includes a number of Project Design Features which were "taken into account in the analysis of potential Project impacts," as explained on page II-42 of the DEIR. These PDFs are detailed in Table II-5 – Summary of Project Design Features, starting on page II-42 of the DEIR. As detailed in **Section 3** of this letter, the treatment of PDFs which are de facto mitigation measures, has led to the underestimation and mischaracterization of impacts in the EIR, resulting in an inadequate EIR and necessitating recirculation of the EIR per CEQA Guidelines Section 15088.5(a)(1) and (2).

1.2 The New Alternative

The FEIR also includes a new alternative, Alternative 5. As noted on page 1-7 to 1-8 of the FEIR, under new Alternative 5:

> . . . the Project's parking deck (originally proposed immediately north of the Wellness Pavilion) would not be constructed. The location of the Wellness Pavilion would be moved to the north and constructed in the former parking deck space. Alternative 5 would consolidate the existing parking located within the Project Site and replace 186 of the existing spaces within two surface parking lots to the north and south of the Wellness Pavilion, respectively. Alternative 5 would not incorporate a motor court as proposed under the Project, with surface parking being located south of the Wellness Pavilion. The formerly proposed Campus

Green between Rossiter Hall and Mary Chapel would be replaced by a surface parking lot. The elimination of the parking deck and need to replace removed parking spaces would reduce the need for pathways to the formerly proposed parking deck and other former landscaped space. Compared to existing conditions, Alternative 5 would result in a net reduction of 46 parking spaces.

By eliminating the Project's parking deck and locating the Wellness Pavilion further north within the Project Site compared to the Project, this change would accomplish two things: (1) the Wellness Pavilion would be located on a more geologically stable sector of the Project Site, reducing the need for extensive buttressing otherwise required under the Project; and (2) construction demands would be reduced, particularly concrete work required for the construction of the parking deck. This change would also allow for the preservation of the existing two-story facilities management building (the largest of the two existing facilities management buildings that would require demolition under the Project). The Wellness Pavilion floor area would also be incrementally reduced from 38,000 square feet to 35,500 square feet. The overall site changes as part of Alternative 5 would result in 20 fewer removed non-protected trees compared to the Project, with the Project requiring removal of 66 non-protected trees and Alternative 5 removing 46 non- protected trees. Both the Project and Alternative 5 would result in the removal of the same two protected trees, as discussed in Chapter III, Section 2.C(3), Aesthetics, of this Final EIR. These proposed changes would reduce the overall construction length by approximately two months.

In addition to the physical changes described above, Alternative 5 incorporates a maximum daily vehicle trip cap and maximum AM and PM peak hour vehicle trip cap for new Wellness Pavilion events including Health and Wellness Speaker Series, Other Wellness/Sports Activities, Club Sports activities, and Summer Sports Camps. Alternative 5 also eliminates peak period trips for all events during the school year. Implementation of new PDFs for Alternative 5, PDF-TRAF-9 through PDF-TRAF-18,[12] minor revisions to PDF-TRAF-1, PDF-TRAF-2, and PDF-TRAF-7 would ensure that the Project's significant and unavoidable off-site construction traffic noise and off-site traffic impacts would be reduced under Alternative 5 and the Project's significant and unavoidable operation traffic impacts would be reduced to a level of less than significant under Alternative 5.

[12] The revised and new PDFs are provided in Chapter III, Revisions, Clarifications, and Corrections and Chapter IV, Mitigation Monitoring Program, of this Final EIR.

As noted on page III-3 of the FEIR, the differences between the proposed Project and Alternative 5 PDFs:

> . . . primarily consist of modifications to Project Design Feature (PDF) TRAF-1 and PDF-TRAF-2, the deletion of PDF-TRAF-3, PDF-TRAF-4, PDF-TRAF-5, PDF-TRAF-6 (the substantive provisions of which have been incorporated into Alternative 5's modified PDF-TRAF-1 and PDF-TRAF 2), and PDF-TRAF-8 (which limited outside guest attendance under the Project and is no longer necessary for Alternative 5 as a result of the addition of new PDFs that limit daily outside guest vehicle trips), and the addition of PDF-TRAF-9 through PDF-TRAF-18.

As explained on page III-17 of the FEIR, Alternative 5 includes the following operational restrictions which are clearly mitigation measures but which are called PDFs for purposes of understating the impacts of the new Alternative 5:

> Under Alternative 5, the maximum daily outside guest vehicle trips for Health and Wellness Speakers Series, Other Wellness/Sports Activities, and Club Sports activities would be reduced to a total of 310 (155 inbound and 155 outbound) (PDF-TRAF-12). The daily total would be applicable to all types of vehicles, including shuttles, as further specified in PDF-TRAF-12. PDF-TRAF-11 would restrict the start and end times of these events such that no trips will be generated during peak periods.
>
> Summer Sports Camps would be limited to 236 daily trips (118 inbound and 118 outbound), with the requirement of shuttles or carpools when attendance would exceed 50 campers per day during peak periods (PDF-TRAF-14). Other vehicle trip limitations would apply to certain peak hours as included in PDF-TRAF-13.

1.3 The New Analysis

The FEIR includes new "Appendix B: Appendix G Modifications" which has been added to address changes to the Initial Study Checklist that became effective on December 28, 2018, as mandated by PRC Section 21083.01(a).[13] The new analysis includes an analysis of project Wildfire impacts. As noted on page B-3 of the FEIR, all wildfire-related "issue areas, including physical interference with an adopted emergency response plan and direct or indirect

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[13] **§ 21083.01. GUIDELINES AMENDMENTS; FIRE HAZARD**
(a) On or after January 1, 2013, at the time of the next review of the guidelines prepared and developed to implement this division pursuant to subdivision (f) of Section 21083, the Office of Planning and Research, in cooperation with the Department of Forestry and Fire Protection, shall prepare, develop, and transmit to the Secretary of the Natural Resources Agency recommended proposed changes or amendments to the initial study checklist of the guidelines implementing this division for the inclusion of questions related to fire hazard impacts for projects located on lands classified as state responsibility areas, as defined in Section 4102, and on lands classified as very high fire hazard severity zones, as defined in subdivision (i) of Section 51177 of the Government Code.

exposure to the risk of wildfire fires, were determined to be less than significant and further analysis in the Draft EIR was not required." The City persisted in omitting an analysis of wildfire-related impacts from the DEIR, despite receipt of numerous comments on the NOP/IS from local residents expressing concerns about, and requesting analysis, of:[14]

- The effects of Project construction and operational traffic on emergency access on Chalon Road, Norman Place, and Grace Lane.
- The effects of Project construction and operational parking on emergency access.
- The effect of the Project on emergency evacuation in the area.
- The adequacy of neighborhood streets for emergency vehicles with the proposed Project.
- The effect of Project users on compliance with parking restrictions on Chalon during "red flag" conditions.
- The adequacy of MSMU's fire safety program, given the failures of MSMU's program during recent fires.

The new analysis now addresses these concerns. It is clear that the City's desire not to recirculate the EIR has affected the accuracy of the Wildfire-related impacts analysis contained in the FEIR. As detailed in **Section 2.5.2** of this letter the proposed Project would clearly result in significant cumulative wildfire-related hazards, and emergency access and evacuation time impacts, necessitating recirculation of the EIR.

The new analysis also includes a VMT analysis as required by CEQA Guidelines § 15064.3, subdivision (b)[15] which was added to the Checklist in December of 2018 as optional, but became mandatory as of July 1, 2020. LADOT Transportation Assessment Guidelines requires a VMT analysis for any project, like the proposed Project, which has not received its entitlements prior to July 1, 2020.

1.4 Criteria For Recirculation

CEQA Guidelines Section 15088.5 specifies when recirculation of an EIR is required prior to certification. CEQA Guidelines Section 15088.5 states in part:[16]

> (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

[14] See pages S-7 to S-8 of the DEIR.

[15] This was added to CEQA via SB738 which was signed into law in 2013. The provisions of this section shall apply prospectively as described in section 15007. A lead agency may elect to be governed by the provisions of this section immediately. Beginning on July 1, 2020, the provisions of this section shall apply statewide. https://opr.ca.gov/ceqa/updates/sb-743/faq.html#lead-agencies-begin

[16] CEQA Guidelines Section 15088.5(e) specifies: A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.

> 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)

Letters detailing the need for recirculation were previously sent to the City on February 21, 2019 on behalf of Sunset Coalition and Brentwood Residents Coalition (see **Attachment A**) and on December 21, 2020 (see **Attachment B**) on behalf of the Bundy Canyon Association. These letters are included as attachments and are incorporated herein by reference.

2. CEQA PROCESS ERRORS - THE EIR UNDERSTATES IMPACTS BECAUSE IT IS A STALE DOCUMENT

The EIR for the proposed Project is a stale document. It has been nearly five years since the NOP was issued. As a result, the FEIR has failed to address impacts to a candidate species, underestimated impacts due to an incomplete cumulative project's list, and the City has added new analysis at the FEIR stage, without providing the opportunity for meaningful public review and comment on that analysis.

2.1 CEQA Standard for Time to Complete EIR (Guidelines 15108)

CEQA Guidelines Section 15108 and PRC Section 21151.5 specify that a Lead Agency **shall** complete and certify the Final EIR for a private project within one year of accepting the Project application as complete, with a limited time extension. CEQA and the CEQA Guidelines provide the following timeline requirements for the EIR process:

> **PRC § 21151.5. TIME LIMITS FOR PREPARATION OF ENVIRONMENTAL IMPACT REPORTS AND NEGATIVE DECLARATIONS**
>
> (a) (1) For projects described in subdivision (c) of Section 21065, each local agency shall establish, by ordinance or resolution, time limits that **do not exceed** the following:

(A) One year for completing and certifying environmental impact reports.
(B) One hundred eighty days for completing and adopting negative declarations.

(2) The time limits specified in paragraph (1) shall apply only to those circumstances in which the local agency is the lead agency for a project. These ordinances or resolutions may establish different time limits for different types or classes of projects and different types of environmental impact reports, but all limits shall be measured from the date on which an application requesting approval of the project is received and accepted as complete by the local agency.

(3) No application for a project may be deemed incomplete for lack of a waiver of time periods prescribed by local ordinance or resolution.

(4) The ordinances or resolutions required by this section may provide for a reasonable extension of the time period in the event that compelling circumstances justify additional time and the project applicant consents thereto.

(b) If a draft environmental impact report, environmental impact report, or focused environmental impact report is prepared under a contract to a local agency, the contract shall be executed within 45 days from the date on which the local agency sends a notice of preparation pursuant to Section 21080.4. The local agency may take longer to execute the contract if the project applicant and the local agency mutually agree to an extension of the time limit provided by this subdivision.

15102. INITIAL STUDY

The Lead Agency shall determine within 30 days after accepting an application as complete whether it intends to prepare an EIR or a Negative Declaration or use a previously prepared EIR or Negative Declaration except as provided in Section 15111. The 30 day period may be extended 15 days upon the consent of the lead agency and the project applicant.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.2, Public Resources Code.

15108. COMPLETION AND CERTIFICATION OF EIR

> With a private project, the Lead Agency **shall** complete and certify the final EIR as provided in Section 15090 within one year after the date when the Lead Agency accepted the application as complete. Lead Agency procedures may provide that the one-year time limit may be extended once for a period of not more than 90 days upon consent of the Lead Agency and the applicant.
>
> Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21100.2 and 21151.5, Public Resources Code; Government Code Section 65950. (Emphasis added).

These requirements aren't just intended to provide a project applicant with a fair and timely process, they are also intended to ensure that an EIR contains accurate and up-to-date information. That is why the one-year timeline can only be extended once for a period of not more than 90 days upon the mutual consent of both the Lead Agency and the applicant. In fact, the court in *Mission Oaks Ranch, LTD v. County of Santa Barbara* (1998) 65 Cal.App.4th 713 held that:

> The County, as lead agency on the project, owes its duty to the public to release a proper EIR. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392, 253 Cal.Rptr. 426, 764 P.2d 278.) The County owes no duty to assuage the desires of the potential developer.

(*Id*. at 723.)

The City has that same duty to the public. The preparation timeline for the EIR for the proposed Project has therefore not proceeded in the manner required by law, as detailed in **Section 2.2**, and the EIR for the proposed Project must be revised and recirculated pursuant to CEQA Guidelines Section 15088.5(a)(4).

2.2 The Project's CEQA Timeline[17]

As shown in **Table 1**, the hearing on the FEIR is scheduled to occur more than 5 years from when the EIR case was filed. Oddly the Project's CPC-1952-4072-CU-PA1 and ZA-2017-928-ZAD entitlement applications were filed 250 days after the EIR case. The NOP/IS for the proposed Project was issued 215 days before the Project's CPC-1952-4072-CU-PA1and ZA-2017-928-ZAD entitlement cases were filed. (See **Attachment C** for the case records used in preparing Table 1).

TABLE 1

[17] The City's Case Information Record for the proposed Project is included in **Attachment C**. It includes information from the following sites printed on July 3, 2021:
https://planning.lacity.org/pdiscaseinfo/search/encoded/MjA4NjQx0
https://planning.lacity.org/pdiscaseinfo/search/encoded/MjEyODY00
https://planning.lacity.org/pdiscaseinfo/search/encoded/MjA4NjQx0
The notice of availability of the FEIR is available at:
https://planning.lacity.org/eir/MSMU_Chalon_Campus/Feir/Notice%20of%20Completion%20and%20Availability_NOA.pdf

THE PROJECT's CEQA TIMELINE			
CEQA Process Milestones	**Date**	**Days**	**Years**
EIR Case Filed on:	6/30/16		
Notice of Preparation Issued on:	8/4/16		
NOP Comment Period Ended on:	9/2/16		
Scoping Meeting Held on:	8/16/16		
Cases CPC-1952-4072-CU-PA1; ZA-2017-928-ZAD filed on:	3/7/17		
DEIR Notice of Completion dated:	4/12/18		
DEIR Comment Period started on:	4/12/18		
DEIR Circulation Ended on:	5/29/18		
NOA of FEIR Issued on:	6/17/21		
Hearing on FEIR and Project Scheduled for:	7/14/21		
Number of days between EIR case being filed and the FEIR Hearing		1840	5.04
Number of days between NOP and FEIR Hearing		1805	4.95
Number of days after the EIR Case was filed that the Project CPC and ZA applications were filed		250	0.68
Number of days after the NOP was issued that the CPC and ZA cases were filed		215	0.59
Source: Los Angeles Planning Case Summary and Documents records printed 07/03/21 included in **Attachment C**			

The preparation timeline for the EIR for the proposed Project has not proceeded in the manner required by law. This has resulted in a stale document that fails to address important environmental issues of concern, uses an old baseline, does not consider all of the cumulative projects in the area, and which has failed to identify significant Project impacts as detailed below.

2.3 Incomplete Cumulative Project's List

The list of related projects considered in the analysis contained in the EIR is provided in DEIR Table III-1 and pages III-5 to III-7 of the DEIR. The EIR failed to consider all of the past, present or reasonably foreseeable future projects in the area of the proposed Project, in part due to the stale nature of the EIR and issues with the EIR timeline (see **Attachment C**) detailed in **Sections 2.1 and 2.2.** Omitted related projects include, but are not limited to (see **Attachment D**):

2.3.1 The Berggruen Institute Project

The proposed Berggruen Institute Project is located at 1901 North Sepulveda Boulevard and 2100-2187 North Canyonback Road, Los Angeles: ENV-2019-4565. Although the NOP for this project was not issued until 11/20/20,[18] this proposed development has been in the news since at least 8/23/2017.[19] The environmental case for this development was filed with the City on 8/1/2019, nearly two years ago.[20] **Figure 1** shows the location of this proposed development in relationship to the proposed Project and other omitted related projects.

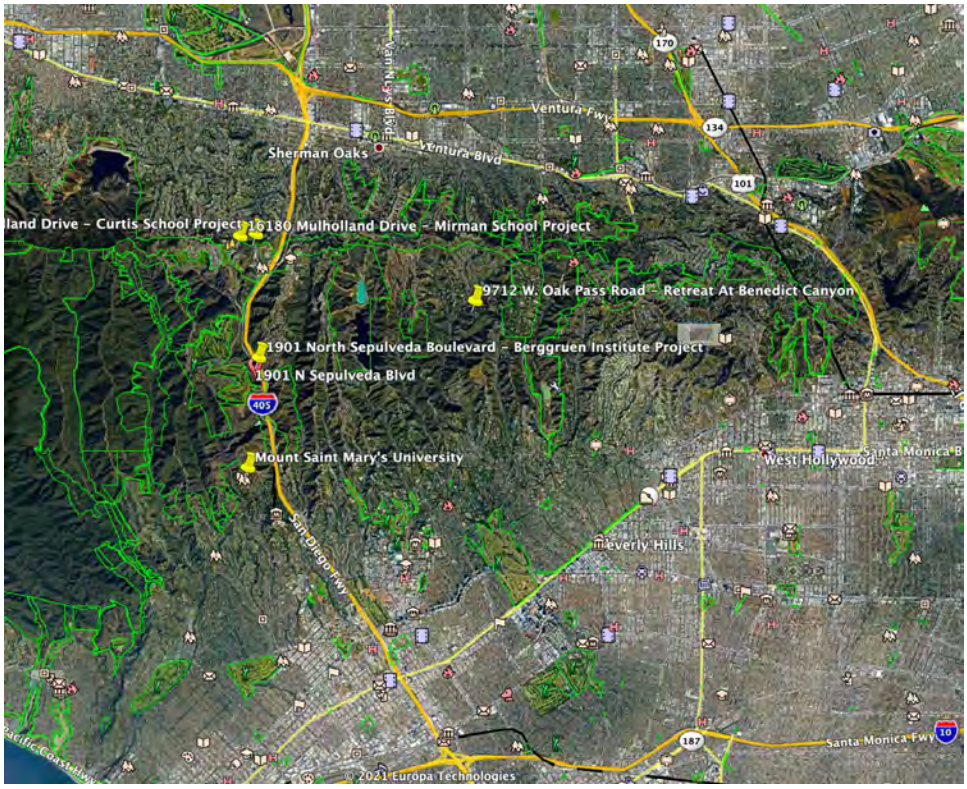

FIGURE 1 – Location of Omitted Related Projects
Source: Google Earth

[18] https://ceqanet.opr.ca.gov/2020110343/2
https://files.ceqanet.opr.ca.gov/265994-2/attachment/fv6Ac7MnK_BO-UHiwLe856ENPopqOKS3uU8-i-lLdpT3nmQPpmuL8Q_WGILqpyj2ugCB4COkvUZZyLpj0
https://files.ceqanet.opr.ca.gov/265994-2/attachment/fv6Ac7MnK_BO-UHiwLe856ENPopqOKS3uU8-i-lLdpT3nmQPpmuL8Q_WGILqpyj2ugCB4COkvUZZyLpj0
Berggruen actually filed in 2017 but withdrew the case (see **Attachment D**)

[19] https://la.curbed.com/2017/8/23/16192720/berggruen-institute-los-angeles-campus-renderings
https://worldarchitecture.org/wa-top-teaser/cpvf/herzog%20&%20de%20meuron%20unveils%20plans%20for%20berggruen%20institutes%20hilltop%20scholar%20campus%20overlooking%20la

[20] https://planning.lacity.org/pdiscaseinfo/search/encoded/MjMxMjgz0

The NOP for the EIR for the Berggruen Institute Project describes this related project as follows:

PROJECT LOCATION AND EXISTING ON-SITE USES:

The approximately 447-acre Project Site is located at 1901 North Sepulveda Boulevard and 2100, 2101, 2132, 2139, 2141 and 2187 North Canyonback Road, in the Brentwood–Pacific Palisades Community Plan (Community Plan) area of the City. More specifically, the Project Site is located just west of Interstate 405 (I-405) and south of the existing MountainGate Country Club and associated residential community. The Project Site is generally undeveloped, although portions of the Project Site have been previously graded and disturbed. The Project Site exhibits substantial topographic changes in grade and includes two primary ridges (Ridges I and II), which generally run north-south, plus a third smaller ridge to the northwest, with site elevations ranging from approximately 720 feet above mean sea level (AMSL) near Sepulveda Boulevard to 1,690 feet AMSL along Ridge II. The Project Site includes native and non-native vegetation and limited improvements, including Serpentine Road, several unpaved fire access roads, portions of two public multi-use trails, concrete terrace drains, and monitoring wells and a gas recovery piping system associated with the closed Mission Canyon No. 8 Landfill site. **(See attached Project Location Map.)**

PROJECT DESCRIPTION:

The Berggruen Institute Project (Project) involves a development program designed to accommodate the Berggruen Institute's educational and research programs, fellowships, scholars, and administration within a Research Institute campus, as well as to preserve open space. Development and operation of the Project would be implemented through the Berggruen Institute Specific Plan (Specific Plan). In accordance with the proposed Specific Plan, development would be concentrated on approximately 28 acres or approximately 6 percent of the 447-acre Project Site (also referred to as the Specific Plan Area), which would be divided into three Sub-Areas: (1) Ridge I, which would include a primary Institute Building comprising approximately 39,880 square feet of Research Institute uses, including meeting rooms, lounge/study areas, offices, an auditorium/lecture hall, a library, storage space and support areas, as well as dining and kitchen facilities; 30 Scholar Units serving as limited-term living quarters for resident scholars, visiting scholars, guests, and limited staff, with supporting uses and amenities such as a Gatehouse and recreational facilities, for a total of approximately 16,603 square feet of building area; as well as landscaped outdoor spaces including gardens and courtyards; (2) Ridge II, which would include three Scholar Pavilions of up to 10,000 square feet each with a combination of Research Institute uses and/or limited-term scholar living quarters; and (3) Open Space, which would allow for hillside preservation, restoration and protection of native habitat, fuel modification zones for fire risk management, and public trails and recreational opportunities in an area comprising 424.4 acres. The Research Institute could accommodate up to 26 resident scholars at a time plus up to 60 staff, four of whom would reside on-site in Scholar Units, in addition to visiting scholars and guests attending conferences, symposia, and other programs or events. Within the Open Space Sub-Area, portions of two existing trails that pass through the Project Site would be improved and available for public use, consistent with an existing, recorded, open space easement agreement and trail easement agreements (Instrument Nos. 06-2284769, 06-2284768, and 06-2284767, respectively). In addition, future growth of up to 63,000 square feet of Research Institute floor area could occur within Ridge I to accommodate future programs and uses, including potential facilities for 16 additional resident scholars and up to 70 additional staff. Earthwork associated with buildout of the Specific Plan would require an estimated 200,000 cubic yards of cut, with 90,000 cubic yards of fill and 110,000 cubic yards of export, plus a possible 30,000 cubic yards of soil import for landscaping purposes.

REQUESTED ACTIONS:

1. Pursuant to Section 11.5.6 of the LAMC, a General Plan Amendment to establish the Berggruen Institute Specific Plan within the Brentwood–Pacific Palisades Community Plan and add a Plan Footnote expressly indicating that the Berggruen Institute Specific Plan Zone (BI) and the Berggruen Institute Open Space Zone (BI-OS) are consistent with the Minimum Residential, Very Low I Residential, Public Facilities, and Open Space land use designations.

2. Pursuant to Section 12.32 of the LAMC, a Zone Change from the [Q]RE20-1-H, [T][Q]A1-1, and [Q]A1-1 Zones to the Berggruen Institute Specific Plan Zone (BI) and the Berggruen Institute Open Space Zone (BI-OS).

3. Pursuant to Section 11.5.7 of the LAMC, establish the Berggruen Institute Specific Plan to provide regulatory controls and the systematic execution of the General Plan within the Project Site.

4. Pursuant to Section 12.32 of the LAMC, an ordinance to amend LAMC Section 12.04 to add the following to the list of zones: BI—Berggruen Institute Specific Plan Zone and BI-OS—Berggruen Institute Open Space Zone.

5. Vesting Tentative Map pursuant to California Government Code Section 66410 *et seq.* (Subdivision Map Act) and LAMC Chapter 1, Article 7 for the merger and re-subdivision of the Project Site and the creation of new ground lots.

6. LAFD approval of Emergency Helicopter Landing Site (if required by LAFD).

7. Other discretionary and ministerial permits and approvals that may be deemed necessary, including but not limited to temporary street closure permits, grading permits, excavation permits, foundation permits, building permits, and sign permits.

POTENTIAL ENVIRONMENTAL EFFECTS OF THE PROJECT:

Based on an Initial Study, the Project could have potentially significant environmental impacts in the following topic areas, which will be addressed in the EIR: Aesthetics, Agricultural Resources, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services (Fire and Police), Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems (Water, Wastewater, and Solid Waste), and Wildfire.

This related project was thus reasonably foreseeable and should have been included in the cumulative impact analysis for the proposed Project. Omission of this related project has resulted in an underestimate of traffic, cumulative wildfire risk-related impacts, cumulative loss of Mountain Lion habitat, and cumulative impacts to wildlife corridors, as well as other issue area impacts.

2.3.2 The Retreat At Benedict Canyon

The proposed Retreat At Benedict Canyon is located at 9712 W. Oak Pass Road: ENV-2019-1509-EIR. Although the NOP for this project was not issued until 11/20/2020,[21] this proposed development has been in the news for more than three years, since at least 3/23/2018.[22] The environmental case for this development was filed with the City more than three years ago, on 3/16/2018.[23] **Figure 1** shows the location of this proposed development in relationship to the proposed Project and other omitted related projects. The NOP for the EIR for the Benedict Canyon Project describes this related project as follows:[24]

PROJECT LOCATION AND EXISTING ON-SITE USES:

The Project Site includes fifteen individual parcels and is located within Benedict Canyon in the City of Los Angeles. The Project Site is surrounded by existing single-family residential uses on all sides, and is roughly bounded by Benedict Canyon Drive to the west, Hutton Drive to the north, Oak Pass Road to the east, and Yoakum Drive to the south.

PROJECT DESCRIPTION:

[21] https://files.ceqanet.opr.ca.gov/265769-2/attachment/rWoZ27zId4xDMc5Cq0C_lSRa2U6odSqGq7thZYpHu_9vaKphzS5khSNiHTGMMbrnzh4WIbDYMzc_kjAA0
https://ceqanet.opr.ca.gov/2020110171/2

[22] https://la.curbed.com/2018/3/23/17157526/beverly-hotel-development-retreat-benedict-canyon

[23] https://planning.lacity.org/pdiscaseinfo/search/encoded/MjE5Njk50

[24] https://files.ceqanet.opr.ca.gov/265769-2/attachment/rWoZ27zId4xDMc5Cq0C_lSRa2U6odSqGq7thZYpHu_9vaKphzS5khSNiHTGMMbrnzh4WIbDYMzc_kjAA0

The Retreat at Benedict Canyon Project (Project) proposes the demolition of two existing single-family residences and the construction of a 59-guest room hotel and eight single-family residences on an approximately 33-acre property in Benedict Canyon. The Project consists of hotel uses within 19 buildings on the northern 16-acre portion of the site, and eight single-family residences on the southern 17-acre portion of the site. The main five-story hotel building includes up to 18 guest rooms, 7,960 square feet of bar/restaurant uses, 10,900 square feet of spa/fitness uses, outdoor pool and spa amenities, and an additional two floors of subterranean parking, for a total of 60,860 square feet of building floor area. An additional 15 bungalow-style hotel buildings, each up to two-stories in height, would be dispersed throughout the hotel portion of the site, and would contain the remaining 41 hotel guest rooms with a total of 54,500 square feet of floor area. Three ancillary hotel buildings containing the main valet and hotel reception area, a rooftop restaurant, screening room, administrative uses, other hotel support services, and parking, would total 28,840 square feet of building floor area. Overall, the total floor area for the hotel portion of the site would be 144,650 square feet. Access between the main hotel building and main parking structure could include a funicular railway. The eight single-family residences on the eastern portion of the site would range in size from approximately 12,000 to 48,000 square feet of residential floor area, and would have a combined residential floor area of up to 181,000 square feet. Development of the overall site would also include the removal of existing trees and vegetation and the installation of new landscaping, pathways, exterior decks, and other outdoor amenities. Preliminary site grading would require approximately 117,230 cubic yards of total grading and result in the off-site export of approximately 950 cubic yards of soil, while the remaining 116,280 cubic yards of cut would be balanced on-site. Maximum excavation depths would be approximately 62 feet below existing grade.

Summary of Proposed Floor Area

Land Use	Existing Development (To Be Removed)	Proposed Development
Single-family residences	2 dwelling units	181,000 square feet sf (8 dwelling units)
Hotel		59 guest rooms
Hotel Bar/Restaurant		8,920 sf
Hotel Spa/Fitness		10,900 sf
Total Hotel Square Footage		146,610 sf
Total	**2 dwelling units**	**327,610 sf**

REQUESTED ACTIONS:

1. Pursuant to Charter Section 555 and Los Angeles Municipal Code (LAMC) Section 11.5.6, a General Plan Amendment to the Bel Air - Beverly Crest Community Plan to re-designate the site from Minimum Residential, Very Low I and Very Low II Residential land use designations to the High-Medium Residential land use designation, and to add a footnote to the Community Plan Land Use Map establishing the proposed Specific Plan as the land use regulatory document for the Project Site and to identify the corresponding land use designation with the Specific Plan zoning;
2. Pursuant to LAMC Section 12.32 Q a Vesting Zone Change from RE15-1-H-HCR, RE20-1-H-HCR, and RE40-1-H-HCR to the proposed Specific Plan zone.
3. Pursuant to LAMC Section 12.32 A, a Specific Plan to establish allowable uses, development standards and alcohol sales for development of the site;
4. Other discretionary and ministerial permits and approvals that may be deemed necessary, including, but not limited to, haul route, temporary street closure permits, grading permits, excavation permits, foundation permits, building permits, and sign permits.

POTENTIAL ENVIRONMENTAL EFFECTS OF THE PROJECT:

Based on an Initial Study, the Project could have potentially significant environmental impacts in the following topic area, which will be addressed in the EIR: Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas, Land Use, Noise, Public Services, Transportation, Tribal Cultural Resources, and Wildfire.

This related project was thus reasonably foreseeable and should have been included in the cumulative impact analysis for the proposed Project. Omission of this related project has resulted in an underestimate of traffic, cumulative wildfire risk-related impacts, cumulative loss of Mountain Lion habitat, and cumulative impacts to wildlife corridors as well as other issue area impacts.

2.3.3 Curtis School Project[25]

The proposed Curtis School project is located at 15871-15800 W. Mulholland Drive: CPC-2020-1086-SPE-DRB-SPP-MSP-ZAD-SPR. **Figure 1** shows the location of this proposed development in relationship to the proposed Project and other omitted related projects. The current application was filed on 2/19/2020,[26] and involves demolition of approximately 23,010

[25] https://www.mattconstruction.com/projects/k-12/curtis-school/
[26] https://planning.lacity.org/pdiscaseinfo/search/encoded/MjM1ODU30

sf of existing structures, construction of 82,940 sf, and reconfiguration and relocation of the existing athletic fields and main parking area for Curtis School. However, a similar application was filed on 1/10/2014 and withdrawn following CPC Action on 10/31/2017 which was after issuance of the NOP for the proposed Project.[27] That earlier application (CPC-2014-102-CU-SPR-DD-SPE-DRB-SPP-MSP) was similarly for: demolition of 20,670 sq ft of existing structures, construction of 82,400 square feet of new structures, reconfiguration of existing athletics fields and parking lot, and 149,084 cubic yards of grading. It was described more completely in the 1/16/2014 Notice of Availability for the MND[28] as:

> Continued operation and maintenance of an existing private school (Curtis School) of 63,970 sf of floor area, with a 4,500 sf renovation/expansion of the Ahmanson building currently in progress and the proposed demolition of approximately 20,670 sf of buildings and construct approximately 82,440 sf of new school facilities. Seven new buildings and additions resulting in a net increase of 62,270 sf for a total project buildout of 130,240 sf, with a total of 223 parking spaces. Project construction would be phased over time and could start as early as the Summer/Fall of 2016 or as late as 2017 and end as late as 2035. A redesigned athletic field and parking area, as well as a proposed secondary limited access road from Mulholland Drive utilizing an existing Caltrans service road will be constructed and generate grading of 149,048 cubic yards of earth, including 12,681 cubic yards of off-site grading. Staffing, hours of operation, and programing will be expanded. No additional enrollment is proposed.

This related project was thus reasonably foreseeable and should have been included in the cumulative impact analysis for the proposed Project. Omission of this related project has resulted in an underestimate of traffic, cumulative wildfire risk-related impacts, cumulative loss of Mountain Lion habitat, and cumulative impacts to wildlife corridors as well as other issue area impacts.

2.3.4 Mirman School Project[29]

The proposed Mirman School project is located at 16180 Mulholland Drive Los Angeles: CPC-2017-4219-VCU-ZV-ZAD-DRB-SPP-MSP. **Figure 1** shows the location of this proposed development in relationship to the proposed Project and other omitted related projects. The entitlement application was filed on 10/17/2017, more than three and a half years ago.[30] According to the City, this project involves: "improvements to existing school structures and construction of new academic buildings (including classrooms, administrative space, a multipurpose room) to accommodate 535 students in grades k-12. According to the school:

[27] https://planning.lacity.org/pdiscaseinfo/search/encoded/MTk0OTgy0
[28] https://ceqanet.opr.ca.gov/2013081046/2
[29] https://mirman.org/about/cup
[30] https://planning.lacity.org/pdiscaseinfo/search/encoded/MjE2NTYx0

The CUP application is for the following proposed projects:

- Renovation of several existing elementary and middle school classrooms, library, and other instructional spaces
- Construction of an approximately 13,200 square foot two-level academic building with new classrooms and instructional spaces

This related project was thus reasonably foreseeable and should have been included in the cumulative impact analysis for the proposed Project. Omission of this related project has resulted in an underestimate of proposed Project traffic, cumulative wildfire risk-related impacts, cumulative loss of Mountain Lion habitat, and cumulative impacts to wildlife corridors as well as other issue area impacts.

2.3.5 Expansion of MSMU Chalon Campus Enrollment from Baseline Levels

According to page II-12 of the DEIR, the Chalon Campus has a maximum enrollment of 2,244 students. Table II-2 of the DEIR show existing enrollment levels on the University's two campus as follows:

TABLE II-2
2015 MSMU STUDENT ENROLLMENT

Student Type	Total Number of Students at Chalon Campus	Total Number of Students at Doheny Campus	Total Number of Students
Full-Time	1,531	1,108	2,639
Part-Time	30	759	789
MSMU Online	--	--	55
Total	**1,561**	**1,867**	**3,483**
Students Living on Campus	470	146	

Notes:
1. All Chalon Campus students are Traditional Undergraduate (TUG) students
2. Students at the Doheny Campus include TUG, Non-Traditional Undergraduate Programs (i.e., Nursing and Weekend Programs), and Graduate students.
3. To be considered full time students, students must take 12 or more credits in a semester. If a student takes fewer than 12 credits in a semester, that student is considered part time. This is a requirement from MSMU Financial Aid Office, based on Federal financial aid guidelines.
4. Student enrollment shown is for Fall 2015 semester, which represents the highest number of students at Chalon over the past two years.
5. The maximum number of students that can live on Chalon Campus is 470 students.
6. The maximum number of students that can live on Doheny Campus is 188 students.

Source: MSMU, 2017.

This means that there is the potential for an additional 683 students to enroll as Chalon Campus students. The University's website indicates it has a student to faculty ratio of 11:1,[31] which means that enrollment expansion would likely result in an expansion of both faculty and staff. This reasonably foreseeable expansion of students, faculty and staff should have been

[31] See https://www.msmu.edu/about-the-mount/the-mount-at-a-glance/

treated as a related project in the EIR. Failure to do so has resulted in an inaccurate cumulative impacts analysis.

2.4 Failure to Address Potential Mountain Lion Impacts

The proposed Project will introduce additional development and people into an area frequented by the mountain lion (*Puma concolor*).[32] It will impact vegetative communities which have value as habitat for the mountain lion. This was not addressed in the EIR despite studies showing the presence of mountain lions in the area which were available at the time the DEIR was prepared for the Project.[33] In fact, the "National Park Service has been studying how mountain lions survive in an increasingly fragmented and urbanized landscape since 2002. Researchers have monitored nearly 100 mountain lions in and around the Santa Monica Mountains north of Los Angeles. GPS radio-collars provide detailed information about the animals' ecology and behavior."[34] (See **Attachment E**).

The mountain lion is now a candidate species under formal consideration for listing as threatened or endangered under the California Endangered Species Act ("CESA"), pursuant to California Fish and Game Code ("CFGC") Section 2074.2, emphasizing both its importance to the local ecology and the threat posed by increased development in the Santa Monica Mountains. The mountain lion became a candidate species over a year ago, on April 16, 2020 (see Fish and Game Commission Staff Report included in **Attachment E** and associated links, which are incorporated herein by reference).[35] Candidate species are protected under CESA pursuant to CFGC Section 2085 during the remainder of the CESA listing process.

The project site is within the range of the Central Coast South ("CC-S") subpopulation of the proposed Evolutionarily Significant Unit ("ESU"). As noted on pages 4-6 of the listing Petition:[36]

> While Southern California and Central Coast mountain lions face a multitude of threats, the greatest challenges stem from habitat loss and fragmentation and the consequent impact on their genetic health. Most of the populations comprising the ESU have low genetic diversity and effective population sizes, which puts them at increased risk of extinction (Ernest et al. 2003; Ernest et al. 2014; Riley et al. 2014; Vickers et al. 2015; Benson et al. 2016; Gustafson et al. 2018; Benson et al. 2019). The populations most at risk are the SAM, CC-S, SGSB, and CC-N

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[32] See **Attachment E** and
https://newsroom.ucla.edu/releases/los-angeles-is-a-metropolitan-den-for-mountain-lions
https://www.ioes.ucla.edu/project/santa-monica-mountain-lions/
https://www.nps.gov/samo/learn/news/local-mountain-lion-population-faces-precipitous-decline-in-genetic-diversity-within-50-years-possible-extinction.htm
https://www.ioes.ucla.edu/project/effects-of-large-wildfire-on-mountain-lion-movement-and-behavior/

[33] Ibid.

[34] https://www.nps.gov/samo/learn/nature/pumapage.htm

[35] See also: https://mountainlion.org/us/ca/law/cesa/-ca-cesa.php
https://fgc.ca.gov/CESA#ml
https://mountainlion.org/us/ca/law/cesa/-ca-cesa.php
https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=178379&inline

[36] https://fgc.ca.gov/CESA#ml

populations. Due to extreme isolation caused by roads and development, the SAM and CC-S, populations exhibit high levels of inbreeding, and, with the exception of the endangered Florida panther, have the lowest genetic diversity observed for the species globally (Ernest et al. 2014; Riley et al. 2014; Gustafson et al. 2018; Benson et al. 2019). . . .

Although low effective population sizes standing alone are cause for conservation concern for Southern California and Central Coast mountain lion populations, there are other human-caused factors that further limit their long-term persistence. Habitat loss and fragmentation due to roads and development have led to extreme levels of isolation and high mortality rates. With low genetic diversity and high risk of inbreeding depression due to genetic isolation, vehicle strikes on roads, increased conflicts with humans that lead to depredation kills, high levels of intraspecific strife likely due to limited space and lack of connectivity, rodenticide and other environmental toxicant poisoning, and impacts of more frequent human-caused wildfires and climate change, the small isolated mountain lion populations of Southern California and the Central Coast will likely not persist without the restoration and enhancement of functional connectivity between populations and large blocks of heterogeneous habitats**.**

Loss of mountain lions in Southern California and the Central Coast would be devastating not just for the mountain lions themselves but also the many species that directly and indirectly rely on them. These top predators are important ecosystem engineers that facilitate healthy ecosystems and allow biodiversity to thrive (Ripple and Beschta 2006; Ripple and Beschta 2008; Ripple et al. 2014; Ruth and Elbroch 2014; Barry et al. 2019; Elbroch and Quigley 2019). As keystone species mountain lions help support plant recruitment in riparian areas, stabilize stream banks, and sustain healthy habitats for a myriad of aquatic and terrestrial species, including plants, invertebrates, fish, amphibians, reptiles, birds, and mammals (Ripple and Beschta 2006; Ripple and Beschta 2008; Ripple et al. 2014). Their kills are also an important source of food for multiple terrestrial and avian scavengers (Ruth and Elbroch 2014; Barry et al. 2019; Elbroch and Quigley 2019). . .

Other environmental laws also are insufficient. State and local agencies continue to interpret the California Environmental Quality Act (CEQA) as allowing for the construction of highways and other development in mountain lion habitat and essential corridor areas without adequate mitigation despite severe impacts of such projects on mountain lions. Agencies likewise have generally interpreted CEQA and the federal National Environmental Policy Act as not requiring implementation of connectivity measures when projects fragment or destroy mountain lion

> habitat. And perhaps most importantly, Caltrans lacks a clear affirmative mandate to design, build, or improve crossings for mountain lions on existing highways, despite the undisputed role of transportation infrastructure in preventing connectivity and gene flow.
>
> Future human population growth and associated development will further diminish and fragment remaining mountain lion habitat, driving Southern California and Central Coast mountain lions closer to extinction and undermining any chance of recovery. Should state and local agencies continue to build and expand roads and highways and permit construction in wildlife habitat and corridors without ensuring adequate habitat connectivity, the genetic health of mountain lion populations will continue to decline while the number of mountain lions killed by vehicle strikes and other human activity will increase.
>
> Ultimately, without a reversal of these trends, mountain lions will disappear from Southern and Central Coastal California in the coming decades, representing a loss of the species from a significant portion of its range in the state. Nevertheless, most of the threats facing mountain lions can be halted or sufficiently reduced if CDFW is provided with adequate resources and all relevant state and local agencies sufficiently prioritize mountain lion conservation in their decision-making. Legal protection of mountain lions under CESA, along with the attention and resources that such listing will generate, can help ensure the long-term survival of this iconic and ecologically significant species in Southern and Central Coastal California.

Not only is the proposed Project located within a portion of the proposed ESU, Mountain Lions have been recorded in the immediate vicinity of the site. **Figure 2** shows the location of MSMU in relation to the I-405 Freeway, US-101 and I-10.

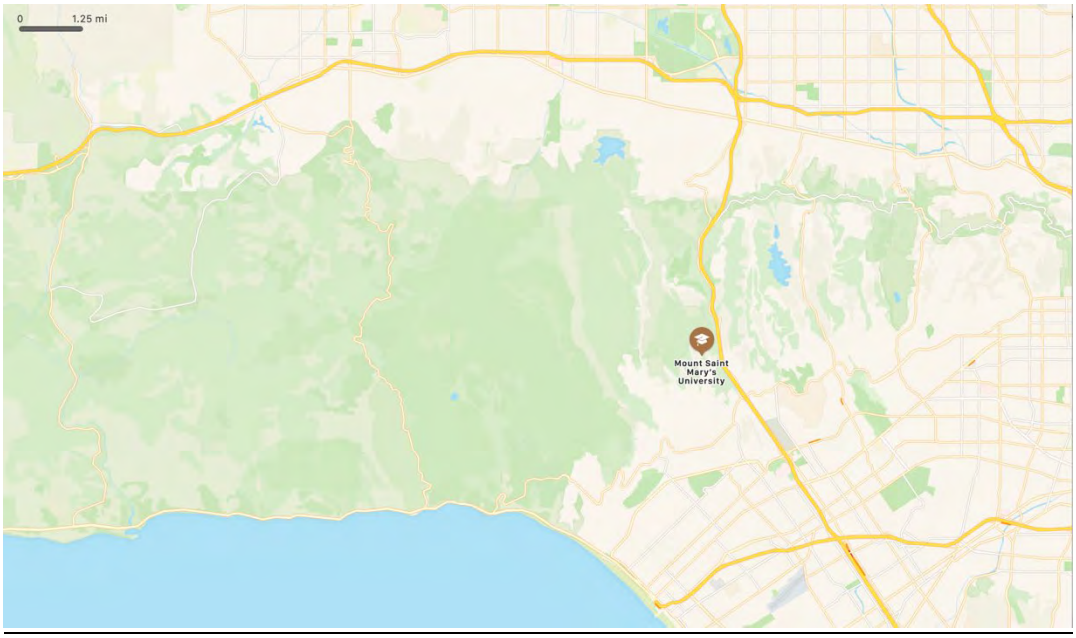

FIGURE 2 – Location of Mount Saint Mary's Chalon Campus

As shown in **Figure 3**, telemetry from collared mountain lions in the area shows that Mountain Lions make use of habitat in close proximity to MSMU.

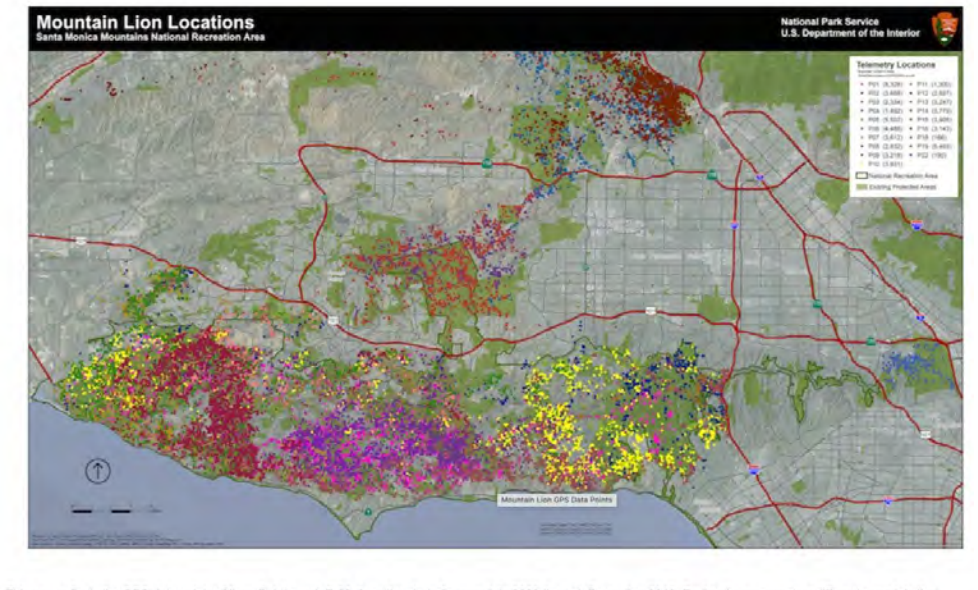

FIGURE 3 – Mountain Lion Activity – Note Proximity to Proposed Project
Source: https://www.nps.gov/samo/learn/nature/pumapage.htm - See **Attachment E**

In addition, as shown in **Figure 4**, the Project Site is located in close proximity to recorded Mountain Lion predation sites.

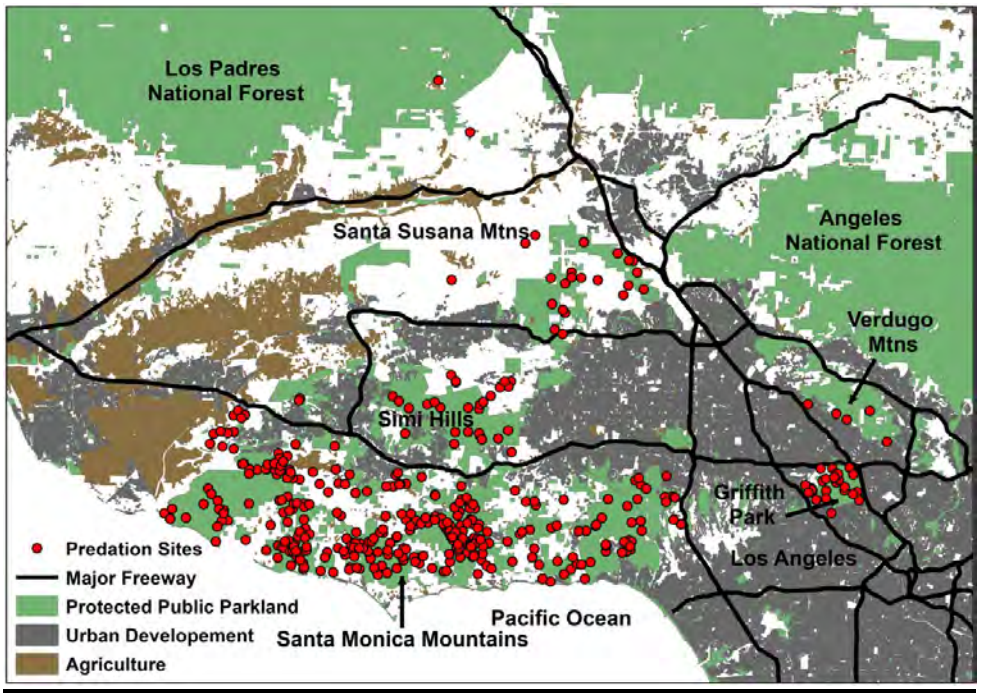

FIGURE 4 – Mountain Lion Predations Sites – Note Proximity to Proposed Project
Source: Individual and Population Level Resource Selection Patterns of Mountain Lions Preying on Mule Deer along an Urban-Wildland Gradient, John F. Benso, Jeff A. Sikich, and Seth P. D. Riley.[37]

According to page B-13 of the FEIR: "[u]nder either the Project or Alternative 5, the fuel reduction area adjacent to the Project Site would be extended to maintain a 200-foot distance from the broader foundation footprint of the Wellness Pavilion." **Figure IV.C-1**, reproduced from page IV.C-10 of the DEIR, shows the proposed Project's location in relation to native habitat (0.4 acres of Greenbark Ceanothus Chaparral and 0.5 acres of Laurel Sumac Scrub). According to Table IV.C-1 of the DEIR, this native habitat is located within the fuel modification zone for the proposed Project. According to page III-46 of the FEIR: "[a]s with the Project, Alternative 5 would result in the expansion of the Project Site's 200-foot fuel modification zone into 0.9 acres of native plant communities (i.e., 0.5 acre of laurel sumac scrub and 0.4 acre of greenbark ceanothus chaparral)." The proposed Project and Alternative 5 would thus result in the loss of 0.9 acres of native habitat in an area used by mountain lions as a wildlife corridor and where mountain lions feed.

According to Dr. Travis Longcore and Catherine Rich of Land Protection Partners ("Longcore and Rich") (see **Attachment O**), the vegetation mapping conducted for the EIR does not properly map the vegetation on the surrounding slopes. The biggest category as shown in Figure IV.C-1 of the DEIR is "disturbed" which isn't an allowable category under state mapping protocols. In addition, due to the stale nature of the EIR, the biologists for the EIR failed to look at the recovery of vegetation post-Getty fire to figure out what is there now, since much of the "disturbed" area looks like it burned and now it may have regenerating native species. The EIR fails to provide mitigation for the loss of native habitat. The proposed Project and Alternative 5 would therefore result in significant impacts to native habitat which has not

[37] Available at: https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0158006

been mitigated. Recirculation is required pursuant to CEQA Guidelines Section 15088.5(a)(1).[38]

SOURCE: ESRI; ESA.

Mount Saint Mary's University Chalon Campus Wellness Pavilion Project
Figure IV.C-1
Land Use and Natural Plant Communities
Within The Biological Study Area

[38] According to Longcore and Rich (see **Attachment O**), the analysis of impacts to sensitive species is defective. The EIR fails to contain a serious analysis of potential impact to bats. Bats forage over every neighborhood in Los Angeles, so they are certainly there, and probably sensitive species. At a minimum there should be mitigation measures to reduce impacts from lighting on bats. The other potentially impacted species, such as woodrat and coastal whiptail are assumed not to use the "disturbed" area, and 0.9 acres of habitat loss is assumed to be too little to be considered significant. In addition, the EIR assumes that coastal whiptail is not on the site and there is a photograph of one from Mt. St. Mary's in 2017 on iNaturalist. Mitigation is required for the acres of additional fuel modification and to address potential lighting impacts on bats. In the absence of such mitigation, impacts to sensitive species **would be significant**. Recirculation is required pursuant to CEQA Guidelines Section 15088.5(a)(1).

While the impacts of the proposed Project on mountain lion movements and on mountain lion predation would be individually limited, the Project's and Alternative 5's incremental effects are cumulatively considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects on mountain lion habitat. The proposed Project and Alternative 5 would therefore result in a significant cumulative wildlife corridor impact and would result in a significant cumulative impact on mountain lion habitat. These are impacts which were not analyzed in the EIR for the proposed Project. The EIR must be updated to identify and address these significant biological resource impacts and recirculated pursuant to CEQA Guidelines Section 15088.5(a)(1) and (4).

2.5 Lack of Adequate Opportunity for Comment on the New Issue Area Analysis in New Appendix B - Appendix G Analysis

As explained in **Section 1.3**, the FEIR includes new "Appendix B: Appendix G Modifications" which has been added to address changes to the Initial Study Checklist that became effective on December 28, 2018, as mandated by PRC Section 21083.01(a).[39] The new analysis includes an analysis of Project Wildfire Impacts. As noted on page B-3 of the FEIR, all wildfire-related "issue areas, including physical interference with an adopted emergency response plan and direct or indirect exposure to the risk of wildfire fires, were determined to be less than significant and further analysis in the Draft EIR was not required." An analysis of Wildfire-related impacts was thus omitted from the DEIR. This conclusion was not supported by substantial evidence and ignored comments on the NOP/IS submitted by the public stressing the need to address wildfire-related issues. The new analysis now addresses these concerns.

It is clear that the City's desire not to recirculate the EIR has affected the accuracy of the Wildfire-related impacts analysis contained in the FEIR. As detailed in **Section 2.5.2** of this letter the proposed Project would clearly result in significant cumulative wildfire hazards and emergency access and evacuation time impacts, necessitating recirculation of the EIR.

The new analysis also includes a VMT analysis as required by CEQA Guidelines § 15064.3, subdivision (b)[40] which was added to the Checklist in December of 2018 as optional, but became mandatory as of July 1, 2020. The LADOT Transportation Assessment Guidelines requires a VMT analysis for any project, like the proposed Project, which has not received its entitlements prior to July 1, 2020. As detailed in **Section 2.5.3** of this letter the VMT analysis is fatally flawed because it relies on PDFs, resulting in an inaccurate analysis and necessitating recirculation of the EIR.

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[39] **§ 21083.01. GUIDELINES AMENDMENTS; FIRE HAZARD**
(a) On or after January 1, 2013, at the time of the next review of the guidelines prepared and developed to implement this division pursuant to subdivision (f) of Section 21083, the Office of Planning and Research, in cooperation with the Department of Forestry and Fire Protection, shall prepare, develop, and transmit to the Secretary of the Natural Resources Agency recommended proposed changes or amendments to the initial study checklist of the guidelines implementing this division for the inclusion of questions related to fire hazard impacts for projects located on lands classified as state responsibility areas, as defined in Section 4102, and on lands classified as very high fire hazard severity zones, as defined in subdivision (i) of Section 51177 of the Government Code.

[40] This was added to CEQA via SB738 which was signed into law in 2013. The provisions of this section shall apply prospectively as described in section 15007. A lead agency may elect to be governed by the provisions of this section immediately. Beginning on July 1, 2020, the provisions of this section shall apply statewide. https://opr.ca.gov/ceqa/updates/sb-743/faq.html#lead-agencies-begin

2.5.1 Problems with the New VMT Analysis

Information in this section is taken, in part, from the letter from Traffic Engineer Allyn Rifkin,[41] which is included in **Attachment F**. That letter is incorporated herein by reference and provides additional details on defects in the VMT and Traffic analyses performed for the proposed Project.

The VMT analyses for the proposed Project and Alternative 5 are fatally flawed because they rely on PDFs when calculating trip generation.[42] As explained in **Section 3**, this is impermissible under CEQA. As noted by Mr. Rifkin, PE and former Chief of the City's Transportation Planning Bureau (see **Attachment F**):

> Alternative 5 proposes a number of limitations to activities at the proposed Wellness Center as a means to limit traffic impacts. For example, PDF 8 would limit activities on campus so that no more than 400 outside guests would be allowed to attend events at the center. The adjoining residential communities have had little success in enforcing limitations such as these on Mount Saint Mary's operations in the past, to the point where the neighborhood has sought revocation.
> These PDF's are inappropriate unless enforceable monitoring and restrictions are imposed on the applicant. Therefore, the trip generation assumptions of the new facility are flawed because they are dependent on the success of these limitations. . . . The scope of the methodology should reflect both construction vehicle impacts as well as special events at the proposed center. In the absence of enforceable and verifiable restrictions, impacts would be substantially greater than described in the EIR.

According to page B-5 of the VMT analysis contained in the new FEIR Appendix B: "both the Project and Alternative 5 will generate an average of less than 250 weekday vehicle trips per day across an entire year, and therefore fall below the threshold LADOT uses to determine whether a VMT analysis is required for a project."[43] However, as noted by Mr. Rifkin (see **Attachment F**):

> As described above, the determination that the new project is below the 250 Daily Trip criterion to explore VMT impacts is fallacious because it improperly relies on PDFs. These PDFs are actually mitigation measures. The analysis of impacts must be conducted prior to consideration of de facto mitigation measures. In addition, these mitigation measures (PDFs) lack enforceability to manage the trip attraction to the campus. This is

[41] Mr. Rifkin has over 30-years of experience in both the private and public sectors, ranging from consulting for developers and homeowner associations to transportation policy research for the Automobile Club of Southern California. Formerly the Chief of the Bureau of Planning and Land Use Development for the Los Angeles Department of Transportation, he directed the efforts of 38 professionals and was the primary liaison between the Department and the development community. Nine years ago he founded and currently directs the Rifkin Transportation Planning Group (RTPG)

[42] See DEIR pages IV-K-37 to 39 for the PDFs assumed in the Traffic analysis in the DEIR. Also see DEIR pages IV-K-26 to IV-K-27 which demonstrate that PDF-TRAF-8 formed the basis of the trip generation.

[43] New FEIR Appendix B, page B-5.

> true for both the analysis of the proposed Project and Alternative 5 VMT impacts. In the case of Alternative 5, there is insufficient evidence that the PDF's will reduce traffic impacts below the existing year 2016 trip attraction levels by more than 1⁄2 (see page B-6, Appendix B). Unless these measures are enforceable, a VMT analysis must be required and if necessary, the trip reduction measures must be reported as traffic mitigation.

The Traffic Analysis trip generation calculation for the proposed Project was dependent on PDFs, as demonstrated in Section IV.K of the DEIR. As noted on page IV-K-25: "[a]s the Project is not an enrollment inducing project, the vehicle trip generation for the traffic analysis is based on the proposed programmatic changes regarding activities and events to be held at the Campus."

The Project trip generation calculations therefore relied on PDF-TRAF-8 for the operational assumptions used in calculating trip generation. DEIR pages IV-K-59 to 60 explains the trip generation calculation for the proposed project as follows (emphasis added):

> **Table IV.K-15**, *Project Trip Generation Estimates - School Year and Summer*, summarizes the vehicle trip generation estimates according to the methodology above. **Under PDF-TRAF-8**, MSMU would limit the total number of outside guests to 400 on a daily basis for new events such as the Other Wellness/Sports Events, Health and Wellness Speaker Series, and Summer Camps. Based on the anticipated new school year events, the Project is expected to generate the following estimated net new vehicle trips during the corresponding analysis hours:[44]
>
> · AM peak hour: 180 trips (180 inbound/0 outbound)
> · 5:00 PM to 6:00 PM: 200 trips (0 inbound/200 outbound)
> · 6:00 PM to 7:00 PM: 180 trips (180 inbound/0 outbound)
>
> Based on the new summer camp, the Project is expected to generate the following estimated net new vehicle trips during the corresponding analysis hour:
>
> · AM peak hour: 240 trips (140 inbound/100 outbound)
> · 3:00 PM to 4:00 PM: 216 trips (90 inbound/126 outbound)
> · 5:00 PM to 6:00 PM: 24 trips (10 inbound/14 outbound)

[44] Fehr & Peers, Mount St. Mary's University Traffic Impact Analysis, January 2018, page 68.

The VMT analysis for Alternative 5 similarly improperly relies on PDFs. According to page B-6 of new FEIR Appendix B:

> Alternative 5 reduces the Project's approximately 205 average daily weekday vehicle trips by more than half, to 81, **through a reduction in the frequency of new Wellness Pavilion events and the incorporation of new traffic Project Design Features (PDFs) that would reduce trip generation**. . . Alternative 5 also **incorporates new PDFs PDF-TRAF-12 and PDF-TRAF-14**, restricting total daily outside guest vehicle trips for the Wellness Pavilion on days when any Other Wellness/Sports Activities and Health and Wellness Speaker Series event is held to 310, and total daily Wellness Pavilion vehicle trips on days when a Summer Sports Camp is held to 236 trips. Alternative 5 also **includes PDF-TRAF-18**, which requires total vehicle trips for the Campus to remain below the levels of 2016 baseline trip counts taken for the Campus. . . Because overall trip lengths are not being increased by either the Project or Alternative 5, yet **PDF-TRAF-18 will reduce total trips to Campus**, total VMT generated by the Campus, inclusive of all VMT generated by Alternative 5, will be below 2016 levels. (Emphasis added).

Not only do the VMT and Traffic analyses for the proposed Project and Alternative 5 rest on PDFs, they also depend for their validity on MSMU complying with the operational restrictions specified in the PDFs. As detailed in **Section 4.1**, MSMU has an extensive history of non-compliance with operational restrictions. As noted by Mr. Rifkin (see **Attachment F**):

> In my review of documents related to the history of approvals for the Campus, I found documentation that substantiated campus enrollment was limited to 750 students. No documentation was found indicating that enrollment above that level had been permitted. When MSMU applied for construction of a new parking structure in 1984, the project description did not include an increase in enrollment, and the city form attached to my letters of May 23, 2018 and June 12, 2018 (attached to this letter) indicated that there would be no increase in enrollment. In my review of the DEIR, however, the enrollment was reported as twice that amount.
>
> In terms of both the Proposed Project and Alternative 5, there is no reason to assume the University will comply with trip restrictions codified in the PDFs necessary to achieve the assumed level of trips. In the case of Alternative 5, there is an assumption that trips will be reduced 50% compared to the Proposed Project as a result of additional PDFs. . .
>
> Given the University's history of noncompliance with operational limitations and the City's lack of enforcement capability the conclusions in the traffic analysis cannot be supported.

Both the Traffic analyses in the DEIR and FEIR, and the VMT analysis added to the FEIR, are thus fatally flawed and understate the potential for impacts. As a result, the City has failed to comply with requirements to provide an accurate VMT analysis and the public has been precluded from the opportunity for meaningful public review of that analysis. Pursuant to CEQA Guidelines Section 15088.5(A)(1), (2) and (4) the EIR must be corrected and recirculated.

2.5.2 Problems with the New WildFire Analysis (including Topical Response 4)

Despite comments from members of the public on the NOP/IS documenting the potential for impacts, the DEIR did not include an analysis of the Project's potential impacts on wildfire hazards, wildfire-related emergency response, or wildfire-related emergency evacuation times. Rather, in response to changes in the Initial Study checklist made at the end of 2018, the FEIR adds an analysis of the Project's potential to result in wildfire-related impacts as listed under Initial Study Checklist Item XX. That analysis addresses the following four questions, would the Project:

> a) Substantially impair an adopted emergency response plan or emergency evacuation plan?
> b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants, to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?
> c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?
> d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

This discussion focuses primarily on issue (a), although it should be noted that both the proposed Project and Alternative 5 require an expansion of the fuel modification zone for the Campus. So, the proposed Project would result in a significant cumulative impact under Checklist Item XX(c), as the proposed Project requires the installation of an expanded fuel break that will result in ongoing impacts to the environment.

The New Appendix B analysis fails to include an analysis of Checklist Item IX.g: will the project "[e]xpose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?" As demonstrated herein, the proposed Project will result in a significant cumulative impact as the result of increased exposure of people both directly and indirectly to significant risk of loss, injury or death involving wildland fires.

There are a number of problems with the Wildfire analysis contained in new Appendix B to the FEIR and Topical Response 4. The analysis is fatally flawed because:

1. It fails to adequately address the fact that the Project and Alternative 5 will bring additional development and people into an area classified as having a Very High Fire

Hazard Severity risk.[45] This will increase both potential sources of ignition and the number of people present and will therefore result in a significant cumulative increase in wildfire hazards for residents, wildlife and businesses in the area.

2. The analysis fails to address evidence in the record documenting that the Bureau of Fire Prevention and Public Safety (Fire Department) has indicated that fire protection at the site would be considered inadequate in the absence of specified mitigation. However, the DEIR does not require that mitigation. Impacts therefore remain significant.

3. The EIR assumes effective implementation of a "Shelter in Place" strategy as an unstated way to mitigate the potentially significant emergency access and evacuation time impacts of the proposed Project.

4. In the absence of 100% successful implementation of a "Shelter in Place" strategy, something MSMU has as yet failed to achieve, the proposed Project will result in a significant cumulative impact on evacuation routes used by residents in the area and thus emergency response, and will expose Project users and existing students, faculty and staff to additional wildfire risk, should Project users choose to evacuate rather than "Shelter in Place."

5. The analysis inappropriately relies on PDFs in reaching its conclusion that the proposed Project will not result in significant impacts. (See **Section 3** of this letter for more information on how the use of PDFs has rendered the EIR fatally flawed). Any analysis, such as the analysis of wildfire-related impacts in the FEIR, which improperly classifies mitigation measures as PDFs, incorporates those mitigation measures into the description of the project, and then bases conclusions of less-than-significant impacts in part on those mitigation measures, underestimates Project impacts, and is invalid.[46]

6. The analysis focuses on designated emergency routes and fails to address the potential impact of Project traffic on the narrow, winding, local streets in the area during a fire event, or to adequately take account of the fact that the MSMU campus is accessed via only one paved road.

7. The analysis fails to address the fact that the proposed Project will result in significant unavoidable impacts to three neighborhood street segments during the school year and summer under Existing (2016) Plus Construction Activities and Future (2020) Plus Construction Activities conditions. If streets are significantly impacted by the proposed Project, the proposed Project would also impact emergency access and response during a wildfire event, if that wildfire event occurred during Project construction.

[45] https://www.lafd.org/fire-prevention/brush/fire-zone/fire-zone-map
[46] *Lotus v. Dep't of Transp.* (2014) 223 Cal.App.4th 645, 656.

8. The analysis fails to address the fact that the proposed Project operation will result in significant unavoidable impacts to neighborhood street segments and intersections. "During operation, the Project would result in significant impacts at three study area intersections during the school year and two study area intersections during summer under Existing (2016) Plus Project conditions. Under Future (2020) Plus Project conditions, the Project would result in significant impacts at four study area intersections during the school year and at three study area intersections during the summer. The Project would result in significant impacts at three neighborhood street segments during the school year and six neighborhood street segments during the summer under Existing (2016) plus Project and Future (2020) Plus Project conditions."[47] The proposed Project thus has the potential to have the same unmitigated impact on these intersections and neighborhood streets during a fire event, if the Project is operating during that time. If streets and intersections are significantly impacted by the proposed Project, the proposed Project would also impact emergency access and response during a wildfire event, if individuals on the Campus choose to evacuate.

9. The analysis inappropriately assumes a "Shelter in Place" strategy will be successfully implemented by MSMU or that any evacuations will be early, timely and will not occur when the surrounding Brentwood Community is being evacuated. As discussed more fully in **Section 4.3** and **Attachment G**, MSMU has been unsuccessful in implementing a "Shelter in Place" strategy or timely evacuations during past wildfire events. Any impact conclusions which depend on successful implementation by MSMU of a "Shelter in Place" strategy are thus invalid and underestimate the potential for emergency access impacts.

Increased Fire Risk From Project Construction Activity – The new analysis and the EIR fail to address the potential fire risk from Project construction activities. The most recent and relevant data from the National Fire Protection Association[48] (NFPA) indicate that between 2010 and 2014, there were 3,750 fires in structures under construction, 2,560 fires in structures undergoing major renovation, and 2,130 fires in structures being demolished in the United States. The fires in structures under construction led to $172 million in direct property damages, claimed five lives, and injured 51 people. The Whitecap Resource Center[49] has listed the top eight causes of construction fires: onsite cooking, heaters, hot work (soldering, grinding and welding), smoking, flammable materials, power, arson, and incomplete fire protection. Ninety-five percent of wildfires[50] ravaging California in the past 100 years were caused by human ignition sources, according to a study in the International Journal of Wildland Fire 2018. While the impacts of the proposed Project on the exacerbation of construction-related wildfire hazards may be individually limited, the Project's and Alternative 5's incremental effects are

[47] DEIR Summary Table, DEIR page S-42.

[48] Available at: https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Building-and-life-safety/osFiresInStructuresUnderConstruction.pdf

[49] Available at: https://news.whitecap.com/top-8-causes-of-construction-fires/

[50] Available at: https://climatechangedispatch.com/study-humans-not-global-warming-sparked-almost-all-of-californias-wildfires/

cumulatively considerable, when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects on the exacerbation of construction- related wildfire hazards. New FEIR Appendix B and the EIR fail to recognize this significant cumulative impact of the proposed Project. Pursuant to CEQA Guidelines Section 15088.5(a)(1) recirculation of the EIR is required.

Increased Fire Risk From Project Users - The proposed Project will introduce additional development and individuals into an area which is classified as a Very High Fire Hazard Severity Zone. The increase in the number and frequency of events with outside guests, and faculty, staff and students, many of whom commute to the Campus, is detailed in Table II-4 of the DEIR.

The Appendix B analysis and EIR assume that Project users will comply with MSMU smoking regulations. Page B-14 states:

> any smoking by employees, students, guests, or construction workers is currently and will continue to be relegated to the Circle, which is separated from adjacent open space by surrounding, existing buildings and is not located within the Project Site. Therefore, no smoking is or would be permitted within the Project Site under the Project or Alternative 5.

No enforcement mechanism is provided to ensure behavior consistent with this assumption. This also ignores common human behavior[51] by assuming that smokers will comply with University guidance on the location of acceptable areas to smoke on Campus. For example, a 2012 study reported by NCBI found that:[52]

> The majority (74.1%) of smokers reported having littered cigarette butts at least once in their life, by disposing of them on the ground or throwing them out of a car window. Over half (55.7%) reported disposing of cigarette butts on the ground, in a sewer/gutter, or down a drain in the past month.

The Project will introduce new users into a Very High Fire Hazard Severity Zone, some of those users are likely to be smokers, and not all smokers comply with guidance regarding non-smoking areas. The proposed Project and Alternative 5 have the potential to result in a significant cumulative impact on fire safety in the Project area by exacerbating wildfire risk in the area. Pursuant to CEQA Guidelines Section 15088.5(a)(1) recirculation of the EIR is required.

Failure to Meet Fire Safety Requirements - The proposed Project and Alternative 5 will bring additional development and visitors into an area classified as having a Very High Fire Hazard Severity risk and onto a Campus located at the top of a hill, at the end of a road

[51] The excessive use of illegal fireworks in Los Angeles around the 4th of July further illustrates the tendency of the public to be willing to engage in illegal activity and engage in behaviors which are not fire safe if it serves their pleasure.

[52] Cigarette Litter: Smoker's Attitudes and Behaviors, Jessica Rath, et al., International Journal of Environmental Research Public Health, 2012, June; 9(6): 2189-2202.
Available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3397372/

providing only one entrance into and out of the Campus. According to a letter from the Los Angeles Bureau of Fire Prevention and Public Safety's Fire Chief, the required fire-flow for the project is 4,000 G.P.M. (see **Attachment H**).[53]

> Fire-flow requirements vary from 2,000 gallons per minute (G.P.M.) in low density residential areas to 12,000 G.P.M. in high-density commercial or industrial areas. A minimum residual water pressure of 20 pounds per square inch (P.S.I.) is to remain in the water system, with the required gallons per minute flowing. The required fire-flow for this project has been set at **4,000 G.P.M. from four adjacent fire hydrants flowing simultaneously.**
>
> Improvements to the water system in this area may be required to provide 4,000 G.P.M. fire-flow. The cost of improving the water system may be charged to the developer.

However, the DEIR has failed to establish that this level of fire flow is available to serve the Project site. The EIR has not determined whether improvements to the water system are needed and it has not addressed the potential impacts of such improvements. Instead, the DEIR talks around the issue and does not actually establish that the required fire flow is available:[54]

> Per LAFD correspondence (see Appendix H of this Draft EIR), fire flow requirements for the Campus are 4,000 gallons per minute (gpm). Under the Code, the minimum required residual water pressure is 20 pounds per square inch (psi).[55] Water for firefighting purposes is supplied to the Project Site by the LADWP. Currently, a 12-inch LADWP water line in Chalon Road provides water service to private connections in MSMU's main access road. To achieve water pressure, MSMU uses three gas generators for domestic systems and one diesel back-up generator for fire systems which, together, achieve a water pressure of 115 psi. Two pressure regulators regulating assemblies within the Campus reduce the water pressure for domestic service from 115 psi to approximately 80 psi. Water mains serving the Project Site would have adequate capacity to serve the Campus, including the Project Site, because of generator-boosted water pressure. Four existing fire hydrants are located within the Project Site and one hydrant also serving the Project Site is located within the adjacent Campus.

This statement in the DEIR would require the reader to apply Bernoulli's equation for incompressible fluids to the information provided in order to determine gallons per minute.[56]

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[53] DEIR Appendix H-1

[54] DEIR IV-J.1-19.

[55] Fire Code Table 57.507.3.1, Fire Flow by Type of Land Development, includes fire-flow requirements by land development. The Campus is included within the "High Density Residential and Neighborhood Commercial" category and requires 4,000 GPM from four adjacent fire hydrants flowing simultaneously.

[56] https://www.qrfs.com/blog/240-pitot-gauges-how-do-i-calculate-the-psi-to-gpm-conversion/

However, information on some of the required coefficients is missing, so it is not possible for a reader to perform the calculation. In the absence of a showing that required fire flow levels are available, the potential for significant wildfire impacts to existing MSMU students, faculty and staff, and proposed Project users remains. Similarly, the EIR has failed to show that on-site-generator-boosted water pressure will be maintained at required flow levels during a wildfire event. The potential for impacts remains during a "Shelter in Place" event. Pursuant to CEQA Guidelines Section 15088.5(a)(1) recirculation of the EIR is required.

According to a letter from the Los Angeles Bureau of Fire Prevention and Public Safety's Fire Chief, "[b]ased on a required fire-flow of 4,000 G.P.M., the first-due Engine Company should be within 1 1⁄2 mile(s), the first-due Truck Company within 2 mile(s)." (see **Attachment H**). However, the nearest fire station to the proposed Project is 2.6 miles away. The Fire Chief therefore concluded:

> Based on these criteria (response distance from existing fire stations), fire protection would be considered **inadequate. . .**
> Project implementation could impact response time for Fire Protection and Emergency Medical Services in this area.

The Fire Chief stated the need for the following mitigation measures, which have not been included in a Project mitigation measures:

> a. Boxed-in eaves.
>
> b. Single pane, double thickness (minimum1/8"thickness) or insulated windows.
>
> c. Non-wood siding.
>
> d. Exposed wooden members shall be two inches nominal thickness.
>
> e. Non-combustible finishes.
>
> Irrigated and managed greenbelts around the perimeter of all structures for a distance of 200 feet shall be considered as a buffer between the brush and the proposed project.
>
> All landscaping shall use fire-resistant plants and materials. A list of such plants is available from the contact Brush Clearance Unit 6262 Van Nuys Blvd., Room 451, Van Nuys 91401 (800) 994-4444.
>
> All structures shall have noncombustible roofs. (Non-wood)
> During demolition, the Fire Department access will remain clear and unobstructed.
>
> Access for Fire Department apparatus and personnel to and into all structures shall be required.

No building or portion of a building shall be constructed more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.

Fire lane width shall not be less than 20 feet. When a fire lane must accommodate the operation of Fire Department aerial ladder apparatus or where fire hydrants are installed, those portions shall not be less than 28 feet in width.

The width of private roadways for general access use and fire lanes shall not be less than 20 feet, and the fire lane must be clear to the sky.

Fire lanes, where required and dead ending streets shall terminate in a cul-de-sac or other approved turning area. No dead ending street or fire lane shall be greater than 700 feet in length or secondary access shall be required.

Submit plot plans indicating access road and turning area for Fire Department approval.

Private streets shall be recorded as Private Streets, **AND** Fire Lane. All private street plans shall show the words "Private Street and Fire Lane" within the private street easement.

All parking restrictions for fire lanes shall be posted and/or painted prior to any Temporary Certificate of Occupancy being issued.

Plans showing areas to be posted and/or painted, "FIRE LANE NO PARKING" shall be submitted and approved by the Fire Department prior to building permit application sign- off.

Electric Gates approved by the Fire Department shall be tested by the Fire Department prior to Building and Safety granting a Certificate of Occupancy.

Private streets and entry gates will be built to City standards to the satisfaction of the City Engineer and the Fire Department.

Construction of public or private roadway in the proposed development shall not exceed 15 percent in grade.

Private development shall conform to the standard street dimensions shown on Department of Public Works Standard Plan S-470-0.

> Standard cut-corners will be used on all turns.
>
> Private roadways for general access use shall have a minimum width of 20 feet.
>
> Adequate off-site public and on-site private fire hydrants may be required. Their number and location to be determined after the Fire Department's review of the plot plan.
>
> All access roads, including fire lanes, shall be maintained in an unobstructed manner, removal of obstructions shall be at the owner's expense. The entrance to all required fire lanes or required private driveways shall be posted with a sign no less than three square feet in area in accordance with Section 503 of the City of Los Angeles Municipal Code.
>
> No framing shall be allowed until the roadway is installed to the satisfaction of the Fire Department.
>
> Any required fire hydrants to be installed shall be fully operational and accepted by the Fire Department prior to any building construction.
>
> Any roof elevation changes in excess of 3 feet may require the installation of ships ladders.

The Fire Chief then indicated that the: "inclusion of the above recommendations, along with any additional recommendations made during later reviews of the proposed project will reduce the impacts to an acceptable level." In the absence a requirement for compliance with the requested mitigation measures prior to issuance of any building or grading permit, a showing that no additional mitigation measures are required, and a showing that the proposed Project can comply with these requirements, the potential for significant impacts to fire services remains. Pursuant to CEQA Guidelines Section 15088.5(a)(1) recirculation of the EIR is required.

The FEIR has similarly not demonstrated that Alternative 5 complies with these Fire Department requirements. Or that the Campus as a whole would comply with Fire Department requirements after completion of either the proposed Project or Alternative 5. For example, it has not been demonstrated that Alternative 5 complies with the requirements that:

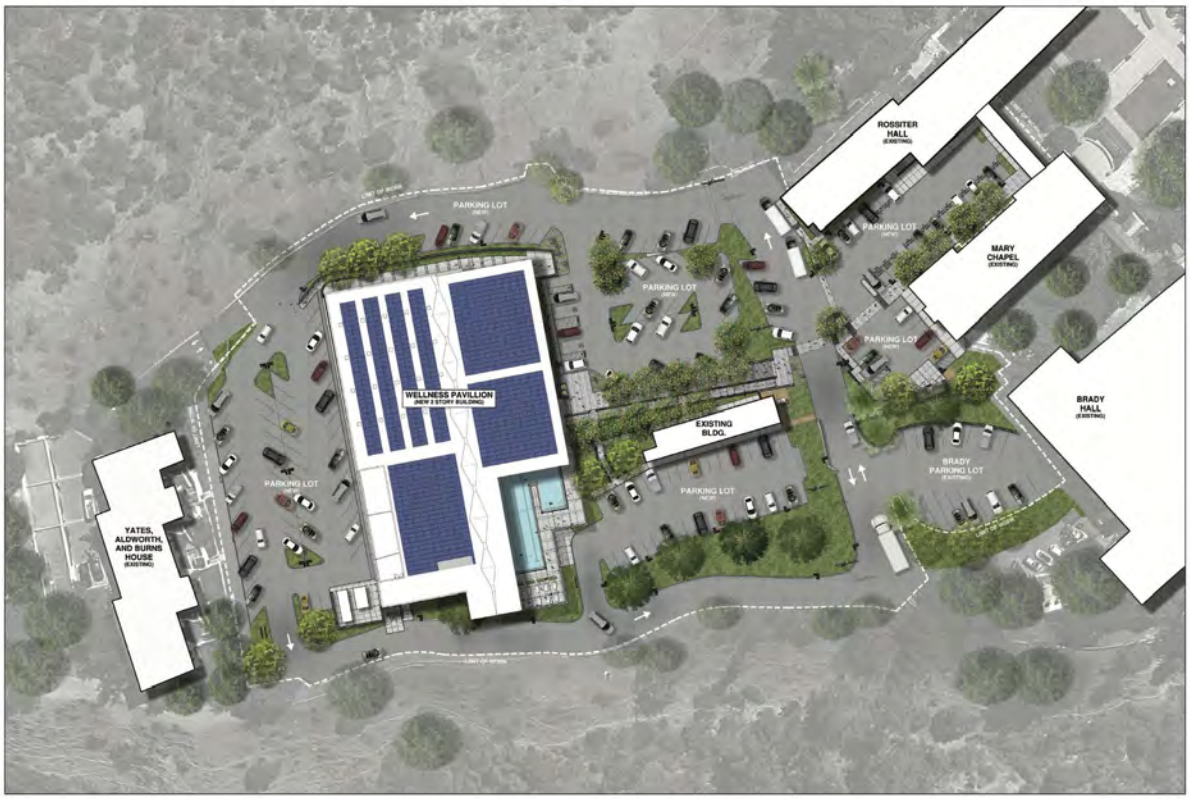
- No building or portion of a building shall be constructed more than 150 feet from the edge of a roadway of an improved street, access road, or designated fire lane.
- Fire lane width shall not be less than 20 feet. When a fire lane must accommodate the operation of Fire Department aerial ladder apparatus or where fire hydrants are installed, those portions shall not be less than 28 feet

in width.

- The width of private roadways for general access use and fire lanes shall not be less than 20 feet, and the fire lane must be clear to the sky.

Project plans for Alternative 5 have not been provided in the FEIR. **Figure III-1** from the FEIR does not appear to show compliance with these access requirements. Furthermore, as detailed herein, MSMU has only one viable access road into and out of the Campus, and as noted by Mr. Rifkin (see **Attachment F**):

> In view of the recent wildfires in the vicinity of the proposed project, Emergency Traffic Management requires substantial analysis. Chapter 16 of the current ITE Traffic Engineering Manual identifies detailed state of the art procedures for emergency traffic management planning, including formalizing roles and responsibilities for the facility managers, the LAFD and LADOT. There is no reference to this coordination in the cited Chalon Campus Emergency Evacuation Plan.
>
> Further, there are demonstrable roadway and traffic limitations to campus access. The campus location on Chalon Road is accessed from N. Bundy Drive via a sub-standard local road – Norman Place, which is less than 19 feet wide in significant sections. This restriction can only be overcome if Fire access vehicles can gain priority over local traffic. No mechanism is described in the EIR for overcoming these limitations. Project related traffic would therefore result in significant cumulative impacts to emergency access.



SOURCE: LPA, Inc., 2021

Mount Saint Mary's University Chalon Campus Wellness Pavilion Project
Figure III-1
Alternative 5 Site Plan

Given that the EIR indicates that rather than evacuations, a "Shelter in Place" strategy will be implemented for the proposed Project and the Campus as a whole, it is particularly important to establish that there are adequate fire flows and emergency access available to serve the Project site. In the absence of adequate access and flows, a "Shelter in Place" strategy is just a "Burn in Place" strategy or a "flee-at-the-last moment" strategy.

Problems with Assumptions Regarding "Shelter in Place Strategy" - It is important to note that California wildfire experts consider a "Shelter in Place" strategy as a last-ditch resort:

> For Californians who might have to escape wildfire again this year, the options are perilous. Many live in communities that don't have well-thought-out public evacuation plans and lack the road capacity that's needed to get everyone out fast.
>
> Does this mean people should just shelter in place?
>
> Absolutely not, except as a last-ditch resort, according to wildfire experts.

> In many cases, only luck determines whether a temporary refuge ends up being scorched by a fast-moving, powerful and unpredictable wildfire. The safest alternative? Evacuate and do it early, experts say.[57]

In California the preferred strategy for protecting communities from wildfire events is an early evacuation strategy called: Ready, Set, Go. As explained by Paveglio et. al.:[58]

> Consideration and implementation of alternatives to evacuation appeared to be on the rise in USA preceding the Black Saturday Fires of 2009. However, consideration of alternatives in Southern California was abandoned shortly after the Black Saturday Fires (FIRESCOPE, 2009). Southern California professionals unveiled an alternative policy of 'Ready, Set, Go!' shortly thereafter. 'Ready, Set, Go!' retains a primary focus on ignition-resistant structures and reduction of fuels in the home-ignition zone in an effort to create housing developments that are safe for firefighters and can survive fires without the presence of local residents. In this policy, early evacuation is characterized as 'the preferred and safest option for all residents'; sheltering strategies are advised only when residents are trapped by fire (IAFC, 2010). The 'Ready, Set, Go!' policy has received support from the US Western Fire Chiefs Association (Aleshire, 2009) and the International Association of Fire Chiefs, with plans to expand its use across the nation.

The proposed Project's "Shelter in Place" strategy is thus a suboptimal plan used in areas where evacuation is more difficult. As explained by Paveglio et. al.:[59]

> Cova et al. (2009) developed decision-action trees for determining the appropriate strategy given wildfire conditions and local contexts (available ingress or egress, proper vegetation management). According to these authors, adoption of alternatives to evacuation is most pressing where infrastructure constraints (poor road conditions, traffic) require an extended period of time to evacuate the local population.

Recent research has addressed the question of what is required for implementation of a successful "Shelter in Place" (SIP) strategy. The answer: to "be successful, SIP requires fire service commitment to education and comprehensive civilian preparedness."[60]

---

[57] Sheltering in place during a wildfire a dicey strategy
https://apnews.com/article/6f1d93e3000c466cbd8fc8defdd88118
Shelter In Place Plans Questioned for California Wildfires
https://www.redding.com/in-depth/news/2019/04/25/california-wildfire-shelter-place-plans-questioned-evacuation-preparation/3427075002/

[58] https://www.nrs.fs.fed.us/pubs/jrnl/2010/nrs_2010_paveglio_002.pdf at page 382.

[59] https://www.nrs.fs.fed.us/pubs/jrnl/2010/nrs_2010_paveglio_002.pdf at page 382.

[60] https://www.hsdl.org/?view&did=489474 at page 3.

> SIP is an effective strategy when comprehensive preparation has taken place. The preparation model advanced by Rhodes and Odgers (2002) requires an awareness of the risk, knowledge of both fire and human behavior, planning for the fire event, physical preparations to reduce the properties susceptibility to fire, and psychological readiness for the fire event.[61] . . .
> There is no way to effectively measure psychological readiness, yet the individual's response to the fire is critical. Acting appropriately with correct knowledge is life saving, acting inappropriately or with incorrect knowledge can be life threatening. (Krusel and Petris, 1992). Supplying residents with correct and timely information both before and during the fire is crucial for residents to be secure in their decision process.[62]

The ability to implement an effective "Shelter in Place" strategy is therefore easier when it is applied to residents, rather than transient visitors and users such as those who would visit the Campus to make use of Proposed Project facilities or events, since an effective strategy requires knowledge of the SIP plan. As detailed in **Section 4.3**, to-date, MSMU has been ineffective in its implementation of a "Shelter in Place" strategy even for those housed on the Campus.

According to DEIR Table II-2 the baseline enrollment used in preparation of the DEIR was 1,561 students. Of these, 470 live on Campus in six residence facilities: Brady Hall, Carondelet Hall, Rossiter Hall, Yates House and Aldworth House (see **Figures 5 to 8**). An unspecified number of Sisters live in Burns House. As shown in the screenshots of information on the residence halls printed off the MSMU website on June 30, 2021, the Campus has the capacity to house 477 students.

TABLE 2
CAPACITY
STUDENT RESIDENCE FACILITIES

Brady Hall	150
Carondelet Hall	215
Rossiter Hall	67
Yates Houses	26
Aldworth House	19
TOTAL	**477**

[61] Ibid. At page 37.
[62] Ibid at 39.

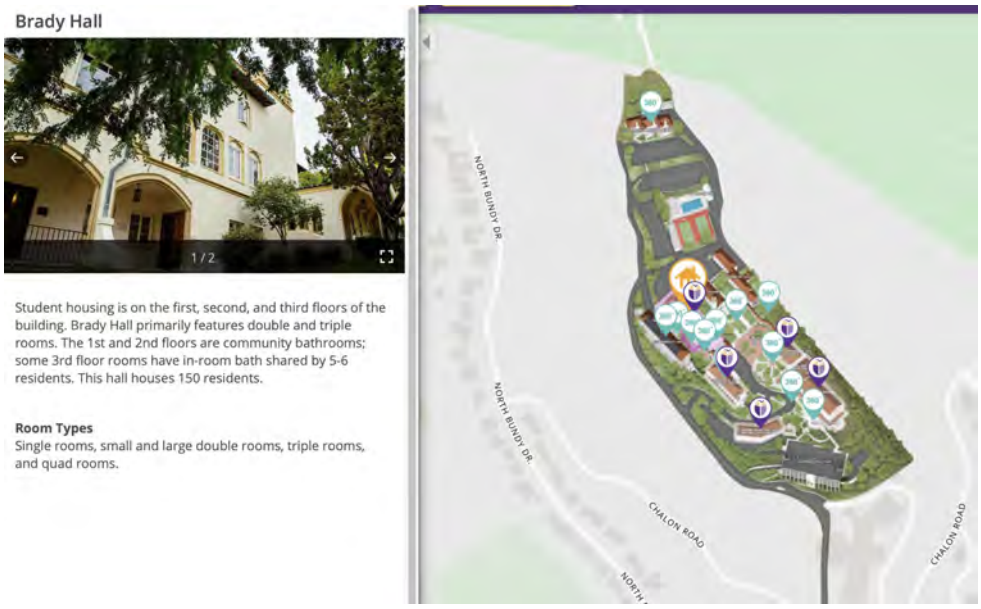


FIGURE 5 – Brady Hall
Source: https://www.msmu.edu/map/

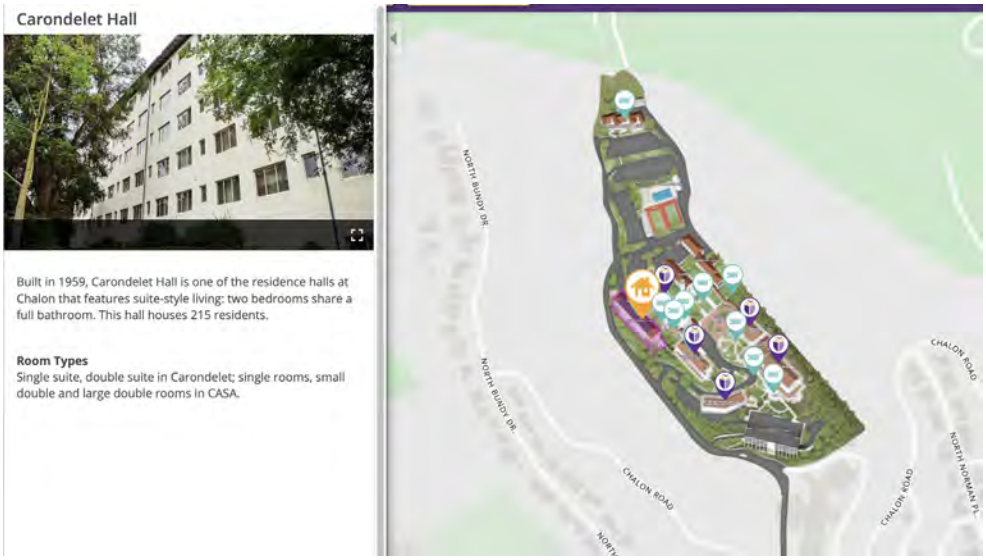


FIGURE 6 – Carondelet Hall
Source: https://www.msmu.edu/map/

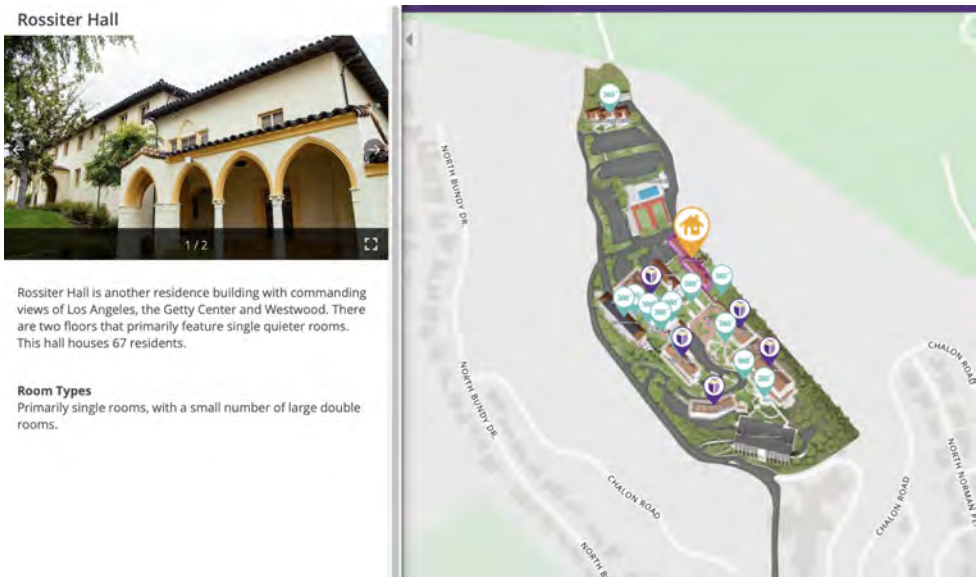


FIGURE 7 – Rossiter Hall
Source: https://www.msmu.edu/map/

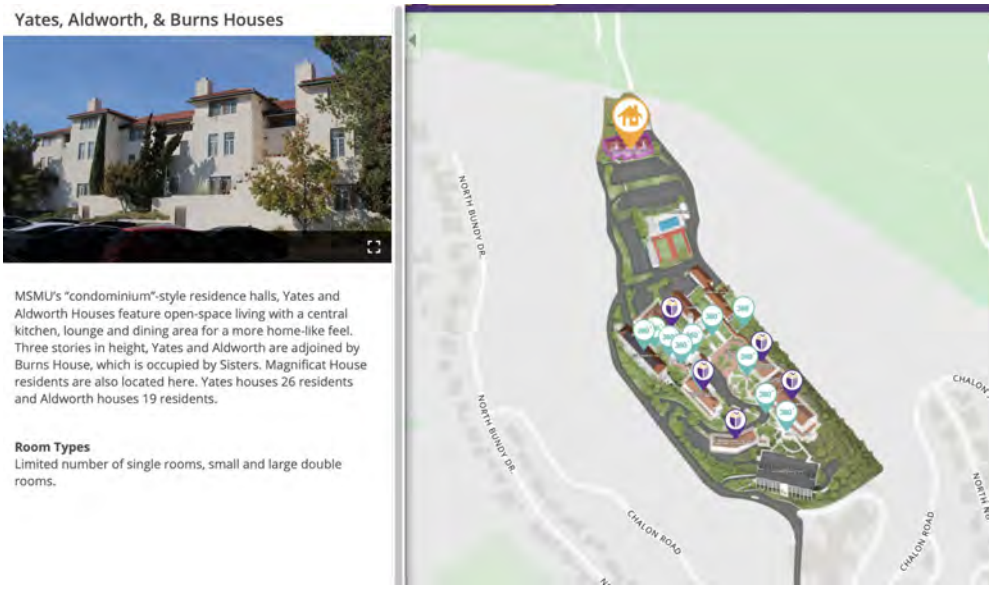


FIGURE 8 – Yates, Aldworth & Burns Houses
Source: https://www.msmu.edu/map/

This means that 1,084 of the 1,561 students are commuter students, who may be more likely to choose evacuation during a fire event. If a wildfire event occurs during Project construction, or while proposed Project facilities are in use or Project events are occurring, construction workers and Project users may choose evacuation over a Shelter in Place strategy, particularly since Project visitors will have received no advance instruction about the strategy, as no such provisions are required in the EIR.

Failure to successfully implement a "Shelter in Place" strategy would result in much more traffic than was analyzed flowing onto the existing street system. The same is true even if construction workers or users of the proposed Project engage in early evacuation. As detailed below, the proposed Project has the potential to contribute to significant cumulative impacts to the street system during a full or partial evacuation.

Problems With the Analysis of Impacts of Construction Activity on Emergency Access and Evacuation - New FEIR Appendix B's analysis of the impacts of the proposed Project and Alternative 5 is fatally flawed because it impermissibly relies on PDFs. (See **Section 3** for more information on this issue). In terms of the impact of construction activity on emergency response and evacuation plans, FEIR page B-10 states:

> The Project and Alternative 5's PDF-TRAF-1 through PDF TRAF-6 (which have been consolidated and expanded into a revised PDF-TRAF-1 for Alternative 5) require the development of a construction traffic management plan. . . The implementation of the construction traffic management plan under both the Project and Alternative 5 would ensure uninterrupted access on external roads to avoid emergency response and evacuation impairment.

Reliance on PDFs renders the analysis invalid. Furthermore, as explained by forensic fire experts, The McMullen Company, Inc., in their comment letter on the DEIR (see **Attachment I**):

> The narrow streets in the area significantly limit the ability of emergency fire apparatus to respond quickly to the University and surrounding homes. Construction traffic only serves to increase the difficulty of emergency apparatus response. The number of "haul trips" during demolition and the number of delivery trips for materials including slow moving concrete trucks traveling up hill will significantly impact traffic and emergency response during those phases of construction. Large trucks cannot simply pull to the right for emergency responding apparatus/vehicles when there is no place on the roadway to pull over.

Problems With the Analysis of Impacts of Operational Activity on Emergency Access and Evacuation - In reaching the conclusion that the operational impacts of the proposed Project and Alternative 5 would not result in a significant impact on emergency response and evacuations, the new Appendix B analysis relies on a functioning "Shelter in Place" strategy. As stated on page B-10 to B-11:

> The Project and Alternative 5 would bring additional outside guests to the Campus to attend events held at the Wellness Pavilion only on those specific days when events are held, but would not increase vehicle trips to the Campus on a daily basis. . . In the event of a wildfire in the vicinity of the Campus, MSMU's Chalon Wildfire Emergency Plan, developed in coordination with LAFD, calls for the implementation of a "shelter in place" policy. . . MSMU's shelter in place protocols would ensure that individuals, including outside guests, are all gathered at a safe location on Campus under the direction and protection of LAFD. . . As such, there

> would be no traffic associated with the Project or Alternative 5 during announced evacuation or shelter in place periods, neither the Project nor Alternative 5 would conflict with the evacuation plans or protocols contained in either the County OAERP or the City Emergency Operations Plan, and impacts would be less than significant. . . Further, as with construction, during operation neither the Project nor Alternative 5 would disrupt access to primary or secondary designated Disaster Routes along I-405, Sepulveda Boulevard, San Vicente Boulevard, or Sunset Boulevard. Nor would operation of either the Project or Alternative 5 impair firefighter vehicular access to the Campus or surrounding neighborhood.

The analysis fails to identify the "safe locations" on Campus where Project visitors would be sheltered. It also does not demonstrate that there are sufficient "safe locations" to house everyone who would be on Campus during Project operations. The EIR fails to demonstrate that the Shelter in Place strategy, which is a de facto PDF/mitigation measure is feasible. CEQA requires mitigation to be feasible. [63]

The analysis assumes behavior at odds with normal commuter behavior during a fire event and that MSMU will successfully implement a "Shelter in Place" strategy, something that is well documented they have failed to do during past fire events. (See discussion in **Section 4.3 and Attachment G**). The analysis thus relies on assumptions which have been proven false.

In addition to increasing fire risk in the area, the proposed Project and Alternative 5 will result in a significant cumulative impact on emergency response and evacuation times in the area should Project users opt to evacuate. Pursuant to CEQA Guidelines Section 15088.5(a)(1), recirculation is required.

Lack of Emergency Access - As shown in **Figures 9 - 12**, the MSMU Campus has only two points of access, the Chalon Main gate at the Campus's southern edge and the Mount St. Mary's Fire Trail, which is an approximately 1.25-mile-long unpaved fire road, located on the northern edge of campus. The Campus thus has only one paved roadway in and out of the Campus, Chalon Road and, as noted by Mr. Rifkin (see **Attachment F**), Chalon Road is accessed from N. Bundy Drive via a sub-standard local road – Norman Place, which is less than 19 feet wide in significant sections.

[63] See CEQA Guidelines Section 15126.4(a)(1): "An EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy."

FIGURE 9 – MSMU and Project Access
Source: https://www.msmu.edu/map/

Chalon Main Entrance

This road serves as the main entrance to Chalon, winding its way up to campus atop the hill. An attendant at the security kiosk can kindly assist visitors on parking and questions concerning the University.

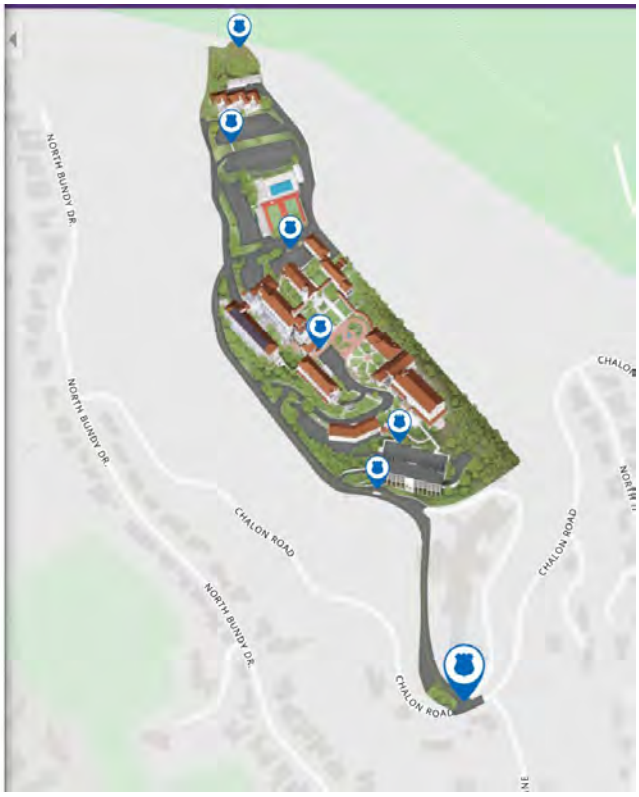


FIGURE 10 – Chalon Main Entrance
Source: https://www.msmu.edu/map/

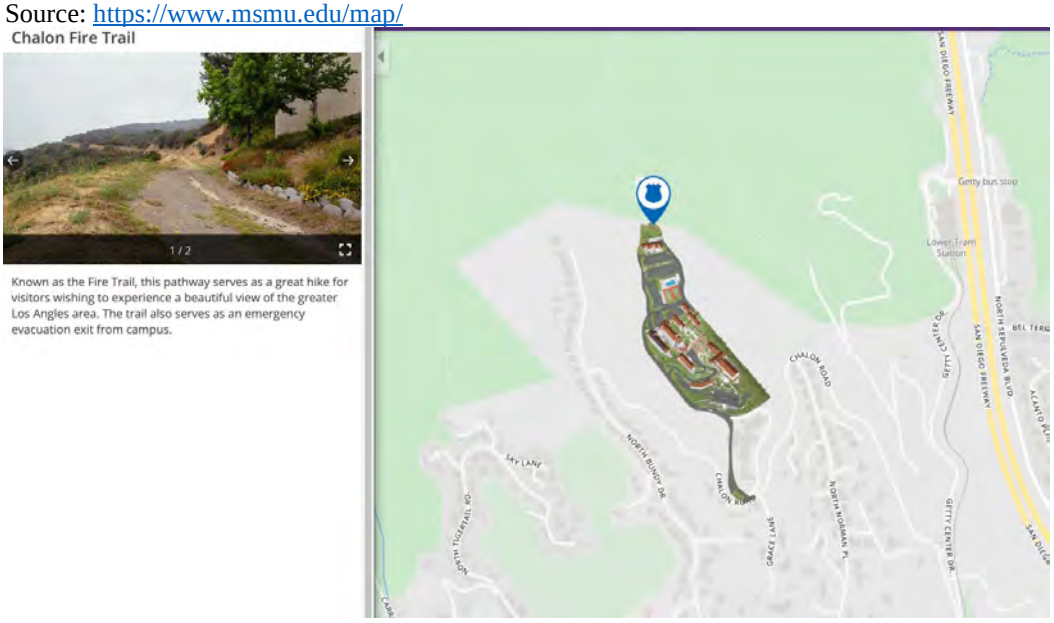


FIGURE 11 – Mount St. Mary's Fire Trail
Source: https://www.msmu.edu/map/

FIGURE 12 – View of the Mount St. Mary's Fire Trail From the West Looking East
Source: GoogleEarth

However, the EIR is incorrect that the Mount St. Mary's Fire Trail can serve as emergency access and an evacuation route. The McMullen Company, Inc., which consists of forensic fire experts,[64] in its comment letter on the DEIR dated June 12, 2018 (see **Attachment I**) states:

> The Draft EIR states, "The Project Site is also accessible by fire emergency vehicles from the Mt. Saint Mary's fire road. The fire road runs between the Campus and the Mountain Gate subdivision to the north of the crest of the Santa Monica Mountains and terminates at the north

[64] https://themcmullencompany.com

> end of the Campus." This dirt fire road is not suitable for any emergency fire apparatus response, nor evacuation by University persons. It is too dangerous to use for vehicular traffic.

As noted in a comment letter on the DEIR from Mountaingate Open Space Maintenance Association, dated June 12, 2018 (**see Attachment J**):

> At V.J.1-18 the Draft EIR states:
>
> > "Evacuation would occur to the east on Chalon Road to Norman Place and via Norman Place to Bundy Drive and to Sunset Boulevard; or to the west on Chalon Road to Bundy Drive and via Bundy Drive to Sunset Boulevard. The Project Site is also accessible by fire emergency vehicles from the Mt. Saint Mary's fire road. The fire road runs between the Campus and Mountain Gate subdivision to the north of the crest of the Santa Monica Mountains and terminates at the north end of the Campus. The fire road provides LAFD access to undeveloped open space areas within the Santa Monica Mountains."
>
> This description is incorrect and/or misleading. The Mount Saint Mary's fire road does not connect to a public street through the Mountaingate Subdivision. The fire road terminates at Stoney Hill Road, which is a private gated street. No public or emergency access is available through Stoney Hills Road connecting to the fire road. . .
> Even if there were access to the Mount Saint Mary's fire road (which there is not), it would not be prudent to add additional evacuation burden through the Mountaingate community. Mountaingate Drive provides the sole in and out access for over 300 households. It connects only to Sepulveda Boulevard, which is already a very constrained and over-burdened corridor in the confined and fire-vulnerable Sepulveda Pass. If there is a large fire that affects multiple communities, additional evacuation burden would interfere with Mountaingate's ability to effect its own orderly evacuation.

In summary, according to the comment letter from Mr. Rifkin, PE on the FEIR (see **Attachment F)**:

> There are four problems with the assumption in the EIR that there is available secondary emergency access via the Mount Saint Mary's fire road: (1) access via the Mountaingate private community can only be guaranteed if rights of access are negotiated and approved by Mountaingate, and the other private property owners whose roadways MSMU would need to traverse: (2) the Mountaingate Open Space Maintenance Association (MOSMA) indicated in their comment letter dated June 12, 2018 that the fire road does not connect to a public street through the Mountaingate Subdivision - the fire road terminates at Stoney Hill Road, which is a private gated street and no public or emergency access is available through Stoney Hill Road connecting to the fire road;

> (3) MOSMA indicated in their comment letter dated June 12, 2018 that even if there were access to the Mount Saint Mary's fire road (which there is not), it would not be prudent to add additional evacuation burden through the Mountaingate community as Mountaingate Drive provides the sole in and out access for over 300 households and connects only to Sepulveda Boulevard, which is already a very constrained and over-burdened corridor in the confined and fire-vulnerable Sepulveda Pass. (4) the McMullen Company, Inc. which consists of forensic fire experts, indicated in their comment letter on the DEIR dated June 12, 2018 that the dirt fire road is not suitable for any emergency fire apparatus response, nor evacuation by University persons – it is too dangerous to use for vehicular traffic. Alternative access via the Mount Saint Mary's fire road should therefore not be assumed. There is only one viable access point to the University.

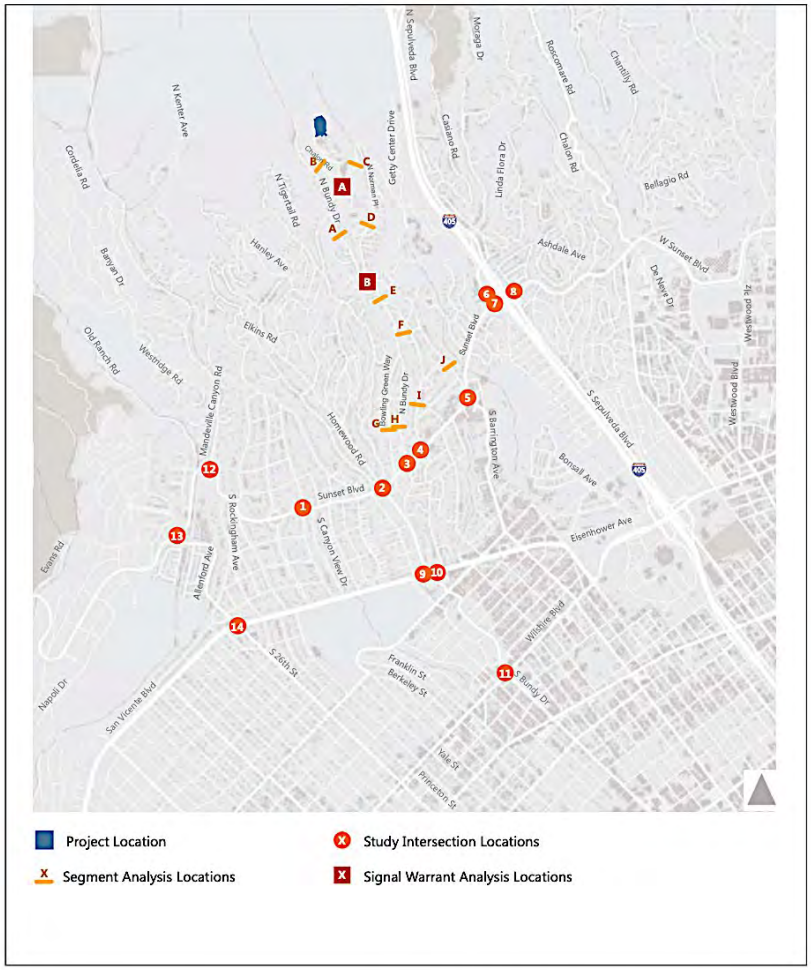
In the event of a wildfire, Project users would likely join some of the faculty, students and staff in evacuating the Campus via the single access point to the Campus, Chalon Road, should they opt not to "Shelter in Place." Project users are more likely to evacuate since no provision has been made for educating Project users on Campus fire safety protocols and they are not Campus residents. The proposed Project would thus result in cumulative emergency evacuation impacts on Campus faculty, staff, students and area residents and exacerbate the existing lack of adequate functional evacuation routes. This would be a significant cumulative impact of the proposed Project. Pursuant to CEQA Guidelines Section 15088.5(a)(1) recirculation is required.

Designed Disaster Routes - As noted on FEIR page B-9: "The closest County-designated primary (i.e. freeway) Disaster Route to the Project Site is I-405, and the closest secondary (i.e. street) Disaster Routes are Sepulveda Boulevard and San Vicente Boulevard.[65] City-designed Disaster Routes in the vicinity of the Campus include these same County Disaster Routes, **along with Sunset Boulevard**.[66] No County or City-designated Disaster Routes border the Campus." (Emphasis added).

Street Segments and Intersections Analyzed in the Traffic Study - The locations of intersections and neighborhood street segments studied in the EIR are provided in **Figure IV.K-1** of the DEIR, which is reproduced below:

[65] https://dpw.lacounty.gov/dsg/DisasterRoutes/

[66] City of Los Angeles General Plan Safety Element – Critical Facilities and Lifeline Systems, Exhibit H, November 26, 1996.



SOURCE: Fehr & Peers, 2017

Mount Saint Mary's University Chalon Campus Wellness Pavilion Project

Figure IV.K-1
Traffic Study Area and Analyzed Intersection Locations

DEIR pages IV.K-5 to IV-K.9 describe the street system in the project vicinity and highlight the project's location in an area served by narrow residential, often hillside streets:

> Regional access to and from the Campus is provided by the I-405 Freeway, approximately 0.4 miles east of the Project Site or approximately three miles via City streets southeast of the Project Site. The Campus is located on Chalon Road between Bundy Drive and Norman Place. The Project Site comprises approximately 3.8 acres within the existing developed areas in the northern portion of the Campus. The Campus is within the City of Los Angeles's Brentwood neighborhood, which is primarily developed with single-family residential uses.
>
> Listed below are the primary freeway and streets that provide regional and local access to the Study Area. Major arterials serving the Study Area include Sunset Boulevard, San Vicente Boulevard, and Wilshire Boulevard in the east/west direction, and Bundy Drive, Barrington

Avenue, and Sepulveda Boulevard in the north/south direction. Sunset Boulevard is the primary connecting street between the I-405 Freeway and Bundy Drive.

In an effort to equally distribute vehicles travelling to and from the Campus via Sunset Boulevard, separate ingress and egress routes have been established. To access the Campus, drivers travel from Sunset Boulevard to Bundy Drive to Norman Place to Chalon Road. To leave the Campus, drivers travel from Chalon Road, south on Bundy Drive to Sunset Boulevard. To ensure the egress route is followed, a "Right Turn Only" sign is installed at the intersection of Chalon Road and Grace Lane, which is the entrance to the Campus.
The characteristics of the roadways serving the Study Area are discussed below.

(i) Streets

(a) East/West Streets

The east/west streets in the Study Area include:

- **Chalon Road** is designated as a Local Street in the Study Area and provides driveway access to the Campus. Vehicle access to the Campus is provided via an existing driveway on Chalon Road. Left turns are restricted out of the Campus at Chalon Road. Chalon Road provides one lane in each direction and on-street parking on both sides of the road between Norman Place and the Campus driveway. Between the Campus driveway and Bundy Drive, parking is restricted on both sides of Chalon Road.
- **San Vicente Boulevard** is designated as an Avenue II in the Study Area, approximately 2 miles south of the Project Site. In the Study Area, San Vicente Boulevard provides two through lanes in each direction with left-turn channelization at most signalized intersections. The roadway is divided by a raised 40-foot wide median. A bike lane is provided on both sides of the street as well as metered parking. San Vicente Boulevard is part of the Bicycle Enhanced Network and Pedestrian Enhanced District.
- **Sunset Boulevard** is designated as an Avenue I in the Study Area, approximately 1.5 miles south of the Project Site (as the crow flies). In the Study Area, Sunset Boulevard provides two through lanes in each direction and left-turn channelization at most signalized intersections. Parking is prohibited along Sunset Boulevard through signage or red curbs in the Study Area.
- **Wilshire Boulevard** is designated as a Boulevard II in the Study Area approximately 2.8 miles south of the Project Site. In the Study Area, Wilshire Boulevard provides two through lanes in each direction during the AM and PM peak periods. Curb-side metered parking is provided on both sides of Wilshire Boulevard

in the Study Area, except from 7:00 AM to 9:00 AM and 4:00 PM to 7:00 PM, when the parking lanes become bus-only lanes. In the Study Area, Wilshire Boulevard is part of the Transit Enhanced Network, Tier 2 Bicycle Lane Network, and Pedestrian Enhanced District.

(b) North/South Streets

- **Allenford Avenue/26th Street** is a Collector Street approximately 3 miles southwest of the Project Site. In the Study Area, Allenford Avenue/26th Street provides one through lane in each direction and provides on-street parking except near the Paul Revere Charter Middle School.
- **Barrington Avenue** is designated as a Local Street north of Sunset Boulevard and an Avenue II south of Sunset Boulevard. Barrington Avenue is approximately 2 miles southeast of the Project Site. In the Study Area, Barrington Avenue provides one through lane in each direction. Parking is generally provided on both sides of the street in the Study Area. A portion of Barrington Avenue is part of the Pedestrian Enhanced District south of Sunset Boulevard.
- **Benmore Terrace** is designated as a Local Street in the Study Area and connects Bundy Drive and Saltair Avenue. Benmore Terrace provides one lane in each direction and on-street parking is not permitted.
- **Bundy Drive** is a Collector Street south of Sunset Boulevard and a local street north of Sunset Boulevard in the Study Area. Bundy Drive provides one through lane in each direction. On-street parking is permitted on both sides of the street north of Sunset Boulevard, except between Chalon Road and Norman Place where on-street parking is provided on the west side of the road but restricted on the east side. Two-hour parking is provided on both sides of Bundy Drive south of Kenter Avenue. A portion of Bundy south of Montana Avenue is part of the Transit Enhanced Network, Neighborhood Enhanced Network, Tier 3 Bicycle Lane Network, and Pedestrian Enhanced District.
- **Bowling Green Way** is a Local Street in the Study Area. Bowling Green Way provides one through lane in each direction and on-street parking is permitted on both sides of the street.

It is noteworthy that this discussion from the DEIR fails to provide a detailed description of Norman Place. The DEIR thus fails to indicate that the Campus is served by a substandard roadway which is less than 19 feet wide in significant sections or to consider this fact in the analysis. As a result, the discussion of potential emergency access impacts is fatally flawed.

The proposed Project would introduce new ignition sources and development in a Very High Fire Hazard Severity Zone on a Campus with inadequate emergency access and would

result in significant unmitigable intersection and neighborhood roadway impacts, which would affect both Campus and residential access in the area. The proposed project would result in significant cumulative wildfire-related impacts, including emergency access and evacuation time impacts.

Significant Unavoidable Project Traffic Impacts During Construction – According to the EIR, during construction the Project would result in the following significant and unavoidable traffic impacts on the following three (3) neighborhood street segments during construction - **after consideration of PDF-TRAF-1 to PDF-TRAF-6** and with MM-BIO-2:

- Street Segment A: Bundy Drive north of Norman Place
- Street Segment B: Chalon Road west of Bundy Drive
- Street Segment H: Bundy Drive north of Sunset Boulevard

Significant Cumulative Emergency Access and Evacuation Impacts During Construction - As can be seen from **Figure IV.K-1**, these significant unavoidable construction neighborhood street segment impacts would impede use of Bundy Drive as an evacuation route during a wildfire event, if the wildfire occurred during the hours of construction. The proposed Project would result in a significant unmitigated cumulative emergency access and a significant cumulative evacuation time impact of the proposed Project during construction, neither of which have been identified in the EIR. Any other conclusion would defy common sense. Pursuant to CEQA Guidelines Section 15088.5(a)(1) and (2) the EIR must be revised and recirculated.

Significant Unavoidable Project Traffic Impacts During Operation - Even with the underestimation of trip generation resulting from application of PDFs (see discussion in **Section 2.5.1**), the DEIR for the proposed project identified significant unmitigated Project intersection and roadway impacts during operation. During operation, the Project would result in the following significant and unavoidable impacts at Study Area intersections and neighborhood street segments - **after consideration of PDF-TRAF-7 to PDF-TRAF-8**. The magnitude of these impacts has therefore been understated in the EIR:

Under Existing (2016) plus Project Conditions (School Year), the Project would result in significant and unavoidable impacts at the following three Study Area intersections:

- Intersection No. 3: Bundy Drive & Sunset Boulevard (5:00 to 6:00 PM and 6:00 to 7:00 PM)
- Intersection No. 4: Saltair Avenue & Sunset Boulevard (5:00 to 6:00 PM and 6:00 to 7:00 PM)
- Intersection No. 5: Barrington Avenue & Sunset Boulevard (5:00 to 6:00 PM and 6:00 to 7:00 PM)

Under Existing (2016) plus Project Conditions (Summer), the Project would result in significant and unavoidable impacts at the following two Study Area intersections:

- Intersection No. 3: Bundy Drive & Sunset Boulevard (3:00 to 4:00 PM)
- Intersection No. 5: Barrington Avenue & Sunset Boulevard (3:00 to 4:00 PM)

Under Future Baseline (2020) plus Project Conditions (School Year) the Project would result in significant and unavoidable impacts at the following four Study Area intersections:

- Intersection No. 3: Bundy Drive & Sunset Boulevard (5:00 to 6:00 PM and 6:00 to 7:00 PM)
- Intersection No. 4: Saltair Avenue & Sunset Boulevard (5:00 to 6:00 PM and 6:00 to 7:00 PM)
- Intersection No. 5: Barrington Avenue & Sunset Boulevard (all peak hours)
- Intersection No. 7: Church Lane & Sunset Boulevard (AM peak hour)

Under Future Baseline (2020) plus Project Conditions (Summer) the Project would result in significant and unavoidable impacts at the following three Study Area intersections:

- Intersection No. 3: Bundy Drive & Sunset Boulevard (3:00 to 4:00 PM)
- Intersection No. 4: Saltair Avenue & Sunset Boulevard (3:00 to 4:00 PM)
- Intersection No. 5: Barrington Avenue & Sunset Boulevard (AM peak hour and 3:00 to 4:00 PM)

Under Existing (2016) plus Project Conditions (School Year) and Future Baseline (2020) plus Project (School Year) conditions, the Project would result in significant and unavoidable impacts at the following three neighborhood street segments:

- Street Segment B: Chalon Road east of Bundy Drive
- Street Segment C: Chalon Road west of Norman Place
- Street Segment D: Norman Place north of Bundy Drive

Under Existing (2016) plus Project Conditions (Summer) and Future Baseline (2020) plus Project (Summer) conditions, the Project would result in significant and unavoidable impacts at the following six neighborhood street segments:

- Street Segment A: Bundy Drive north of Norman Place
- Street Segment B: Chalon Road east of Bundy Drive
- Street Segment C: Chalon Road west of Norman Place
- Street Segment D: Norman Place north of Bundy Drive
- Street Segment E: Bundy Drive north of Saltair Avenue
- Street Segment H: Bundy Drive north of Sunset Boulevard

Significant Project Cumulative Emergency Access and Evacuation Impacts During Operation - The locations of the intersections and street segments unavoidably impacted by Project traffic are shown on **Figure IV.K-1**. As can be seen from **Figure IV.K-1**, project traffic would significantly impact the use of Sunset Boulevard, a major arterial and City-designated disaster route used by hillside residents seeking to access the I-405 Freeway during a wildfire event. It would also significantly impact use of local roadways in the Bundy Drive and Chalon Road area by residents and fire equipment, should a wildfire occur during project operations and if Project users do not "Shelter in Place." As discussed more fully in **Section 4.3** and **Attachment G**, MSMU has been unsuccessful in implementing a "Shelter in Place" strategy or timely evacuations during past wildfire events. The potential for the proposed Project's (and Alternative 5's) impact on emergency access and evacuation times to be cumulatively considerable, when combined with that of past, present and reasonably foreseeable future projects, remains. Pursuant to CEQA Guidelines Section 15088.5(a)(1) and (2) the EIR must be corrected and recirculated.

While the impacts of the proposed Project on the exacerbation of wildfire-related hazards may be individually limited, the Project's and Alternative 5's incremental effects are cumulatively considerable, when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects on the exacerbation of wildfire hazards and interference with emergency access and evacuation times. The proposed Project and Alternative 5 would therefore result in significant cumulative impacts in the form of the exacerbation of wildfire hazards, the inhibition of emergency access, and the increasing of evacuation times in the area. The proposed Project would also result in a significant Project impact on emergency access and evacuation times in the area as a result of Project impacts on intersections and roadway segments used during evacuations and emergency access.

These are impacts which were not analyzed in the DEIR for the proposed project. The fact that the City has waited until the FEIR stage of the CEQA process to address potential wildfire-related impacts, has precluded meaningful public review and comment on the new analysis hidden in new FEIR Appendix B. The fact that public review is necessary is illustrated by the comments in this letter, which demonstrated that the proposed Project will result in wildfire-related impacts, and that there are substantial problems with the new wildfire analysis added to the FEIR. Pursuant to CEQA Guidelines Section 15088.5(a)(1) and (4) recirculation of the EIR is required.

2.6 <u>The Future Plus Project Buildout Year in the EIR is 2020</u>

The fact that the EIR is a stale document is further evidenced by the fact that the EIR uses 2020 as the future plus project buildout year in the Traffic Analysis. It is currently July of 2021 and the proposed Project is still going through the approval process. As noted by Mr. Rifkin, PE, a respected Traffic Engineer and the former Chief of the Los Angeles Department of Transportation's Bureau of Planning and Land Use Development (see Attachment F):

> It is clear that the requisite future traffic analysis, which must use future background traffic as well as the proposed project traffic, utilizes the forecast of background traffic for the year 2020. It is now mid-year 2021 and the project has not been built, nor approved. Under the project description, the construction period for the project is for 20 months, hence a two-year future traffic forecast must be analyzed – for the year 2023. That analysis must be published and provided for community review prior to certification of the Final EIR.

Use of 2020 as the buildout year has clearly skewed and resulted in an inaccurate analysis, which is inconsistent with the findings of Traffic Studies for other projects in the vicinity.

3. THE EIR UNDERSTATES IMPACTS BECAUSE IT IMPROPERLY RELIES ON PROJECT DESIGN FEATURES (PDFS)

As explained on page II-42 of the DEIR:

> The Applicant proposes to implement a number of Project Design Features (PDFs). The Project Design Features would be included in the

> Mitigation Monitoring Program required in association with certification of the EIR. The Project Design Features are summarized in **Table II-5**, *Summary of Project Design Features*, and are discussed in detail in the technical sections indicated in the table. **The Project Design Features were taken into account in the analysis of potential Project impacts**. (Emphasis added)

It is clear from the impact analyses in the DEIR, that the impact judgements in the EIR are after-implementation-of-the-PDFs. This is evident from an examination of DEIR Table ES-1 – Summary of Project Impacts, Project Design Features, and Mitigation Measures, included as **Attachment K** to this letter, as well as the EIR as a whole. For example, Table ES-1 on page S-16 of the DEIR makes clear that operational light and glare impacts were classified as less than significant because the analysts considered PDFs in the impact analysis, thus improperly identifying impacts as less than significant and with no mitigation required, stating:

> **LIGHT AND GLARE:** Construction of the Project would not create a new source of substantial light which would adversely affect day or nighttime views in the area. Impacts with respect to construction lighting would be less than significant. **With implementation of PDFD-AES-1, the Project would not create a new source of substantial light which would adversely affect day or nighttime views in the area. Impacts with respect to operational lighting would be less than significant.** (sic)
>
> Construction activities would not result in large expanses of flat, shiny surfaces that would reflect sunlight or cause other natural glare. Impacts with respect to construction glare would be less than significant**. Operational impacts related to daytime or nighttime glare would be less than significant with implementation of PDF-AES-1 and PDF-AES-2.** (Emphasis added).

PDF-AES-1 and PDF-AES-2 however, are clearly mitigation measures as they are project-specific measures designed to reduce or avoid impacts:

> **PDF-AES-1** - Outdoor lighting, including walkway security lighting, plaza lighting, and lighting for the parking deck, shall be designed and installed with shielding, such that the light source cannot be seen from residential properties in the area, or the off-site public right-of-way.
>
> **PDF-AES-2** - Glass used in building facades shall minimize glare (e.g., minimize the use of glass with mirror coatings). Consistent with applicable energy and building code requirements, including Section 140.3 of the California Energy Code as may be amended, glass with coatings required to meet the Energy Code requirements shall be permitted. Prior to issuance of a building permit, the City of Los Angeles

> Department of Building and Safety (LADBS) shall review the exterior building materials to confirm that they do not exceed the reflectivity of standard building materials, and would not cause significant glare impacts on motorists or nearby residential uses.

The EIR includes aesthetic, air quality, biological resource, geology, greenhouse gas emissions, hydrology and water quality, and transportation PDFs. While several of the PDF are standard regulatory measures, or include components that are regulatory measures, the PDFs are, for the most part, clearly measures intended to mitigate, minimize or avoid impacts. The way the EIR has relied on PDFs in making impact judgements is contrary to the requirement that project impact significance determinations under CEQA be made without consideration of mitigation measures.

The EIR for the proposed project thus understates Project impacts, by improperly relying on PDFs which are in fact mitigation measures, as a basis for concluding that Project impacts are less than significant. In *Lotus vs. Department of Transportation* (2014) 223 Cal.App.4th 645 (Lotus), the court found that an EIR violated CEQA by incorporating proposed mitigation measures into the description of the project, and then basing its conclusion of less-than-significant impacts in part on those mitigation measures. This is exactly what has been done in the EIR for the proposed Project. The court found that this improperly compressed the analysis of impacts and mitigation measures into a single issue.

In *Lotus v. Dep't of Transp.* (2014) 223 Cal.App.4th 645 (Lotus), Caltrans was found to have certified an insufficient EIR based on its failure to properly evaluate the potential impacts of a highway project. The *Lotus* court found that Caltrans erred by:

> . . . incorporating the proposed mitigation measures into its description of the project and then concluding that any potential impacts from the project will be less than significant. As the trial court held, the "avoidance, minimization and/or mitigation measures," as they are characterized in the EIR, are not "part of the project." They are mitigation measures designed to reduce or eliminate the damage to the redwoods anticipated from disturbing the structural root zone of the trees by excavation and placement of impermeable materials over the root zones. By compressing the analysis of impacts and mitigation measures into a single issue, the EIR disregards the requirements of CEQA. (*Lotus v. Dep't of Transp., supra,* 223 Cal.App.4th at pp. 655–656, emph. added.

The court ordered Caltrans' certification of the EIR be set aside, finding:

> [T]his shortcutting of CEQA requirements subverts the purposes of CEQA by omitting material necessary to informed decisionmaking and informed public participation. It precludes both identification of potential environmental consequences arising from the project and also thoughtful

> analysis of the sufficiency of measures to mitigate those consequences. The deficiency cannot be considered harmless. *Ibid*.

(*Id*. at 658.)

As documented in the succeeding discussion, the analysis of both the proposed Project and Alternative 5 are fatally flawed because many of the PDFs are in fact mitigation measures. The EIR thus understates impacts in a way that is far more extreme than what happened in *Lotus*. Under CEQA, significance determinations must be made without consideration of avoidance, minimization, and/or mitigation measures. The EIR for the proposed Project has violated this precept and has thus understated and failed to identify impacts. The EIR is therefore fatally flawed. This must be corrected and the EIR recirculated pursuant to CEQA Guidelines Section 15088.5(a)(1), (2) and (4).

In addition, a number of the PDFs do not comply with CEQA requirements that mitigations measures must be feasible and enforceable, that the EIR must identify any uncertainty in the effectiveness of the measures proposed, and that mitigation cannot be improperly deferred. As explained by the court in ***King and*** *Gardiner Farms v. County Kern* (2020) 45 Cal.App.5th 814 (2020):

> The mitigation measures discussed in the EIR should be feasible. (Guidelines, § 15126.4, subd. (a); see Guidelines, § 15364 [definition of feasible].) . . .
>
> CEQA defines the term " '[f]easible' " as meaning "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (§ 21061.1; see § 21081, subd. (a)(3) [necessary findings relating to mitigation measures or alternatives].) The guidelines add "legal" factors to the list. (Guidelines, § 15364; see *City of Marina v. Board of Trustees of California State University* (2006) 39 Cal.4th 341, 356.) . . .
>
> CEQA imposes several requirements on mitigation measures. Section 21081.6, subdivision (b) provides: "A public agency shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures ...." Similarly, Guidelines section 15126.4, subdivision (a)(2) states: "Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments." The responsibility of the public agency does not end with simply imposing enforceable mitigation measures. "The public agency shall adopt a reporting or monitoring program

> for the ... conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment." (§ 21081.6, subd. (a)(1).) The purpose of a monitoring program is to ensure compliance with the mitigation measures imposed as conditions of the project approval.
>
> The absence of specific performance criteria and a commitment by the County leads to the conclusion that the provisions in MM . . . are not "fully enforceable through permit conditions, agreements, or other legally-binding instruments." (Guidelines, § 15126.4, subd. (a)(2).) . . .
>
> The requirement for a description of the mitigation is based on the general rule that "an EIR is required to provide the information needed to alert the public and the decision makers of the significant problems a project would create and *to discuss currently feasible mitigation measures*." (*Sierra Club v. County of Fresno, supra*, 6 Cal.5th at p. 523.) The discussion provided must contain facts and analysis, rather than the agency's bare conclusions or opinions. (*Id*. at p. 522.) Whether the facts and analysis included in the EIR's discussion of currently feasible mitigation measures are sufficient to comply with CEQA depends on "whether the EIR includes enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.' [Citations.] The inquiry presents a mixed question of law and fact. . .
>
> Our conclusions that the EIR must identify and explain the uncertainty in the effectiveness of the mitigation measures proposed is a specific application of the general principles governing the discussion of mitigation measures. To fulfill its informational role, an "EIR must contain facts and analysis" (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 935). Uncertainty in the extent a measure will be effective, as well as the reasons for that uncertainty, are important facts that should be disclosed to the public and decision makers.
>
> "[A]n EIR is required to provide the information needed to alert the public and the decision makers of the significant problems a project would create and *to discuss currently feasible mitigation measures*." (*Sierra Club v. County of Fresno*, *supra*, 6 Cal.5th at p. 523.) To fulfill the EIR's informational role, the discussion of the

> mitigation measures must contain facts and analysis, not bare conclusions and opinions. (*Id.* at p. 522.) The level of detail CEQA requires in the EIR's discussion of facts and analysis of the mitigation measures depends on "whether the EIR includes enough detail 'to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.' " (*Sierra Club v. County of Fresno, supra,* at p. 516.) . . .
>
> Even if particular technologies and techniques had been identified and described in the EIR, this statement leaves the reader wondering if an applicant would be required to commit to any measures in its application or, alternatively, whether the applicant could omit those measures from its application because they were beyond the County's authority or control. . . .
>
> This "noncompliance with the information disclosure" requirements of CEQA "preclude[d] relevant information from being presented to the public agency" and the public. (§ 21005, subd. (a).) It constitutes a prejudicial violation of CEQA by itself and supports the conclusion that the failure of the mitigation measures to comply with the general rules against deferred formulation was prejudicial.

3.1 Misuse of Project PDFs

The DEIR included a number of PDFs for the proposed Project.[67] Several of these PDFs were modified in response to comments – further illustrating their purpose as mitigation measures.

3.1.1 Project PDFs are Clearly Mitigation Measures

Each of the PDFs considered in the impact analysis for the proposed Project are quoted below, along with the deletions shown in strikethrough and additions shown in underline, as provided on pages III-18 to III-27 of the FEIR. Comments are provided following each PDF to explain how the treatment of these mitigations as PDFs has resulted in an inaccurate impacts assessment in the EIR and to document their misuse in the impact analysis:

> **PDF-AES-1**: Outdoor lighting, including walkway security lighting, plaza lighting, and lighting for the parking areas, shall be designed and installed with shielding, such that the light source cannot be seen from residential properties in the area, or the off-site public right-of-way.

The PDF-AES-1 is a Mitigation Measure – PDF-AES-1 is clearly intended to avoid, minimize, and/or mitigate light impacts of the proposed project. Use of this PDF has resulted in

[67] See Table II-5 starting on page II-42 of the DEIR.

a failure to identify a significant light impact of the proposed Project. See discussion in **Section 3** above. The EIR does not explain how compliance with this measure will be assessed or demonstrate that it is feasible. The PDF does not provide a sufficient standard to ensure that both outdoor and indoor light spillage will be less than significant. The EIR fails to provide sufficient detail on the outdoor lighting design to know if there will be lighting impacts, especially with regard to spectrum, and does not provide standards to ensure that light-related biological resource impacts, which the EIR fails to address, will be mitigated to a level which will not affect biological resources.

> **PDF-AES-2**: Glass used in building facades shall minimize glare (e.g., minimize the use of glass with mirror coatings). Consistent with applicable energy and building code requirements, including Section 140.3 of the California Energy Code as may be amended, glass with coatings required to meet the Energy Code requirements shall be permitted. Prior to issuance of a building permit, the City of Los Angeles Department of Building and Safety (LADBS) shall review the exterior building materials to confirm that they do not exceed the reflectivity of standard building materials, and would not cause significant glare impacts on motorists or nearby residential uses.

The PDF- AES-2 is a Mitigation Measure - – PDF-AES-1 is clearly intended to avoid, minimize, and/or mitigate glare impacts of the proposed project. See discussion in **Section 3** above. Use of this PDF has resulted in a failure to identify a glare impact of the proposed Project. The PDF does not provide a sufficient standard to ensure that indoor light spillage will be less than significant.

Given the amount of glass included in the design of both the proposed Project and Alternative 5, interior light spillage is likely to impact aesthetics and biological resources. As explained by Longcore and Rich (see **Attachment O**), the indoor area has walls of glass without any window coverings. The EIR doesn't consider the indoor lighting that will be visible through the walls of glass. The proposed facility would be a major light source when illuminated to indoor lighting standard levels, under either Alternative 5 or the proposed Project. This would result in an off-site aesthetic impact. Similarly, a big lighted glass structure like this has the unintended consequence of attracting and killing birds. Lighting is also a deterrent to wildlife movement for larger mammals including the mountain lion. Spillage of indoor lighting can also affect insects, which in turn affects pollination and bats.

> **PDF AQ-1:** The project shall comply with applicable CalGreen requirements regarding the number of EV Ready and EV Capable parking spaces ~~include at least 20 percent of the total code required parking spaces provided for all types of parking facilities, but in no case less than one location, shall be capable of supporting future electric vehicle supply equipment (EVSE)~~. Plans shall indicate the proposed type and location(s) of EVSE and also include raceway method(s), wiring schematics and electrical calculations to verify that the electrical system has sufficient capacity to simultaneously charge all electric vehicles at all designated EV charging locations at their full rated amperage. Plan design shall be based upon Level 2 or greater EVSE at its maximum operating capacity. ~~Of the 20 percent EV Ready, 5 percent of the total code required parking spaces shall be further provided with EV chargers to immediately accommodate electric~~

~~vehicles within the parking areas~~. When the application of the CalGreen requirement ~~either the 20 percent or 5 percent~~ results in a fractional space, round up to the next whole number. A label stating "EV CAPABLE" shall be posted in a conspicuous place at the service panel or subpanel and next to the raceway termination point.

The PDF-AQ-1 is a Mitigation Measure - PDF-AQ-1 is clearly intended to avoid, minimize, and/or mitigate air quality and greenhouse gas impacts. The PDF as it appears in the DEIR predated the 2019 California Green Building Standards Code ("CALGreen", Title 24, Part 11) standards that require that new construction and major alterations include adding "EV Capable" parking spaces which have electrical panel capacity, a dedicated branch circuit and a raceway to the EV parking spot to support future installation of charging stations. The 2019 standards for non-residential uses are shown in **Figure 13**.

Nonresidential

Total Number of Parking Spaces	Required Number of Parking Spaces to be "EV Capable"	Optional Tier 1 Number of Parking Spaces to be "EV Capable"	Optional Tier 2 Number of Parking Spaces to be "EV Capable"
0-9	0	1	1
10-25	1	2	2
26-50	2	3	4
51-75	4	5	6
76-100	5	7	9
101-150	7	10	12
151-200	10	14	17
201	6% of total	8% of total	10% of total

FIGURE 13 – Non Residential EV Standards Per 2019 CalGreen Code
Source: https://www.cityofsacramento.org/-/media/Corporate/Files/CDD/Building/Sacramento-Streamline/EV-Infrastructure-Reqs-in-CALGreen-Building-Code_April-2020.pdf?la=en

It therefore appears that the EV charging station requirements in **PDF-AQ-1** have been reduced in the FEIR to match code requirements implemented after circulation of the DEIR. Any analysis that relied on the DEIR version of PDF-AQ-1 is now invalid, since they relied on greater provision of EV charging stations. The EIR fails to demonstrate that this level of mitigation will feasibly reduce impacts to a level which is less than significant.

PDF AQ-2: Natural light would be incorporated in the design of the main building spaces using large expanses of glass and skylights.

The PDF-AQ-2 is a Mitigation Measure - PDF-AQ-2 is clearly intended to avoid, minimize, and/or mitigate greenhouse impacts of the proposed project. Pages IV.B-27 to IV.B-27 of the DEIR list the PDFs applied to the air quality analysis. Footnote 32 on page IV.B-27 indicates that PDF-AQ-8 is "is not required to reduce any significant air quality impact(s) below an applicable impact threshold and would only be implemented when the use of electricity from

power poles and/or solar-powered generators is available and feasible, as determined by the construction contractor." No such footnote is provided for PDF-AQ-2, thus indicating that the PDF was required to reduce significant air quality impact(s) below an applicable impact threshold. As worded PDF AQ-2 represents improper deferral of mitigation.

PDF AQ-3: Installation of an interior light system that would be able to sense the amount of natural light available and automatically adjust the amount of artificial light needed.

The PDF-AQ-3 is a Mitigation Measure - PDF-AQ-3 is clearly intended to avoid, minimize, and/or mitigate air quality, greenhouse gas and energy impacts of the proposed project. Footnote 32 on page IV.B-27 indicates that PDF-AQ-8 is "is not required to reduce any significant air quality impact(s) below an applicable impact threshold and would only be implemented when the use of electricity from power poles and/or solar-powered generators is available and feasible, as determined by the construction contractor." No such footnote is provided for PDF-AQ-3, thus indicating that the PDF was required to reduce significant air quality impact(s) below an applicable impact threshold. Use of this PDF has resulted in an underestimation of air quality, greenhouse gas and energy impacts. As worded PDF AQ-3 represents improper deferral of mitigation.

PDF AQ-4: High efficiency, low-e insulated glass units would be used for the Project.

The PDF-AQ-4 is a Mitigation Measure - PDF-AQ-4 is clearly intended to avoid, minimize, and/or mitigate air quality, greenhouse gas and energy impacts of the proposed project. Footnote 32 on page IV.B-27 indicates that PDF-AQ-8 is "is not required to reduce any significant air quality impact(s) below an applicable impact threshold and would only be implemented when the use of electricity from power poles and/or solar-powered generators is available and feasible, as determined by the construction contractor." No such footnote is provided for PDF-AQ-4, thus indicating that the PDF was required to reduce significant air quality impact(s) below an applicable impact threshold. Use of this PDF has resulted in an underestimation of the project's impacts in these areas. As worded PDF AQ-4 represents improper deferral of mitigation.

PDF AQ-5: The Project roof would be single-ply to reflect solar heat and reduce heat absorption into the building.

The PDF-AQ-5 is a Mitigation Measure - PDF-AQ-5 is clearly intended to avoid, minimize, and/or mitigate air quality, greenhouse gas and energy impacts of the proposed project. Footnote 32 on page IV.B-27 indicates that PDF-AQ-8 is "is not required to reduce any significant air quality impact(s) below an applicable impact threshold and would only be implemented when the use of electricity from power poles and/or solar-powered generators is available and feasible, as determined by the construction contractor." No such footnote is provided for PDF-AQ-5, thus indicating that the PDF was required to reduce significant air quality impact(s) below an applicable impact threshold. Use of this PDF has resulted in an underestimation of air quality, greenhouse gas and energy impacts of the proposed Project. As worded PDF AQ-5 represents improper deferral of mitigation.

PDF AQ-6: Water bottle filling stations would be provided in the proposed Wellness Pavilion, reducing waste from disposal of water bottles.

The PDF-AQ-6 is a Mitigation Measure - PDF-AQ-6 is clearly intended to avoid, minimize, and/or mitigate air quality, greenhouse gas and landfill impacts of the proposed

project. Footnote 32 on page IV.B-27 indicates that PDF-AQ-8 is "is not required to reduce any significant air quality impact(s) below an applicable impact threshold and would only be implemented when the use of electricity from power poles and/or solar-powered generators is available and feasible, as determined by the construction contractor." No such footnote is provided for PDF-AQ-6, thus indicating that the PDF was required to reduce significant air quality impact(s) below an applicable impact threshold. Use of this PDF has resulted in an underestimation of project air quality, greenhouse gas and landfill impacts of the proposed project. As worded PDF AQ-6 represents improper deferral of mitigation.

PDF AQ-7: A minimum of 15 percent of the roof area would be solar ready.

The PDF-AQ-7 is a Mitigation Measure - PDF-AQ-7 is clearly intended to avoid, minimize, and/or mitigate air quality, greenhouse gas and energy impacts of the proposed project. Footnote 32 on page IV.B-27 indicates that PDF-AQ-8 is "is not required to reduce any significant air quality impact(s) below an applicable impact threshold and would only be implemented when the use of electricity from power poles and/or solar-powered generators is available and feasible, as determined by the construction contractor." No such footnote is provided for PDF-AQ-7, thus indicating that the PDF was required to reduce significant air quality impact(s) below an applicable impact threshold. Use of this PDF has resulted in an underestimation of air quality, greenhouse gas and energy impacts of the proposed project.

PDF AQ-8: Where electricity from power poles is readily available, such electricity from power poles shall be used to power construction equipment during Project construction and/or solar power generators rather than temporary diesel- or gasoline-powered generators. In the event that electricity from power poles is not readily available during construction, solar-powered generators shall be used to power construction equipment during Project construction rather than temporary diesel or gasoline-powered generators. If electricity is not available from power poles or cannot be feasibly provided by solar-powered generators, then temporary diesel or gasoline-powered generators may be used to power construction equipment during Project construction.

The PDF-AQ-8 is a Mitigation Measure - PDF-AQ-8 may not be required to mitigate air quality impacts based on Footnote 32 on page IV.B-27. It is unclear how this PDF has been accounted for in other issue area analyses.

PDF BIO-1: Prior to issuance of a grading permit, the Project Applicant shall coordinate with the City and replace any non-protected significant trees that are 8 inches or more in diameter at breast height (DBH), or cumulative trunk diameter if multi-trunked, that were removed during the Project construction period, at a 1:1 ratio with a minimum 24-inch box tree. Replacement trees should be planted on-site; however, if there is insufficient space, replacement trees can also be planted elsewhere on the Mount St. Mary's University Chalon Campus.

The PDF-BIO-1 is a Mitigation Measure - PDF-BIO-1 is clearly intended to avoid, minimize, and/or mitigate impacts to non-protected trees on the Campus as well as impacts to scenic resource. Page IV.C-335 of the DEIR states:

> Compliance with existing regulations (for protected trees) and the implementation of PDF BIO-1 (for non-protected significant trees), would result in a net increase of trees on the Campus when compared to

> existing conditions. Therefore, with implementation of PDF BIO-1 and Mitigation Measures BIO-2 through BIO-4, potentially significant impacts related to protected and non-protected tree removal/encroachment would be less than significant.

DEIR page IV-A-23 states:

> PDF-BIO-1 would require the replacement of non-protected trees at a 1:1 ratio. In addition, MM-BIO-2 through MM-BIO-4 would further mitigate the impacts of construction on the retained trees. The mitigation measures would provide for protection (fencing or avoidance) of individual trees as well as monitoring and preparation of a tree monitoring report by a Tree Expert as defined in Section 17.02. Monitoring and reporting would occur during construction and for three years post construction. Any trees that would suffer severe damage or die during this time would be replaced in accordance with LAMC Section 17.02 or PDF-BIO-1. Therefore, with implementation of existing City regulations, PDF-BIO-1, and MM-BIO-2 through 4, impacts to trees as a scenic resource would be less than significant.

DEIR page IV.A-32 states:

> Project development would require the removal of existing mature trees . . ., which would be replaced throughout the Campus as a LAMC requirement or proposed PDF-BIO-1. With required replacement, the removal of existing trees would not degrade the existing visual character of the surrounding community.

Use of this PDF in the impact analysis has resulted in an underestimation of biological and scenic resource impacts.

> **PDF-GS-1**: A qualified geotechnical engineer (e.g., a Certified Engineering Geologist or a Geotechnical Engineer as licensed by the State of California Board for Professional Engineers, Land Surveyors, and Geologists) shall be retained by the Applicant and be present on the Project Site during excavation, grading, and general site preparation activities to monitor the implementation of the recommendations specified in the Final Geotechnical Report, map geologic conditions during grading, and test all grading and earthwork.

The PDF-GS-1 is a Mitigation Measure - PDF-GS-1 is clearly intended to avoid, minimize, and/or mitigate geotechnical impacts of the proposed project by ensuring compliance with mitigation measures included in the Geotechnical Report, which have not been separately enumerated in the EIR or Mitigation Monitoring Plan. For example, page IV.E-21 to IV.E-21 of the soils and DEIR states:

> . . . the Project Site would require slope stabilization to ensure that slides or slumps resulting from any cause, including seismic shaking, would be addressed. As discussed therein, impacts related to slope stability (which would include seismic-induced landslides) would be potentially significant, but reduced to less than significant levels through the implementation of PDF-GS-1 and recommended measures in the Permanent Slope Stability discussion under Threshold c, below. Therefore, with the implementation of this PDF and Geotechnical Report recommendations, the Project would not exacerbate, cause, or accelerate geological hazards related to landslides. Impacts associated with landslides would be less than significant and no mitigation measures are required.

Use of this PDF in the impact analysis has thus resulted in an underestimation of geotechnical impacts of the proposed Project.

> **PDF-H/WQ-1**: An underground stormwater drain system shall be installed along the edges of the Project Site to collect and divert any uncontrolled sheet flow that would enter the Campus's east- and west-facing natural slopes.

The PDF-H/WQ-1 is a Mitigation Measure - PDF-H/WQ-1 is clearly intended to avoid, minimize, and/or mitigate the stormwater impacts of the proposed project. Page IV.G-28 of the DEIR explains:

> Nonetheless, to ensure that sheet flow from the Project Site into the Campus's east- facing slopes is controlled and directed into the stormwater collection system, PDF-HWQ- 1, would be implemented by the Project. PDF-HWQ-1 requires the installation of an underground stormwater drain system along the edges of the Project Site. The west side driveway, which is located at the top of the west slope, would continue to collect rainwater as under existing conditions. Since rainwater runoff at the top of the slopes is currently collected by paved driveways and curbs, the new collection system along the east slope under PDF-HWQ-1 would prevent increases in runoff from the Project Site.

DEIR page IV.G-30 states: "Implementation of PDF-HWQ-1 would ensure that runoff from the Project Site would continue to be controlled and would not enter the Campus' east slope or increase siltation." Improper use of this PDF in the analysis has resulted in a failure to identify a significant stormwater-related impact of the proposed Project. As worded PDF-H/WQ represents improper deferral of mitigation.

> **PDF-TRAF-1**: Construction Traffic Management Plan. ~~The Project Applicant~~ MSMU shall prepare a detailed Construction Traffic Management Plan, including street closure information, detour plans, haul routes, and staging plans as necessary and satisfactory to LADOT. The Construction Traffic Management Plan shall be based on the nature and timing of the specific construction

activities and other projects in the vicinity of the Project Site, and shall include the following elements as appropriate:

- Appropriate temporary traffic controls (signs and temporary signals) shall be installed along the public rights-of-way during all construction activities to ensure pedestrian and vehicular safety during construction.
- Scheduling construction activities to reduce the effect on traffic flow on arterial streets. During peak haul traffic, if off-site staging is required, trucks would be radioed in from an off-site staging area to avoiding queuing along adjacent street.
- **Schedule construction-related deliveries, other than concrete and earthwork- related deliveries, between the hours of 7:00 AM and 3:00 PM to avoid the PM Peak hour ~~reduce travel during peak travel~~ periods as identified in the Project's Traffic Study and to reduce the potential of trucks waiting to load or unload for protracted periods of time. This restriction shall not apply to trucks being used for the concrete pour that cannot feasibly be finished before 3:00 PM.**
- Maintain access for surrounding residential uses in proximity to the Project Site during Project construction.
- Identify designated transport routes for haul trucks and heavy trucks to be used over the duration of the Project. Develop a plan for staging trucks prior to arriving at the Site.
- Coordinate with the City and emergency service providers to ensure adequate access is maintained to the Project Site and neighboring residences at all times.
- In the event of temporary lane closures, a worksite traffic control plan, approved by LADOT, should be implemented to route vehicular traffic or pedestrians around any such closures.
- **Unrestricted access for school buses shall be maintained on street rights-of-way during construction.**
- **Project contractors shall maintain ongoing communication with school administrators at affected schools along the haul route including Archer School for Girls, Brentwood School, and St Martin of Tours School, providing sufficient notice to forewarn students and parents/guardians when existing pedestrian and vehicle routes to school may be impacted.**
- Barriers and/or fencing shall be installed around construction sites to secure construction equipment and the Site and to prevent trespassing, vandalism, and attracting nuisances.
- **Temporary haul truck staging will not be permitted on local hillside streets.**
- **Truck loading/unloading will occur on the MSMU Campus, not on local hillside streets.**
- **Safe truck driving practices, including low gear, not passing another vehicle, deployment of optional 4th axle, if available, shall be required.**

- **During construction, MSMU shall clearly post a hotline in several areas around the Campus, including along the construction fence and at the entrance to the Campus, to enable the public to call and report non-compliance with the Construction Traffic Management Plan.**

The PDF-TRAF-1 is a Mitigation Measure - PDF-TRAF-1 is clearly intended to avoid, minimize, and/or mitigate construction-related traffic impacts of the proposed project. Project-specific portions of the PDF are bolded. Underlined portions were added in response to comments and are clearly designed to address impacts identified by commenters during the EIR process. Improper use of this PDF in the impact analysis has resulted in a failure to correctly identify Project traffic impacts during construction. See discussion in **Sections 2.5.1 and 2.5.2** which details how misuse of this PDF has resulted in an inaccurate assessment of project traffic and wildfire-related impacts. As worded, elements of PDF-TRAF-1, such as requirements related to construction-related deliveries, represent improper deferral of mitigation. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

PDF-TRAF-2: Construction Parking Plan. ~~The Project Applicant~~ MSMU shall prepare a Construction Parking Plan prior to the issuance of a building permit ~~to commencement of construction~~ that identifies temporary parking locations for construction workers and for MSMU students, faculty/staff, and visitors and shall include the following elements as appropriate:

- ~~During the construction of proposed parking deck~~ Parking for MSMU students, faculty/staff, and visitors shall be accommodated via a valet service on the Campus. Valet operations would enable vehicles to be stacked in on-site parking lot aisles to maximize available vehicle parking spaces on the Campus.
- ~~During construction activities when MSMU students, faculty/staff, and visitors or construction worker parking cannot be accommodated on the Project Site, the plan shall identify alternate parking location(s) on Campus and the method of transportation to and from the Project Site for approval by the City 30 days before commencement of construction.~~
- ~~Construction workers shall park in designated areas on Campus or in available off-site parking facilities with n~~No construction worker parking will be allowed on ~~neighborhood~~ local residential streets. Construction workers shall all park on the Campus. ~~When construction worker parking is off site, a temporary shuttle would be operated for construction workers to and from the designated off-site parking location.~~
- Provide all construction contractors with written information on where their workers and their subcontractors are permitted to park, and provide clear consequences to violators for failure to follow these regulations. All contracts with construction contractors shall expressly prohibit construction worker parking on residential streets. The contractor shall be responsible for informing subcontractors and construction workers of this requirement, for monitoring compliance of the subcontractors, and if necessary, for hiring a security guard to enforce these parking provisions.

The PDF-TRAF-2 is a Mitigation Measure - PDF-TRAF-2 is clearly intended to avoid, minimize, and/or mitigate construction-related traffic impacts of the proposed project. Underlined portions were added in response to comments and are clearly designed to address impacts identified by commenters during the EIR process. Improper use of this PDF in the impact analysis has resulted in a failure to correctly identify Project traffic impacts during construction. See discussion in **Sections 2.5.1 and 2.5.2** which details how misuse of this PDF has resulted in an inaccurate assessment of project traffic and wildfire-related impacts. The EIR does not demonstrate that construction and University parking can both be accommodated on Campus during construction without impacting safety or emergency access. This PDF has not been shown to be feasible. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-3**: The Project Applicant shall attend bi-monthly (or at a frequency determined appropriate by City Staff) construction management meetings conducted by City Staff and the operators or contractors for the Archer School for Girls and the Brentwood School to coordinate the periods of heaviest construction activity in order to avoid overlapping hauling activities. Coordination shall ensure that construction activities associated with these concurrent related projects and hauling activities are managed in collaboration with one another. The Project Applicant shall provide advance notification to LADOT, the Archer School for Girls, and the Brentwood School of its upcoming construction activities, including durations and daily hours of construction.

The PDF-TRAF-3 is a Mitigation Measure - PDF-TRAF-3 is clearly intended to avoid, minimize, and/or mitigate construction traffic impacts of the proposed project. Improper use of this PDF in the impact analysis has resulted in a failure to correctly identify Project traffic impacts during construction, including any impacts on school uses. See discussion in **Sections 2.5.1 and 2.5.2** which details how misuse of this PDF has resulted in an inaccurate assessment of project traffic and wildfire-related impacts. As worded PDF-TRAF-3 represents improper deferral of mitigation. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF 4:** The Project Applicant shall develop a plan for coordinating access for construction workers, school employees, students, and bus access when school and construction are concurrent.

The PDF-TRAF-4 is a Mitigation Measure - PDF-TRAF-4 is clearly intended to avoid, minimize, and/or mitigate construction traffic impacts of the proposed project. Improper use of this PDF in the impact analysis has resulted in a failure to correctly identify Project traffic impacts during construction. See discussion in **Sections 2.5.1 and 2.5.2** which details how misuse of this PDF has resulted in an inaccurate assessment of project traffic and wildfire-related impacts. This measure also is an example of improper deferral of mitigation. As worded PDF-TRAF-4 represents improper deferral of mitigation. The PDF lacks any specification of the purpose, contents or standards to be included in the plan. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-5**: Construction truck travel on local streets shall be limited to Bundy Drive, Norman Place, and Chalon Drive only; trucks would not travel on any other local streets serving the neighborhoods surrounding the Project Site.

The PDF-TRAF-5 is a Mitigation Measure - PDF-TRAF-5 is clearly intended to avoid, minimize, and/or mitigate construction traffic impacts of the proposed project. Improper use of this PDF in the impact analysis has resulted in a failure to correctly identify Project traffic impacts during construction. See discussion in **Sections 2.5.1 and 2.5.2** which details how misuse of this PDF has resulted in an inaccurate assessment of project traffic and wildfire-related impacts. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-6**: All heavy truck hauling of construction equipment and construction materials deliveries shall be limited to hours between 7:00 AM and 3:00 PM to avoid the PM peak-hour commuter traffic period. This restriction shall not apply to concrete pour that cannot feasibly be finished prior to 3:00 PM. No on-street staging or idling of haul trucks on public roadways will be allowed.

The PDF-TRAF-6 is a Mitigation Measure - PDF-TRAF-6 is clearly intended to avoid, minimize, and/or mitigate construction traffic impacts of the proposed project. Improper use of this PDF in the impact analysis has resulted in a failure to correctly identify Project traffic impacts during construction. See discussion in **Sections 2.5.1 and 2.5.2** which details how misuse of this PDF has resulted in an inaccurate assessment of project traffic and wildfire-related impacts. The EIR fails to explain how this will be accomplished or to demonstrate that the stated prohibitions are feasible. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-7**: Campus Event Coordination Plan. MSMU shall develop a Campus Event Coordination Plan that would define the parameters of the valet parking program, monitor off-Campus parking during events, and provide staff/signage to direct traffic during events. This Plan shall be submitted to LADOT for review and approval prior to issuance of a certificate of occupancy for the proposed Wellness Pavilion.

The PDF-TRAF-7 is a Mitigation Measure - PDF-TRAF-7 is clearly intended to avoid, minimize, and/or mitigate operational traffic impacts of the proposed project. Improper use of this PDF in the impact analysis has resulted in a failure to correctly identify Project traffic impacts during operation of Project facilities. See discussion in **Sections 2.5.1 and 2.5.2** which details how misuse of this PDF has resulted in an inaccurate assessment of project traffic and wildfire-related impacts. As worded PDF-TRAF-7 represents improper deferral of mitigation. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-8** – MSMU will limit the total number of outside guests to 400 on a daily basis for new events such as the Other Wellness/Sports Events and Health

and Wellness Speaker Series, and ~~Summer Camps~~ 200 campers and 40 staff on a daily basis for Summer Sports Camps. No new Wellness Pavilion event may occur concurrently with any existing event.

The PDF-TRAF-8 is a Mitigation Measure - PDF-TRAF-8 is clearly intended to avoid, minimize, and/or mitigate operational traffic impacts of the proposed project. Improper use of this PDF in the impact analysis has resulted in a failure to correctly identify Project traffic impacts during operation of Project facilities. See discussion in **Sections 2.5.1 and 2.5.2** which details how misuse of this PDF has resulted in an inaccurate assessment of project traffic and wildfire-related impacts. The EIR fails to explain how this will be accomplished or to demonstrate that the stated prohibitions are feasible. The EIR fails to address uncertainty in the effectiveness of this measure. See **Sections 4.1 and 4.2** which address the infeasibility and uncertainty in the implementation of this PDF and which demonstrate that any analysis that relies on this PDF in inaccurate and results in the understatement of impacts.

3.1.2 The EIR Understates and Misclassifies Project Impacts Due to Use of PDFs

As detailed below the EIR misclassifies or understates Project impacts as a result of its improper reliance on PDF measures during the impact analysis. DEIR Table ES-1 – Summary of Project Impacts included as **Attachment K** to this letter, and on pages VI-1 to VI-3 of the DEIR, lists the PDFs applied to each environmental issue area. Any impact analysis that considered PDFs when making impact judgments understates Project impacts and must be redone and the EIR recirculated pursuant to CEQA Guidelines Section 15088.5(a)(1) (2) and (4).

Significant Unmitigated Impacts – According to the EIR, the proposed Project would result in a number of significant unmitigated impacts and a Statement of Overriding Consideration would be required should the City decide to approve the proposed Project. As detailed below, the magnitude of these impacts has been understated due to the way PDFs were treated as part of the impact analysis:

a) Noise

During construction, specifically during the concrete pouring phase, the Project would result in significant and unavoidable construction traffic noise impacts along Chalon Road – **after consideration of PDF-TRAF-6 and after MM-Noise-1 to MM-Noise-2**. The magnitude of this impact has therefore been understated in the EIR; pursuant to CEQA Guidelines Section 15088.5(a)(2) correction and recirculation of the EIR is required.

b) Transportation and Traffic

During construction the Project would result in the following significant and unavoidable traffic impacts on the following three (3) neighborhood street segments during construction - **after consideration of PDF-TRAF-1 to PDF-TRF-6** and with MM-BIO-2. The magnitude of these impacts has therefore been understated in the EIR; pursuant to CEQA Guidelines Section 15088.5(a)(2) correction and recirculation of the EIR is required.

- Street Segment A: Bundy Drive north of Norman Place

- Street Segment B: Chalon Road west of Bundy Drive
- Street Segment H: Bundy Drive north of Sunset Boulevard

During operation, the Project would result in the following significant and unavoidable impacts at several Study Area intersections and neighborhood street segments - **after consideration of PDF-TRAF-7 to PDF-TRF-8**. The magnitude of these impacts has therefore been understated in the EIR; pursuant to CEQA Guidelines Section 15088.5(a)(2) correction and recirculation of the EIR is required.

Under Existing (2016) plus Project Conditions (School Year), the Project would result in significant and unavoidable impacts at the following three Study Area intersections:

- Intersection No. 3: Bundy Drive & Sunset Boulevard (5:00 to 6:00 PM and 6:00 to 7:00 PM)
- Intersection No. 4: Saltair Avenue & Sunset Boulevard (5:00 to 6:00 PM and 6:00 to 7:00 PM)
- Intersection No. 5: Barrington Avenue & Sunset Boulevard (5:00 to 6:00 PM and 6:00 to 7:00 PM)

Under Existing (2016) plus Project Conditions (Summer), the Project would result in significant and unavoidable impacts at the following two Study Area intersections:

- Intersection No. 3: Bundy Drive & Sunset Boulevard (3:00 to 4:00 PM)
- Intersection No. 5: Barrington Avenue & Sunset Boulevard (3:00 to 4:00 PM)

Under Future Baseline (2020) plus Project Conditions (School Year) the Project would result in significant and unavoidable impacts at the following four Study Area intersections:

- Intersection No. 3: Bundy Drive & Sunset Boulevard (5:00 to 6:00 PM and 6:00 to 7:00 PM)
- Intersection No. 4: Saltair Avenue & Sunset Boulevard (5:00 to 6:00 PM and 6:00 to 7:00 PM)
- Intersection No. 5: Barrington Avenue & Sunset Boulevard (all peak hours)
- Intersection No. 7: Church Lane & Sunset Boulevard (AM peak hour)

Under Future Baseline (2020) plus Project Conditions (Summer) the Project would result in significant and unavoidable impacts at the following three Study Area intersections:

- Intersection No. 3: Bundy Drive & Sunset Boulevard (3:00 to 4:00 PM)
- Intersection No. 4: Saltair Avenue & Sunset Boulevard (3:00 to 4:00 PM)
- Intersection No. 5: Barrington Avenue & Sunset Boulevard (AM peak hour and 3:00 to 4:00 PM)

Under Existing (2016) plus Project Conditions (School Year) and Future Baseline (2020) plus Project (School Year) conditions, the Project would result in significant and unavoidable impacts at the following three neighborhood street segments:

- Street Segment B: Chalon Road east of Bundy Drive
- Street Segment C: Chalon Road west of Norman Place
- Street Segment D: Norman Place north of Bundy Drive

Under Existing (2016) plus Project Conditions (Summer) and Future Baseline (2020) plus Project (Summer) conditions, the Project would result in significant and unavoidable impacts at the following six neighborhood street segments:

- Street Segment A: Bundy Drive north of Norman Place
- Street Segment C: Chalon Road west of Norman Place
- Street Segment D: Norman Place north of Bundy Drive
- Street Segment E: Bundy Drive north of Saltair Avenue
- Street Segment H: Bundy Drive north of Sunset Boulevard
- Street Segment B: Chalon Road east of Bundy Drive

Less Than Significant With Mitigation - According to Executive Summary of the DEIR, the proposed project would result in the following significant impacts which would be reduced to less than significant through implementation of mitigation measures:

- Scenic resources – **after consideration of PDF-BIO-1** and with MM-BIO-2. The magnitude of this impact has therefore been understated in the EIR; pursuant to CEQA Guidelines Section 15088.5(a)(2) correction and recirculation of the EIR is required.

- Consistency with the applicable Air Quality Plan – **after consideration of PDF-AQ-1 to PDF AQ-8** and with MM-AQ-1. The magnitude of this impact has therefore been understated in the EIR; pursuant to CEQA Guidelines Section 15088.5(a)(2) correction and recirculation of the EIR is required.

- Air Quality Standard violation – **after consideration of PDF-AQ-1 to PDF AQ-8** and with MM-AQ-1. The magnitude of this impact has therefore been understated in the EIR; pursuant to CEQA Guidelines Section 15088.5(a)(2) correction and recirculation of the EIR is required.

- Cumulative considerable increase of criteria pollutant in nonattainment area - – **after consideration of PDF-AQ-1 to PDF AQ-8** and with MM-AQ-1. The magnitude of this impact has therefore been understated in the EIR; pursuant to CEQA Guidelines Section 15088.5(a)(2) correction and recirculation of the EIR is required.

- Sensitive Receptor exposure to pollutant concentrations – **after consideration of PDF-AQ-1 to PDF AQ-8** and with MM-AQ-1. The magnitude of this impact has therefore been understated in the EIR; pursuant to CEQA Guidelines Section 15088.5(a)(2) correction and recirculation of the EIR is required.

- Wildlife movement and migration – with MM-BIO-1. See discussion in **Section 2.4**. The EIR fails to identify significant cumulative impacts to wildlife (mountain lion) movement and migration; pursuant to CEQA Guidelines Section 15088.5(a)(1) and (2) correction and recirculation of the EIR is required.

- Local policies and ordinances for protection biological resources – **after consideration of PDF-BIO-1** and with MM-BIO-2. The magnitude of this impact has therefore been understated in the EIR; pursuant to CEQA Guidelines Section 15088.5(a)(2) correction and recirculation of the EIR is required.

- Archeological resource – with MM-APR-1.

Less Than Significant Impacts With PDFs - According to the Executive Summary of the DEIR, the proposed project would result in less than significant impacts without mitigation, but after considering PDFs in the analysis:

- Light and Glare – **after consideration of PDF-AES-1 and PDF-AES-2.** The magnitude of this impact has therefore been understated in the EIR; since mitigation in the form of the PDFs was required to reach the less than significant impact judgement, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Exacerbation of Existing Hazardous Environmental Conditions – **after consideration of PDF-GS-1**; since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Soil Erosion or Loss of Topsoil – **after consideration of PDF-GS-1**; since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Unstable Geologic Unit or Soils– **after consideration of PDF-GS-1**; since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Expansive Soils – **after consideration of PDF-GS-1**; since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Greenhouse Gas Emissions – **after consideration of PDF-AQ-1 through PDF-AQ-8**; since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Alteration of Drainage Patterns – **after consideration of PDF-HWQ-1**; since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Stormwater Drainage Systems/Pollutants – **after consideration of PDF-HWQ-1**; since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Fire Protection – **after consideration of PDFs TRAF-1 to TRAF-8**; since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Police Protection **- after consideration of PDFs TRAF-1 to TRAF-8**; since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Construction Traffic Impacts at intersections and on street segments where impacts were found to be less than significant **- after consideration of PDFs TRAF-1 to TRAF-8.** Since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Operational Traffic Impacts at intersections and on street segments where impacts were found to be less than significant **- after consideration of PDFs TRAF-1 to TRAF-8.** Since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Energy Consumption **- after consideration of PDF-AQ-3, PDF-AQ-5 and PDF-AQ-7.** Since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

- Energy Infrastructure **- after consideration of PDF-AQ-3, PDF-AQ-5 and PDF-AQ-7.** Since mitigation in the form of the PDFs was required to reach the less than significant impact judgment, pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2), correction and recirculation of the EIR is required.

Less Than Significant Impacts - According to the Executive Summary of the DEIR, the proposed project would result in less than significant impacts without mitigation, and without consideration of PDF:

- View Impacts
- Visual Character – Construction
- Visual Character – Operation
- Special Status, Sensitive, or Candidate Species
- Riparian and Sensitive Natural Communities Habitat

- Paleontological Resources
- Human Remains
- Historical Resources
- Geologic/Topographic Features
- Consistency with Water Quality Standards and Waste Discharge Requirements
- Consistency with Adopted Plans and Policies
- Exposure of Persons to or Generation of Excessive Groundborne Vibration or Groundborne Noise Levels
- Tribal Cultural Resources
- Water Supply
- Water Infrastructure
- Landfill Capacity
- Consistency with State and Local Soil Waste Statutes

As discussed in Section 2.4, the proposed project would result in a significant cumulative impact on a candidate species, the mountain lion. Pursuant to CEQA Guidelines Section 15088.5(a)(1) and (4) correction and recirculation of the EIR is required.

Issues Screened Out In Initial Study - In addition, the following issue areas were screened out at the Initial Study phase, as explained on page VI-8 of the DEIR:

> Through the Initial Study process, the City determined that the Project would result in less than significant or no impacts related the reduction or loss of agricultural and forestry resources; objectionable odors, federally protected wetlands, conflict with the provisions of an adopted Habitat Conservation Plan, septic tanks, hazards and hazardous materials, groundwater supplies, floodplain or flooding hazards, inundation by seiche, tsunami or mudflow, physical division of an established community, consistency with habitat conservation plans, mineral resources, airport land use plans or airport noise, population and housing, schools, recreation and park facilities, libraries, air traffic patterns, road hazards due to design or incompatible uses, **inadequate emergency access**, and wastewater treatment requirements. (Emphasis added).

Despite numerous comments by the public on the Notice of Preparation/Initial Study and the DEIR, the proposed Project's location in a Very High Fire Hazard Severity Zone, Project access only via a single paved roadway, and the proposed Project's Significant Unmitigated Traffic Impacts, the City screened out inadequate emergency access as an environmental issue of concern in the DEIR. It is addressed in response to comments, and new Appendix B to the FEIR, but agencies and members of the public have had inadequate opportunity to review and comment on the analysis since it was not included in the DEIR and therefore not circulated for the required comment period.

Furthermore, as demonstrated in Topical Response 4 – Emergency Access, judgments regarding the proposed Project's lack of emergency access impacts are also based on improper use of PDFs. It is only through reliance on PDFs that the FEIR responses to comments and new

FEIR Appendix B found emergency access impacts to be less than significant. Clearly the proposed Project would result in significant emergency access impacts without mitigation, as discussed more fully in **Section 2.5.2** of the letter. In addition, given that the proposed Project results in significant intersection and roadway segment impacts, emergency access impacts are clearly significant and unavoidable. The failure to properly address, analyze and categorize emergency access impacts requires recirculation of the EIR pursuant to CEQA Guidelines Section 15088.5(a)(1).

3.2 Misuse of Alternative 5 PDFs

Like the proposed Project, new Alternative 5 relies on PDFs when making impact judgements related to aesthetic, air quality, biological resource, geology, greenhouse gas emissions, hydrology and water quality, and transportation impacts. Alternative 5 also includes additional and modified traffic PDFs. A copy of the FEIR's analysis of Alternative 5 is included as **Attachment L**, and is highlighted to point out examples of how the PDFs have been misused in the impact analysis resulting in an understatement of impacts, and how they are clearly mitigation measures.[68]

Our comments regarding the Project's misuse of the PDFs applies to the Alternative 5 analysis as well. Alternative 5 impacts related to aesthetic, air quality, biological resource, geology, greenhouse gas emissions, hydrology and water quality, and transportation impacts have been understated due to reliance on PDFs, necessitating recirculation of the EIR pursuant to CEQA Guidelines Section 15088.5(a)(1) and/or (2).

The additional or modified PDFs for Alternative 5 are detailed starting on page III-18 to III-27 of the FEIR. These PDFs are clearly mitigation measures, designed to reduce project or alternative-specific traffic impacts, including impacts identified in comments on the DEIR. This misuse of PDFs is clear in the FEIRs analysis of Alternative 5 on FEIR pages III-4 to III-99 (see **Attachment L**). For example, page III-4 to III-5 of the FEIR states:

> Implementation of PDF-TRAF-9 through PDF-TRAF-18, included as part of Alternative 5, and revisions to PDF-TRAF-1, PDF-TRAF-2, and PDF-TRAF-7 would ensure that Alternative 5 would reduce the Project's significant and unavoidable off-site construction traffic noise and off-site construction traffic impacts, although not to a level of less than significant. Further, the Project's significant and unavoidable operational traffic impacts would be reduced to a level of less than significant under Alternative 5.

3.2.1 Alternative 5 PDFs Are Clearly Mitigation Measures

The FEIR's analysis of Alternative 5 makes clear that PDF were considered in the impact analysis and act as mitigation measures. FEIR pages II-47 to II-48 clears state:

> Alternative 5's **traffic analysis includes projected vehicle trips, with the incorporation of PDFs** TRAF-1, PDF-TRAF-2, and PDF-TRAF-7 (as proposed under Alternative 5), the elimination of PDF-TRAF-3, PDF-TRAF-4, PDF-TRAF-5, PDF-TRAF-6, and PDF-TRAF-8, and the addition of PDF-TRAF-9 through PDF-TRAF-18, which are specific to Alternative 5. **The new PDFs under Alternative 5, which will reduce**

[68] The same is true for the analysis of the proposed Project in the DEIR.

> **the Project's significant and unavoidable operational traffic impacts identified in the Draft EIR to a level of less than significant and incrementally reduce the Project's significant and unavoidable off-site construction noise impacts, are listed below** and included in Chapter IV, *Mitigation Monitoring Program*, of this Final EIR. As identified in the Draft EIR, the Project's only significant and unavoidable impacts were construction and operational traffic and off-site construction noise. As explained in Subsection d), *Evaluation of Impacts*, and shown in Table III-15, *Comparison of Impacts Summary,* Alternative 5 would also reduce the Project's environmental impacts in several other categories. Therefore, the balance of Alternative 5's environmental impacts will be less than the Project's and will all remain less than significant.

Alternative 5-specific PDFs referenced in this quote are provided below, with changes to the PDFs noted in redline/strikeout (deletions shown in strikethrough and additions shown in underline) as provided on pages III-18 to III-27 of the FEIR:

> **PDF-TRAF-1**: Construction Traffic Management Plan. MSMU shall prepare a detailed Construction Traffic Management Plan, including street closure information, detour plans, haul routes, and staging plans as necessary and satisfactory to LADOT. The Construction Traffic Management Plan shall be based on the nature and timing of the specific construction activities and other projects in the vicinity of the Project Site, and shall include the following elements as appropriate:
>
> - Appropriate temporary traffic controls (signs and temporary signals) shall be installed along the public rights-of-way during all construction activities to ensure pedestrian and vehicular safety during construction.
> - ~~Scheduling construction activities to reduce the effect on traffic flow on arterial streets.~~ During peak haul traffic, if off-site staging is required, trucks would be radioed in from an off-site staging area to avoid queuing along adjacent street.
> - Schedule construction-related deliveries, other than concrete and earthwork- related deliveries, between the hours of 7:00 AM and 3:00 PM to avoid the PM peak hour commuter traffic period as identified in the Project's Traffic Study and to reduce the potential of trucks waiting to load or unload for protracted periods of time. This restriction shall not apply to trucks being used for the concrete pour that cannot feasibly be finished before 3:00 PM. <u>No on-street staging or idling of haul trucks on public roadways will be allowed.</u>
> - Maintain access for surrounding residential uses in proximity to the Project Site during Project construction.
> - Identify designated transport routes for haul trucks and heavy trucks to be used over the duration of the Project. Develop a plan

for staging trucks prior to arriving at the Site. Temporary haul truck staging will not be permitted on local hillside streets.

- Truck loading/unloading will occur on the MSMU Campus, not on local hillside streets.
- Construction truck travel on local streets shall be limited to Bundy Drive, Norman Place, and Chalon Drive only; trucks would not travel on any other local streets serving the neighborhoods surrounding the Project Site.
- Coordinate with the City and emergency service providers to ensure adequate access is maintained to the Project Site and neighboring residences at all times.
- In the event of temporary lane closures, a worksite traffic control plan, approved by LADOT, should be implemented to route vehicular traffic or pedestrians around any such closures.
- Unrestricted access for school buses shall be maintained on street rights-of-way during construction.
- MSMU shall attend bi-monthly (or at a frequency determined appropriate by City Staff) construction management meetings conducted by City Staff and the operators or contractors for the Archer School for Girls and the Brentwood School to coordinate the periods of heaviest construction activity in order to avoid overlapping hauling activities. Coordination shall ensure that construction activities associated with these concurrent related projects and hauling activities are managed in collaboration with one another.
- MSMU shall provide advance notification to LADOT, the Archer School for Girls, the Brentwood School, and St. Martin of Tour's School of its upcoming construction activities, including durations and daily hours of construction, providing sufficient notice to forewarn students and parents/guardians when existing pedestrian and vehicle routes to school may be impacted.
- ~~Project contractors shall maintain ongoing communication with school administrators at affected schools along the haul route including Archer School for Girls, Brentwood School, and St Martin of Tours School, providing sufficient notice to forewarn students and parents/guardians when existing pedestrian and vehicle routes to school may be impacted~~.
- Barriers and/or fencing shall be installed around construction sites to secure construction equipment and the Site and to prevent trespassing, vandalism, and attracting nuisances.
- Safe truck driving practices, including low gear, not passing another vehicle, deployment of optional 4th axle, if available, shall be required.
- During construction, MSMU shall clearly post a hotline in several areas around the Campus, including along the construction fence

and at the entrance to the Campus, to enable the public to call and report non- compliance with the Construction Traffic Management Plan.

PDF-TRAF-2: Construction Parking Plan. ~~The Project Applicant~~ MSMU shall prepare a Construction Parking Plan prior to the issuance of a building permit ~~to commencement of construction~~ that identifies temporary parking locations for construction workers and for MSMU students, faculty/staff, and visitors and shall include the following elements as appropriate:

- ~~During the construction of the proposed parking deck,~~ Parking for MSMU students, faculty/staff, and visitors shall be accommodated via a valet service on the Campus. Valet operations would enable vehicles to be stacked in on-site parking lot aisles to maximize available vehicle parking spaces on the Campus.
- ~~During construction activities when MSMU students, faculty/staff, and visitors or construction worker parking cannot be accommodated on the Project Site, the plan shall identify alternate parking location(s) on Campus and the method of transportation to and from the Project Site for approval by the City 30 days before commencement of construction.~~
- ~~Construction workers shall park in designated areas on Campus or in available off-site parking facilities with n~~No construction worker parking will be allowed on ~~neighborhood~~ local residential streets. Construction workers shall all park on the Campus. ~~When construction worker parking is off site, a temporary shuttle would be operated for construction workers to and from the designated off-site parking location.~~
- Provide all construction contractors with written information on where their workers and their subcontractors are permitted to park, and provide clear consequences to violators for failure to follow these regulations. All contracts with construction contractors shall expressly prohibit construction worker parking on residential streets. The contractor shall be responsible for informing subcontractors and construction workers of this requirement, for monitoring compliance of the subcontractors, and if necessary, for hiring a security guard to enforce these parking provisions.
- MSMU shall develop a plan for coordinating access for construction workers, school employees, students, and bus access when school and construction are concurrent.

PDF-TRAF-7: ~~Campus Event Coordination Plan.~~ MSMU shall develop a Campus Event Coordination Plan that would define the parameters of the parking reservation system, shuttling, valet parking program, monitoring of ~~valet parking program, monitor off~~ on-Campus parking and parking at

designated off-Campus parking locations during Other Wellness/Sports Activities events, Health and Wellness Speaker Series events, Summer Sports Camps with up to 50 campers, and Club Sports activities, and provide provision of staff/signage to direct vehicles during such events. This Plan shall be submitted to LADOT for review and approval prior to issuance of a certificate of occupancy for the proposed Wellness Pavilion. The Campus Event Coordination Plan shall implement the minimum performance standards set forth in PDF-TRAF-9 through PDF-TRAF-18.
Proposed additional PDFs to enforce Alternative 5's commitments:
PDF-TRAF-9: MSMU shall maintain on its website a publicly accessible calendar, updated at least once per month, identifying all Campus events with over fifty outside guests.
PDF-TRAF-10: MSMU shall institute a parking reservation/ticketing system for outside guests arriving to Campus in non-shuttle vehicles for any Other Wellness/Sports Activities or Health and Wellness Speaker Series event, Summer Sports Camps with up to 50 campers, and for Club Sports activities.

- All outside guests shall be required to use the parking reservation/ticketing system, which shall clearly and conspicuously inform all outside guests that entrance to the Campus will only be permitted under the circumstances provided for by that outside guest's ticket (i.e. a parking reservation or shuttle).
- The reservation system shall include a reporting capability such that logs detailing issued reservations can be generated and reviewed. LADOT may audit the parking reservation system at any time.
- For regularly occurring events, such as Summer Sports Camps, entry to the Campus by outside guests will require permits issued through the parking reservation system.
- Outside guests and Summer Camp attendees will be required to identify at the time they register in the parking reservation/ticketing system whether they will be traveling in a private vehicle or via transportation network companies (TNCs) (such as Uber or Lyft) and their permit will specify their selected mode. Outside guests or Summer Camp attendees arriving by either private or TNC vehicles that do not have either a private vehicle or TNC permit, respectively, will not be allowed to enter the Campus.
- A reservation for a private vehicle or a Summer Sports Camp staff vehicle will count as two trips. A reservation for a TNC vehicle or private vehicle for outside guests or dropping off/picking up Summer Camp attendees will count as two trips for each arrival to or departure from Campus.

> No additional parking reservations/tickets shall be issued once the maximum permitted attendance or trip cap limits are reached.
>
> Accordingly, for outside guests to be granted access to the Campus for Other Wellness/Sports Activities, Health and Wellness Speaker Series events, Summer Sports Camps, or Club Sports activities they must either:
>
> (1) Arrive by shuttle;
>
> (2) Be Summer Sports Camp campers with parking permits; or
>
> (3) Be event outside guests with reservations issued through the parking reservation system.
>
> Outside guests for Other Wellness/Sports Activities, Health and Wellness Speaker Series events, Summer Sports Camps, or Club Sports activities seeking entrance to the Campus in non-shuttle vehicles without a reservation or a permit will be denied access to the Campus. Pedestrian access shall be restricted in accordance with PDF-TRAF-17.

Issues with PDF-TRAF-10 - As worded PDF TRAF-10 represents improper deferral of mitigation. The EIR has failed to explain how this will be accomplished or to demonstrate that the stated prohibitions are feasible and specifically how they will be implemented. The EIR has failed to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-11**: No Other Wellness/Sports Activities or Health and Wellness Speaker Series events shall be scheduled with start times between 7:00 to 9:30 AM and 4:00 to 7:30 PM or end times between 6:30 to 9:00 AM and 3:30 to 7:00 PM.

Issues with PDF-TRAF-11 - The EIR has failed to explain how this will be accomplished or to demonstrate that the stated prohibitions are feasible and specifically how they will be implemented. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-12**: Total daily outside guest vehicle trips to/from Other Wellness/Sports Activities, Health and Wellness Speaker Series events, and Club Sports activities will be limited to 310 outside guest vehicle trips (155 inbound and 155 outbound), which will be applicable to all vehicles, including shuttles. Pedestrian access shall be restricted in accordance with PDF-TRAF-17.

Issues with PDF-TRAF-12 - The EIR has failed to explain how this will be accomplished or to demonstrate that the stated prohibitions are feasible and specifically how they will be implemented. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-13**: MSMU shall require that campers attending Summer Sports Camps with more than 50 campers travel via shuttles and/or carpools. The number of allowable trips for each peak period would be restricted to 71 inbound and 31 outbound trips during any single hour within the weekday 7:00-9:00 AM peak period, 8 inbound and 34 outbound trips during the weekday 3:00-4:00 PM peak hour, and 3 inbound and 8 outbound trips during any single hour within the weekday 4:00-6:00 PM peak period. If MSMU permits Summer Sports Camps to begin or end during the AM-PM peak hours, it shall provide a Campus entry reservation system, to the satisfaction of LADOT, that shall log and ensure AM- PM peak period trips are not exceeded, and that can be audited by LADOT at any time.

Issues with PDF-TRAF-13 - The EIR has failed to explain how this will be accomplished or to demonstrate that the stated prohibitions are feasible and specifically how they will be implemented. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-14**: Total daily vehicle trips to/from Summer Sports Camps will be limited to 236 trips (118 inbound and 118 outbound), which will be applicable to all vehicles, including shuttles. Pedestrian access shall be restricted in accordance with PDF-TRAF-17.

Issues with PDF-TRAF-14 - The EIR has failed to explain how this will be accomplished or to demonstrate that the stated prohibitions are feasible and specifically how they will be implemented. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-15**: Homecoming and Athenian Day events shall be held on weekends only.

Issues with PDF-TRAF-15 – The EIR has failed to explain how this will be accomplished or to demonstrate that the stated prohibitions are feasible and specifically how they will be implemented. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-16**: Club Sports activities scheduled during the week shall not begin prior to 7:30 PM. Prior to the beginning of each academic year, MSMU shall inform other schools participating in Club Sports activities of this limitation and of the requirements in PDF-TRAF-10, PDF-TRAF-12, and PDF-TRAF-17.

Issues with PDF-TRAF-16 - The EIR has failed to explain how this will be accomplished or to demonstrate that the stated prohibitions are feasible and specifically how they will be implemented. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-17**: Concurrent with the issuance of a Certificate of Occupancy for the Wellness Pavilion, MSMU shall institute and thereafter maintain a policy prohibiting entry on to the Campus by all pedestrians except persons meeting one of the following conditions:
>
> (1) Persons residing within the community around the Campus;
>
> (2) Persons entering the Campus via bicycle or similar conveyance, as established to the satisfaction of LADOT;
>
> (3) Persons arriving to the area around the Campus via public transportation, as established to the satisfaction of LADOT; and
>
> (4) Persons re-entering the Campus after walking outside of the Campus on the same day.
>
> The objective of this PDF-TRAF-17 is to prevent parking by any MSMU users in the surrounding neighborhood. MSMU shall establish that the policy instituted in accordance with this PDF-TRAF-17 meets this objective, to the satisfaction of LADOT.

Issues with PDF-TRAF-17 - The EIR has failed to explain how this will be accomplished or to demonstrate that the stated prohibitions are feasible and specifically how they will be implemented. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

> **PDF-TRAF-18**: Concurrent with the issuance of a Certificate of Occupancy for the Wellness Pavilion, MSMU shall limit average daily total Campus vehicle trips, inclusive of trips generated by the Wellness Pavilion, to 1 percent below the 2016 baseline trip counts taken for the Campus (2,160 average daily trips). Overall trip reductions shall be confirmed through trip counts conducted for at least two weeks each year (two in the spring semester and two in the fall semester) to the satisfaction of LADOT. Biannual monitoring reports documenting the trip counts shall be provided to LADOT until such reports demonstrate compliance for five consecutive years and thereafter every five years.[69]

Issues with PDF-TRAF-18 - The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

Alternative 5 will also incorporate the Project's MM-TRAF-1, as revised in Section 4, Other Revisions, Clarifications, and Corrections of this Chapter III of the Final EIR, below:

> **MM-TRAF-1**: During construction, in each individual hour within the PM peak period (4 PM to 6 PM), allow a maximum of 37 outbound PCE vehicle trips and 6 inbound PCE vehicle trips.

Issues with MM-TRAF-1 - The EIR has failed to explain how this will be accomplished or to demonstrate that the stated prohibitions are feasible and specifically how they will be implemented. It should be noted that the peak period in the area is from 4:00 to 7:00 PM. The EIR fails to address uncertainty in the effectiveness and implementation of this measure (see **Section 4**).

[69] 2016 average daily trips for the Campus of 2,160 are based on counts taken by Wiltec on October 17– 21, 2016, adjusted by Campus-related vehicles that were parked on Chalon Road.

The purpose of revised MM-TRAF-1 is to reduce Project-related trips. As detailed Sections 4.1 and 4.2 of this letter, there are feasibility problems with any PDFs or Alternative 5 or Project Mitigation Measures which rely on operational limitations either during construction or operation.

Alternative 5 PDFs are clearly intended to avoid, minimize, and/or mitigate the impacts of Alternative 5. Use of PDFs have resulted in a failure to identify significant impacts of Alternative 5. Once the analysis is redone and the PDFs are treated as mitigation measures, not as part of the Alternative, Alternative 5 will have many of the same impacts as the proposed Project pre-mitigation. Pursuant to CEQA Guidelines Section 15088.5(a)(1), (2) and (4) correction and recirculation of the EIR is required.

3.2.2 The EIR Understates and Misclassifies Alternative 5 Impacts Due to Use of PDFs

The discussion under **Section 3.1.2** above, is equally applicable to Alternative 5 and is incorporated herein by reference. Because the analysis of Alternative 5's traffic impacts assumes these mitigation measures as PDFs, the analysis is inaccurate and understates the impacts of Alternative 5. In addition, a number of the modifications to TRAF-1, TRAF-2 and TRAF-7 are clearly designed to respond to impacts of the proposed Project which were not identified in the DEIR. This serves to further illustrates the underestimation of Project impacts contained in the EIR. Pursuant to CEQA Guidelines Section 15088.5(a)(1), (2) and (4), the EIR for the proposed Project must be recirculated.

4. THE EIR IMPROPERLY CHARACTERIZES IMPACTS BECAUSE IT RELIES ON PDFS AND MITIGATION MEASURES WHICH ARE INFEASIBLE

The EIR improperly characterizes and understates or fails to identify impacts because it relies on PDFs and Mitigation Measures which are infeasible. They are infeasible because they: (1) rely on an untrustworthy Project Applicant for compliance with Project operational levels, PDFs and Mitigation Measures assumed in the EIR analysis; (2) their effectiveness depends on the City for Mitigation Monitoring and enforcement and the City's strategy for monitoring and enforcement is "complaint driven" rather than proactive and the City's record of responding to complaints and taking enforcement actions is spotty at best; and (3) the Wildfire-related impacts determinations in the FEIR depend on MSMU successfully implementing a "Shelter in Place" strategy, something MSMU has proved incapable of doing.

4.1 The EIR Improperly Characterizes Impacts Because It Relies on the Project Applicant for Compliance with Project Operational Levels Assumed in the EIR Analysis, PDFs and Mitigation Measures

As detailed more fully in letters contained in **Attachments A, B and M**, MSMU has a history of exceeding permitted levels of operations. The analysis in the EIR is thus fatally flawed because it assumes that MSMU will operate the proposed Projects at levels consistent with the PDFs and other operational assumptions in the EIR. The EIR similarly assumes that MSMU will comply with the PDFs and Mitigation Measures in the EIR. The analysis in the EIR thus understates the potential for Project impacts. Recirculation is thus required pursuant to CEQA Guidelines Section 15088.5(A)(1), (2) and (4).

As detailed in **Attachments A, B and M**, the Mount Saint Mary's facility was originally approved in 1928. Minutes for Petition 3066 include a statement from "the sisters" that they

would have between 100 and 200 students, with a maximum cap of 500. A January 1984 staff report for City Plan Case No. 4072 CU to allow a new residence hall indicated that the college had maintained a constant enrollment of 700 to 750 (Page 2) and there were no plans to increase the number of students (Page 1). It is not clear how or if the increase above 500 students was granted.

Later the same year, in July 1984, the Planning Commission approved construction of a parking garage at what was then Mount Saint Mary's College under Case No. 4072 CU: EIR Case No: 113-84-CUZ. According to Traffic Engineer Allyn Rifkin (see **Attachment F**): at "that time, MSMU's enrollment was approximately 750 students (see the January 1984 CUP for the Faculty Residence Building). From the project description it is clear that the request was to build a parking structure and not for an enrollment increase."

As noted by Traffic Engineer Allyn Rifkin, who worked for the City at that time (see **Attachment F**)

> In my review of documents related to the history of approvals for the Campus, I found documentation that substantiated campus enrollment was limited to 750 students. No documentation was found indicating that enrollment above that level had been permitted. When MSMU applied for construction of a new parking structure in 1984, the project description did not include an increase in enrollment, and the city form attached to my letters of May 23, 2018 and June 12, 2018 (attached to this letter) indicated that there would be no increase in enrollment.

Figure 14 shows key portions of the City's Initial Study Traffic Analysis for the proposed 80,000 sq. ft. park structure for 244 cars. Traffic Impacts were found to be less than significant based on representations that no enrollment increase is allowed:

INITIAL STUDY
TRAFFIC ANALYSIS

EIR CASE NO.: 113-84-CUZ TRANSMITTAL DATE: 3-28-84

PROJECT DESCRIPTION: Cond. Use for a 4 story, 80,000 sq. ft. parking structure for 244 cars located on the Mt. St. Mary's College property on 45.5 net acres, zoned RE40-1-H.

PROJECT LOCATION: 12001 - Chalon Rd.

EXISTING ZONES: RE40-1-H PLANNED ZONES: RE40-1-H

COMMENTS: * Provided that no enrollment increase is allowed.

IMPACT OF TRAFFIC GENERATION:

NOT SIGNIFICANT	MAY BE SIGNIFICANT	MAY BE CUMULATIVE	TRAFFIC STUDY NEEDED
X *			

Prepared by: C.A. King Date: 4/4/84

CP-1206 (3/79)

FIGURE 14: 1984 Initial Study – Traffic Analysis Form Showing No Increase in Enrollment was Permitted as Part of the New Parking Structure
Source: Attachment F

Documents available for review via the City's on-line Zoning Information and Map Access System and from Piper Tech show no major changes in permitted activity levels since 1984.

Los Angeles Municipal Code section 12.24 states that a use that is deemed approved on a lot "may be continued on the lot." (LAMC s. 12.24.L.) However, only the use that exists may be deemed approved. The 1928 CUP called for a small college with a maximum of 500 students. This is the deemed approved use of the lot. All enrollment expansions above the 500-student level have been contrary to the level permitted by existing entitlements and MSMUs disclosures. MSMU clearly cannot be trusted to operate at permitted levels.

MSMU has a history of building first and seeking permits after the fact. This has occurred with the addition of the Campus's existing swimming pool and one of the buildings on the property. MSMU has made modifications without proper permits or permissions from the City. (See **Attachments A, B and M**). Any assumptions in the EIR regarding operational levels are likely to be substantially understated, given MSMUs past behavior regarding lack of compliance with operational limitations. Any assumptions in the EIR that MSMU will comply with PDFs and Mitigation Measures is contrary to substantial evidence. The analysis in the EIR thus understates the potential for Project impacts. Recirculation is thus required pursuant to CEQA Guidelines Section 15088.5(A)(1), (2) and (4).

4.2 The EIR Improperly Characterizes Impacts Because It Relies on the City for Mitigation Monitoring

The City of Los Angeles is well known for its lack of mitigation monitoring and enforcement of PDFs, Mitigation Measures and Conditions of Approval. The City has acknowledged (on tape – see **Attachment N**) that the City's monitoring and enforcement "is complaint driven."[70]

According the Mitigation Monitoring Program for the proposed Project and Alternative 5, monitoring of the Traffic PDFs, which include the operational limits assumed in the impact analysis, would be conducted by the City of Los Angeles Department of City Planning and/or the City of Los Angeles Department of Transportation (see **Attachment N**). Neither of these departments conduct mitigation monitoring of these types of PDFs or mitigation measures. Planning Staff has admitted in past hearings (see **Attachment N**) that they do not conduct mitigation monitoring, stating:

[70]See **Attachment N** - Audio tape of Item 3, Central Area Planning Commission Regular Meeting, Tuesday, September 8, 2015 at approximately minutes: 13:49-14:42; 37:15-40:23; and 43:20 to 49:50. The audio tape is available at:
https://planning.lacity.org/StaffRpt/Audios/Central/2015/09-08-2015/Track3.mp3
The Central Area Planning Commission Meeting Audio links for the full meeting are included in **Attachment N**.

> Generally speaking, in truth much of the mitigation, monitoring and compliance is really on the good faith of the developer. And on the watchfulness of the community if something goes wrong. . .
> The Department of City Planning is not an enforcement agency. We do not have inspectors. We do not go out and look to see whether our conditions are being complied with or not.

According to Allyn D. Rifkin, PE, (see **Attachment F**):

> As the former Chief of the City's Transportation Planning Bureau, I can report that, in my 34-year experience, the City does not and has never had the resources to monitoring compliance with operational mitigation measures or these types of PDFs. Given the University's history of noncompliance with operational limitations and the City's lack of enforcement capability the conclusions in the traffic analysis cannot be supported.

Any analysis of impacts, such as what is contained in the Project EIR, that relies on the proposed Project or alternatives to be operated at levels specified in PDFs or in a Project description, or which relies on the City to enforce any PDFs, Mitigation Measures or Conditions of Approvals on which either pre-or-post mitigation impact judgements depend, is invalid as the impact judgements significantly understate real world impacts, resulting from the proposed Project and the alternatives.

Furthermore, the PDFs and Mitigations Measures for the proposed Project and the alternatives lack of any penalty to the applicant for non-compliance or provisions for a mitigation monitor who is responsible to the local neighborhood groups, for identification and reporting of non-compliance. In the absence of: (1) a mechanism for identifying PDF, Mitigation Measure, and Condition of Approval violations which is not dependent on the local community or at the community's expense; (2) a clear and substantial penalty for non-compliance; (3) a clear reporting mechanism, and (4) the assurance of timely enforcement by the City, the potential for impacts remains. Recirculation of the EIR is, therefore, required pursuant to CEQA Guidelines Section 15088.5(a)(2) and (4). This problem needs to be fixed and the EIR recirculated.

Until the City of Los Angeles creates a real mitigation monitoring and enforcement unit, any City environmental document that concludes that impacts after mitigation (and in this case, PDFs) will be less than significant contains an impact judgement that is invalid and not supported by substantial evidence. Pursuant to CEQA Guidelines Section 15088.5(a)(1) and (2), impact judgements must be updated to reflect reality, and the document recirculated.

4.3 <u>The Infeasibility of Reliance on "Shelter in Place" to Avoid Impacts</u>

The analysis in Wildfire Impacts Analysis, added to the EIR via Attachment B of the FEIR, contends that the proposed Project will not result in significant fire hazard impacts, including impact to emergency access and evacuation times in the area. That finding rests on

the assumption that MSMU will successfully implement a “Shelter in Place” (SIP) strategy for Project users even though a large share of these users would be visitors or commuters who have not been educated on MSMU’s SIP strategy. However, MSMU was not even able to successfully implement an SIP strategy or early evacuations for students who were residents of the University, during the 2019 Getty fire. Students were forced to flee on foot, some were offered rides by evacuating residents, others by emergency vehicles, and others were forced to walk out of the fire area. (See **Attachment G and Figures 15 and 16**).

FIGURE 15 – Twitter Posting By MSMU Student Re Getty Fire

FIGURE 16 – Photo of MSMU Students Fleeing Getty Fire On Foot
Source: Local Resident

For example, the Los Angeles Times in an October 28, 2019 story entitled "Getty fire: Students make harrowing escape from Mount S. Mary's University as flames approach" reported:[71]

> Diana Rodriguez, a second-year business major at Mount St. Mary's University, was studying for her principles of management class when the lights flicked out for about a minute at 1:30 a.m. Monday. Five minutes later, she smelled smoke. But she had smelled smoke last week, drifting south from a blaze in Santa Clarita; surely whatever fire was burning now was similarly far away, she thought.
>
> Then, around 2:30 a.m., resident assistants banged on the door of Rodriguez's dorm. Everyone needed to gather their things and evacuate, they said.

[71] https://www.latimes.com/california/story/2019-10-28/getty-fire-mount-st-marys-university-evacuation

> Rodriguez grabbed her laptop, phone, camera and chargers, stuffed her backpack with snacks and water, and left her dorm in pajamas. The sky was blood red: "Really, really red and orange — pretty but a little freaky, too," she recalled.
> Ash floated in the air. Her eyes stung from the smoke of the Getty fire, which has burned more than 400 acres and several homes. The Brentwood hillside campus was not far from where the fire started off the 405 Freeway and was at one point surrounded by flames.
> They put on masks and followed a road down the mountainside. Some students were griping about having to evacuate; others were laughing "either because they didn't know what was happening or as a coping mechanism," Rodriguez said. The students were picked up about halfway down the mountainside by ambulances, which ferried some students to the school's Doheny campus and others, like Rodriguez, to an evacuation center in Westwood.

ABC News similarly reported:[72]

> LOS ANGELES (KABC) -- Students from Mount Saint Mary's University trekked down Bundy Drive in the dark early Monday morning after flames broke out near their hilltop campus in Brentwood.
> The Getty Fire erupted around 1:30 a.m. along the 405 Freeway in the Sepulveda Pass near the Getty Center.
> Students were woken up by resident assistants shortly after the wind-driven flames threatened the university. Drivers heading out of the hillside community stopped to offer rides to students who were donning masks and carrying backpacks.
>
> The fire quickly began burning up a hillside near campus.

MSMUs lack of preparedness and failure to implement their SIP plan was documented in an email from one student to a member of the local neighborhood, which is quoted below. Because the student prefers to remain anonymous, identifying information has been removed from the quoted material, but we are in possession of and have verified the email:

> Hi, my name is XXXXX. I am a fourth-year XXXXX student at the Chalon Campus. I have been dorming on campus since I've been attending Mount Saint Mary's. I reside in the XXXXX building, where I have my own private room and bathroom, as do most of the students living in this building. On the early morning of October 28th, beginning at 2 am I was awakened by the commotion of girls talking and running around in the hallway. The smell of smoke was heavily present. I just assumed it was from a fire that was nowhere near the school since I had been smelling smoke for the past week from the Santa Clarita and Pacific Palisades Fire. After waking up, I went out to the hallway to see what

[72] https://abc7.com/getty-fire-mount-saint-marys-center-the/5653805/

was going on. Three girls and the RA were talking about the smell and that there was, in fact, a fire approaching the school. One girl asked the RA if we were going to be evacuated. At the time, the RA did not sound too concerned and said, "at this time, we are not being evacuated" and that we can leave if we wanted to. I went back to my room to check the time to see that it was 2:15 am. I decided to go outside and check what was going on for myself. I opened the back door of XXXXX and saw that there was a fire on the mountain behind the school and to the right of the hillside. My first thought was, "oh my gosh, how are we not evacuating right now." Other people were outside running to their cars and already leaving. My adrenaline kicked in, and I began to panic. I was already sick for the past two days, and I kept coughing from the smell of smoke. I ran back into my dorm room and called my mom to tell her that there was a fire right behind my school. I quickly told her I was going to pack up a bag, and I would call her right back to let her know more of what was going on. As I was packing my bag in my room, I saw lights from the fire department trucks pull up. This made me more scared because I knew this meant things were getting serious. I went back out to the hallway to see if there were any updates from the RA. She was just standing there, saying, "we aren't being evacuated yet." This was when more students started to pour out from the hallways. Some look like they just had woken up and weren't aware of the fire that was going on. When I was still on my floor, I didn't hear one RA bother to knock on the doors to wake girls up or alert them that there was a fire. Students basically found out by themselves or from friends knocking on their doors. I went back outside through the back door to see that LAFD was telling people to leave. During this time, I was on FaceTime with my mom to show her how close the fire was. Fire trucks were in the parking lots by the tennis courts, behind the chapel, and next to Rossiter Hall. People continued to leave in their cars. I went back to my dorm room to get the bag that I packed and called my mom back to tell her I'm unsure what to do. She told me to evacuate with the school. Not one fire alarm went off in my building or any other building. I know that this didn't go off because we have one fire drill at the beginning of each semester, and this sound perforates the whole entire school. When I was walking through the halls to go the circle, I noticed that there were still some girls who had no idea what was going on. I walked to the circle because this is where students usually go when something like this is occurring and per the MSMU Fire evacuation protocol in the handbook. When I get to the circle, there weren't many students as there usually is when we do fire drills. Again, I think this is because no one even knew that a fire was happening because fire alarms hadn't gone off, or people were still sleeping. I waited at the circle, thinking that transportation was going to be provided. Then more students started to show up at the circle, and we formed a line where shuttles usually pick up students. I waited here for a good 35 minutes. At

2:49 am, and 2:51 am, the school sent out an E- alert saying, "LAFD has ordered an immediate evacuation. Leave now." This was scary because there were many of us students still on campus, and we were under the impression we would be picked up by shuttles. How could we leave and where would we leave to if there was nowhere for us to go. There is freshman, out of state students, and international students who don't have cars on campus. I myself and many other students were in our pajamas. Some girls didn't get to pack a bag, as many were empty-handed. It was starting to get late, and the fire was moving fast. I became even more scared because transportation still didn't show up. The 24-hour security guards were nowhere to be found, so it's not like we could ask them what was going on or what we are supposed to do. Still, no fire alarms were going off. At this point, many girls were starting to converse with one another, asking if they should get an Uber. Many girls were starting to take matters in their own hands and move further down from the circle to the campus center. I, along with other girls, walked to the campus center and continued to wait 15 minutes. I called my mom to tell her that I was still waiting for transportation. It did not show. While waiting at the campus center, this is when the power went off, and the lights from the school had shut off. My mom was on the other line trying to get ahold of security but was unsuccessful. After 15 minutes, more of us girls started to walk down the stairs by the parking garage and past the guard shack to Chalon road. As we were walking down the campus, the hillside was on fire to the right side, walking down from the school. We waited at the end where you have the option to either turn to go up to the Carondelet center or straight up to the campus. The fire department and police pulled up where we were waiting. I was confused because I was still unsure whether transportation was coming or where we're supposed to go. After waiting, myself and other residents started to proceed walking down the hill. This was the most miserable experience for me because I didn't even know where I was walking to. All I know was that I was trying to go further away from the fire. I was in my pajamas and carrying a heavy bag full of things that I could pack. I got in a car accident 2 days prior to the fire and was suffering from a back sprain. I was ordered from the doctor not to do any heavy lifting. In the process of walking down the hill through the neighborhood I injured my leg by tripping because my body was naturally going fast walking downhill. Gravity naturally pulls you downhill. Weighing XXXXX pounds and carrying a heavy bag, I had to stop numerous times to catch my breath, and my body was already sore. As I was walking, I saw many neighbors outside packing up their cars. As cars were passing myself and many of the other girls walking, some had stopped and asked if they wanted a ride. There was also a lot of fire department and police going through the neighborhoods. I overheard one girl say that ambulances were picking students up. However, my time walking down the hill, I only saw one ambulance sitting at the corner of

> Bundy and Sunset. At this time, no students were in that ambulance or students proceeding to it. After my journey down the hill, I waited for a friend and her parents to pick me up. I am very thankful for this because I really wouldn't have any other help or transportation otherwise. I and other students were walking unanimously, which is a very frightening feeling. There was no chain of command or authority telling us what to do, what was going on, or where we are supposed to go during the time I was at my dorm room, in the circle, and walking down the hill to sunset boulevard. I understand that one cannot control a fire, but one can certainly control the way you handle or deal with it. I am utterly disheartened and disappointed in Mount Saint Mary's in the way they handled the situation. This was negligent on their part, especially after the Skirball fire in 2017; one would think that an effective plan would be in place. This fire on October 28th was ten times worse. Not one fire evacuation protocol was followed in the MSMU Student Handbook. Not one fire alarm went off, no chain of command giving us direction, no transportation. My life and the lives of all residents on campus that night were put in direct danger. It is clear that the safety of the students was not a priority that night. Not too mention as girls were walking down the hill, one girl was approached by a strange man asking if she needed a ride. I cannot speak on behalf of all the students of Mount Saint Mary's University, but one thing is for sure, this will be something we ALL never forget. I am traumatized and emotionally distraught. I don't think I would be feeling half this way if the school protected us and followed an effective evacuation procedure. I am graduating in XXXXX, and this is the last thing I want to remember about my school. This is supposed to be the time of my life enjoying school and focusing on the next chapter of my life. I chose Mount Saint Mary's because I entrusted that I would be safe on this campus and receive a good education from caring professors. I am at a loss for words the circumstances that have taken place regarding the aftermath of the fire. I was homeless for a week. The school did not bother to check if I was okay or if I was accounted for. The way the school has continued to handle things post-fire has been very disappointing and discouraging. So I am not sure what is worse going through the actual fire or the aftermath of it. (sic)

Figure 17 is a photo of the Getty fire, showing the proximity of the fire to MSMU during the impromptu evacuation of students residing on the Campus.

FIGURE 17 – Getty Fire's Proximity to MSMU Campus During Impromptu Student Evacuation
Source: Local Resident

Given MSMU's utter failure to implement a fire response plan during the Getty fire for students living on Campus, it is unreasonable to rely on the assumption that MSMU will implement a successful SIP strategy for users of the proposed Project and attendees and Project events when making impacts judgments about the proposed Project's wildfire-related impacts. Since the Wildfire analysis in Appendix B of the FEIR assumes successful implementation of a SIP strategy by MSMU, it understates Project impacts and fails to identify the potential for the proposed Project to result in significant cumulative adverse wildfire-related impacts including cumulative and Project impacts to emergency access and evacuation response, as well as impacts to evacuation routes, as detailed in **Section 2.5.2**. Recirculation is therefore required pursuant to Guidelines Section 15088.5(a)(1).

5. SUMMARY - RECIRCULATION IS REQUIRED

The FEIR for the proposed project includes defects which trigger recirculation under all four of the criteria listed in CEQA Guidelines Section 15088.5(a).

5.1 Per CEQA Guidelines Section 15088.5(a)(1) Because a New Significant Environmental Impact Would Result from the Project or from a New Mitigation Measure Proposed to be Implemented

The EIR has failed to identify the following new significant environmental impacts of the proposed Project detailed in **Sections 2 and 3** of this letter:

- A significant cumulative impact to a wildlife corridor used by the mountain lion.
- A significant cumulative impact to the habitat of a candidate species, the mountain lion.
- A significant VMT impact.
- A significant cumulative impact to wildfire associated risks in the area.
- A significant cumulative impact to emergency access in the area during both construction and operation.
- A significant cumulative impact to evacuation response times in the area during both construction and operation.
- A project impact to emergency access in the area during both construction and operation.
- A project impact to evacuation response times in the area during both construction and operation.

As currently written, the FEIR is a legally inadequate document which violates CEQA. Recirculation is therefore required pursuant to Guidelines Section 15088.5(a)(1).

5.2 Recirculation is Required Per CEQA Guidelines Section 15088.5(a)(2) Because 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

As detailed in **Sections 2 and 3** of this letter, as a result of the misuse of PDFs in the analysis, the EIR has underestimated significant environmental impacts of the proposed project in the following issue areas: aesthetic, air quality, biological resource, geology, greenhouse gas emissions, hydrology and water quality, and transportation. This includes the following impact areas which required mitigation after consideration of PDFs:

- Noise
- Transportation and Traffic
- Scenic resources
- Light and Glare
- Consistency with the Applicable Air Quality
- Air Quality Standard Violation Plan
- Cumulative Considerable Increase of Criteria Pollutant in Nonattainment Area,
- Sensitive Receptor Exposure to Pollutant Concentrations
- Consistency with Local Policies and Ordinances for Protection Biological Resources

It also includes the following impact areas, where impacts were found to be less than significant with implementation of the PDFs, and thus impacts would be more severe when the analysis is corrected:

- Exacerbation of Existing Hazardous Environmental Conditions
- Soil Erosion or Loss of Topsoil
- Unstable Geologic Unit or Soils
- Expansive Soils
- Greenhouse Gas Emissions
- Alteration of Drainage Patterns
- Stormwater Drainage Systems/Pollutants
- Fire Protection
- Police Protection
- Construction Traffic Impacts at intersections and on street segments where impacts were found to be less than significant
- Operational Traffic Impacts at intersections and on street segments where impacts were found to be less than significant
- Energy Consumption
- Energy Infrastructure

As currently written, the FEIR is a legally inadequate document which violates CEQA. Recirculation is therefore required pursuant to Guidelines Section 15088.5(a)(2). Recirculation may also be required pursuant to Guidelines Section 15088.5(a)(1) should new impacts be identified once the analysis is redone without consideration of the PDFs.

5.3 Recirculation is Required Per CEQA Guidelines Section 15088.5(a)(3) Because Alternative 5 is Not a Feasible Project Alternative or Mitigation Measure Considerably Different from Others Previously Analyzed that Would Clearly Lessen the Environmental Impacts of the Project Which the Applicant Has Agreed to Adopt

Alternative 5's reduced impacts are largely due to operational differences between Alternative 5 and the proposed Project. These operational differences are largely embodied in the PDFs. However, it has been demonstrated that MSMU cannot be trusted to comply with operational constraints, the City doesn't currently enforce such constraints, and the use of PDFs in the impact analysis is improper, so Alternative 5 cannot be assumed to be considerably different than the proposed Project when it comes to operational levels and the impacts that derive therefrom.

After PDFs are removed from the description of Alternative 5, Alternative 5 will have the same corrected impacts as the proposed Project prior to mitigation in those issue areas where the EIR has acknowledged the potential for Project impacts and those impacts derive from operational levels. The only issue areas where Alternative 5 would have less effect than the proposed Project are those issue areas where the potential for impacts is associated with physical differences between Alternative 5 and the proposed Project. However, the EIR has refused to acknowledge the potential for significant impacts in these environmental issue areas, such as geotechnical-related issues. Any reduction in effects would be related to Alternative 5's lesser geotechnical-related effects, such as reductions associated with the elimination of

substantial retaining walls, which the EIR has classified as less than significant without mitigation. So, there is little to no difference in the impacts identified in the EIR between the proposed Project and Alternative 5, after correcting for the PDF problem. The addition of Alternative 5 does not meet the criterion for avoiding recirculation pursuant to CEQA Guidelines Section 15088.5(a)(3).

5.4 Recirculation Is Required Per CEQA Guidelines Section 15088.5(a)(4) Because the Draft EIR was so Fundamentally and Basically Inadequate and Conclusory in Nature that Meaningful Public Review and Comment were Precluded

The PDF problem with the EIR has rendered the project description inaccurate and has resulted in totally inaccurate pre-mitigation impact judgements in the following environmental issue areas, as a result of treating PDFs as part of the Project Description, rather than as the mitigation measures they are: aesthetic, air quality, biological resource, geology, greenhouse gas emissions, hydrology and water quality, and transportation PDFs. Both the Project Description and the Impacts analyses in the EIR are inaccurate. As currently written, the FEIR is a legally inadequate document which violates CEQA. The EIR is therefore so fundamentally and basically inaccurate, inadequate and conclusory in nature that meaningful public review and comment has been precluded.

6. NEED FOR AN ALTERNATIVE WHICH CONSIDERS LOCATION OF THE PROPOSED PROJECT AT MSMU'S DOHENY CAMPUS

Mount Saint Mary's University operates two campuses in the Los Angeles Area: the Chalon Campus and the Doheny Campus.[73] The EIR should have included an alternative where all of the proposed Project uses are moved to the Doheny Campus, as this campus is not located in a Very High Fire Hazard Severity Zone and does not have the single paved road only access issues of the Chalon Campus. As explained in CEQA Guidelines Section 15126.6(f)(2) – Consideration and Discussion of Alternatives to the Proposed Project:

> (2) Alternative locations.
>
> (a) Key question. The key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR.
>
> (b) None feasible. If the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion, and should include the reasons in the EIR. For example, in some cases there may be no feasible alternative

[73] https://www.msmu.edu/admission/undergraduate-admission/visit-the-mount/

locations for a geothermal plant or mining project which must be in close proximity to natural resources at a given location.

(c) Limited new analysis required. Where a previous document has sufficiently analyzed a range of reasonable alternative locations and environmental impacts for projects with the same basic purpose, the lead agency should review the previous document. The EIR may rely on the previous document to help it assess the feasibility of potential project alternatives to the extent the circumstances remain substantially the same as they relate to the alternative. (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 573).

Section 4(a) of DEIR Chapter 4 - Alternatives, summarily dismissed inclusion of an alternative location:

a) Alternative Off-Site Location
CEQA does not require that analysis of alternative sites always be included in an EIR. However, if all the surrounding circumstances make it reasonable to consider an alternative site, then an alternative location should be considered and analyzed in the EIR. In making the decision to include or exclude analysis of an alternative site, the "key question and first step in analysis is whether any of the significant effects of the project would be avoided or substantially lessened by putting the project in another location. Only locations that would avoid or substantially lessen any of the significant effects of the project need to be considered for inclusion in the EIR." If no feasible alternative locations exist, the EIR must disclose the reasons for this conclusion.
Among the factors that may be considered when addressing the feasibility of an alternative site is suitability, economic viability, availability of infrastructure, general plan consistency, and whether the proponent can reasonably acquire, control, or otherwise have access to the alternative site.
MSMU operates two campuses, the Chalon Campus and the Doheny Campus and, thus, would have access to an alternative location. However, even if space for the proposed Wellness Pavilion were available on the Doheny Campus, the relocation of the Project to the Doheny Campus would defeat the primary purpose of the Project to develop a new on-Campus facility that provides MSMU's students with comprehensive health and wellness services including modern amenities needed for physical and health education. Nearly all of the Project objectives are specific to the Chalon Campus, most notably, the need to replace the Campus' inadequate fitness and recreational facilities, while also addressing student health and well-being, improving pedestrian safety, circulation and parking, design, and enhancing Campus

> programming. In addition to updating the outdated facilities, the events with potential to change and/or that may have increased attendance with development of the Wellness Pavilion are currently held on the Chalon Campus. Because this alternative would not achieve any of the Project's objectives, it is not considered a feasible alternative to the Project.

This analysis is inaccurate and does not comply with CEQA Guidelines Section 15126.6(f)(2). As written in the DEIR, most of the project objectives are not specific to the Chalon Campus as alleged in DEIR Chapter 4, Section 4(a). The Project Objectives listed on pages II-17 to II-18 of the DEIR, are as follows:

> The purpose of the Project is to develop a new on-Campus facility that provides MSMU students with comprehensive health and wellness services including modern amenities needed for physical and health education. The objectives for the Project are as follows:
>
> **Update Inadequate Facilities**
>
> 1. Replace the Campus' inadequate fitness and recreation facilities with state-of-the-art physical fitness facilities.
> 2. Provide a practice facility that can accommodate MSMU's club sports teams (volleyball and basketball) that will eliminate current team shuttle trips to and from the Campus for practices.
>
> **Student Health and Well Being**
>
> 3. Provide MSMU's students with facilities and wellness programming, including group fitness facilities, to address the specific health challenges and goals of MSMU's diverse student body. Promote increased physical activity and improved academic performance, self-esteem, and cognitive function. Utilize new facilities to comprehensively educate students regarding nutrition and health.
>
> **Design**
>
> 4. Site the proposed Wellness Pavilion in a manner that is compatible with the existing buildings' architectural styles and designated historic structures, while providing outdoor spaces for students and visitors to socialize and take in scenic views.
> 5. Ensure that the structure will exceed the State's Title 24 energy requirements by at least 20 percent. This will be achieved by: high performance glazing with solar heat gain coefficient (SHGC) less than Title 24 prescriptive maximum, ultra-high efficiency LED lighting systems, over insulated roof assembly exceeding Title 24 prescriptive minimums, variable capacity mechanical systems

reducing over cooling, and dual maximum variable air volume (VAV) control sequence to reduce fan energy.

Enhance Campus Programming

6. Through improved facilities enable the potential for enhancement of Homecoming and Athenian Day events by incorporating fitness and wellness programming as part of the events, and create the opportunity for new external Summer Sports Camps, a Health and Wellness Speaker Series, and other activities or events that complement the purpose of the proposed Wellness Pavilion (i.e., MSMU community or external rental health, wellness, and sports activities).

Improve Pedestrian Safety, Circulation and Parking

7. Consolidate parking currently provided in various scattered surface parking lots at the northern end of the Campus into one parking facility to improve safety by reducing pedestrian/vehicle conflicts that occur along an existing access road and at surface parking areas and driveways.
8. Improve circulation and wayfinding to increase the efficiency, accessibility and convenience of parking for students and visitors to the Campus.

CEQA Guidelines Section 15126.6(a) and (c) provide the following guidance on the selection of alternatives:

(a) Alternatives to the Proposed Project. An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which **would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project**, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553 and Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376).

(c) Selection of a range of reasonable alternatives. The range of potential alternatives to the proposed project **shall include those that could**

> **feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects**. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination. Additional information explaining the choice of alternatives may be included in the administrative record. **Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are:(i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.**

The EIR has failed to demonstrate that an alternative in which the project uses are located on the Doheny Campus would not meet most of the basic objectives of the project. Clearly objectives 1-6 could be met by such an Alternative.

According to the EIR, the proposed Project would result in significant unavoidable noise and construction and operational traffic impacts, even with inclusion of PDFs in the project description. These unmitigable impacts could be avoided by location of project uses on the Doheny Campus.

The EIR for the proposed Project fails to demonstrate that an alternative where project uses are located on the Doheny Campus would be infeasible. The EIR has failed to comply with CEQA Guidelines Section 15126.6(f)(2), in that it does not analyze a logical alternative location and it has failed to provide substantial evidence for ruling out the Alternative Location Alternative.

7. THE PROJECT DESCRIPTION IN THE EIR IS NEITHER ACCURATE NOR STABLE

The courts have held that an accurate and stable project description is fundamental to a legally sufficient EIR. This was first explained in *County of Inyo* (1977) 71 Cal.App.3d 185:

> An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.[74]
>
> A curtailed, enigmatic or unstable project description draws a red herring across the path of public input.[75]

As further explained by the courts:

> This court is among the many which have recognized that a project description that gives conflicting signals to decision makers and the public about the nature and scope of the project is fundamentally

[74] *County of Inyo* (1977) 71 Cal.App.3d 185, at 192–193

[75] *County of Inyo* (1977) 71 Cal.App.3d 185, at p. 198.

> inadequate and misleading. [Citation.] 'Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal i.e., the "no project" alternative[], and weigh other alternatives in the balance.' [Citation.][76]
> "[W]hen an EIR contains unstable or shifting descriptions of the project, meaningful public participation is stultified." [77]
> A project description that omits, or allows modification of, significant integral components of the project will result in an EIR that fails to disclose the actual impacts of the project.[78]

7.1 The Project Description is Not Accurate – It Improperly Includes PDFs Which are Mitigation Measures as Part of the Project

The current Project Description is inaccurate, as it improperly includes PDFs as part of the Project Description (see **Section 3**). The EIR is therefore not legally adequate. Since is fails to comply with CEQA, the EIR must not be certified.

7.2 The Project Description is Not Stable – After Removal of PDFs

Correcting the inaccurate Project Description will render the Project Description unstable, in violation of CEQA. The EIR is therefore not legally adequate. Since is fails to comply with CEQA, the EIR must not be certified.

8. CONCLUSION – THE CITY MUST DENY THE PROPOSED PROJECT

Rather than revising and recirculating the existing EIR, the City must deny the proposed Project or require the Project Applicant to withdraw the Project application. This is the best and cleanest way to address the many defects in the EIR and the CEQA process.

8.1 Correcting and Recirculating the EIR will Further Extend the EIR Timeline Which has Already Taken Well Beyond the 1.25 Year Maximum

It has already been more than five years since the EIR process was begun for the proposed project, well in excess of the 1.25 years allowed by CEQA as detailed more fully in **Section 2** of this letter. During the CEQA process, the City has not proceeded in the manner proscribed by law. Given the serious defects in the analysis contained in the EIR, resulting in part from an inappropriate reliance on PDFs in the impacts analysis as detailed in **Section 3**, fixing the problems with the EIR will take time and will require a fundamental change in the

[76] Citizens for a Sustainable *Treasure Island v. City and County of San Francisco (2014)* 227 Cal.App.4th 1036, at p. 1052
[77] *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 656
[78] *Santiago County Water District v. County of Orange* (1981) 118 Cal App 3d 818

project description. Therefore, in order to comply with CEQA's requirements for timely completion of an EIR and an accurate and stable project description, the City must deny the project or require the applicant to withdraw the project application. Should the applicant choose to continue to pursue a project, the applicant must be required to submit a new application, triggering the start of a new EIR. Starting the EIR process over and generating a new EIR is the cleanest way to fix the significant problems with the existing EIR. A new EIR is preferable to trying to cobble together to fix of an existing EIR which violates CEQA, due to an inaccurate and unstable Project Description and inaccurate impact assessments, as explained in **Section 7**.

8.2 Alternative 5 Appears to be the Applicant's New Project

Alternative 5 appears to be a revised version of the proposed Project. If this is the updated version of the project MSMU is pursuing, it would similarly be appropriate for the City to require a new application for the revised project and a new EIR.

8.3 CEQA Grants Lead Agencies the Power to Disapprove a Project Prior to Completing the Environment Process

One of the powers granted to public agencies by Article 3 of the CEQA Guidelines is the power to disapprove a project prior to completing the environmental process:

> **15042. AUTHORITY TO DISAPPROVE PROJECTS**
> A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed. A Lead Agency has broader authority to disapprove a project than does a Responsible Agency. A Responsible Agency may refuse to approve a project in order to avoid direct or indirect environmental effects of that part of the project which the Responsible Agency would be called on to carry out or approve. For example, an air quality management district acting as a Responsible Agency would not have authority to disapprove a project for water pollution effects that were unrelated to the air quality aspects of the project regulated by the district.
>
> Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002 and 21002.1, Public Resources Code; Friends of Mammoth v. Mono County, 8 Cal. App. 3d 247; San Diego Trust and Savings Bank v. Friends of Gill, 121 Cal. App. 3d 203.

In *Las Lomas Land Co., LLC v. City of Los Angeles* (2009) 177 Cal. App. 4th 837 the Court held that a City does not have a mandatory duty under CEQA to complete and consider an EIR before rejecting a project. The City thus has the option to deny the proposed Project at this time.

8.4 The City Must Reject the Proposed Project Because the Project Would Expand Uses in a Very High Fire Hazard Severity Zone, the Applicant has a History of Not Complying with Permit Conditions and Has Failed To Successfully

Implement Fire-Related Plans, and the Project Would Result in Significant Unmitigated Noise and Construction and Operational Traffic Impacts

Rejecting the proposed Project is the best course of action, given that the proposed Project would result in significant unmitigable noise, and construction and operational traffic impacts, even with improper consideration of PDFs. It would also be appropriate because the proposed Project would expand uses in a Very High Fire Hazard Severity Zone, the Applicant has a history of not complying with permit conditions, and has failed to successfully implement fire-related plans. The proposed Project would thus add to wildfire-related risks in the area. Therefore the City must reject the proposed Project.

We thank you for your consideration of these issues.

Sincerely,

Douglas P. Carstens

ATTACHMENTS:

A. Letter detailing the need for recirculation sent on: (1) February 21, 2019 on behalf of Sunset Coalition and Brentwood Residents Coalition ("BRC").
B. Letter detailing the need for recirculation sent on: December 21, 2020 on behalf of the Bundy Canyon Association ("BCA").
C. Documentation of Project's CEQA Timeline
   - C-1 EIR Case Record
   - C-2 ZAD Case Record
   - C-3 CPC Case Record
   - C-4 NOA
D. Omitted Related Projects
   - D-1 DEIR Related Projects
   - D-2 Los Angeles Article: LA Berggruen Institute campus revealed in new renderings, August 23, 2017
   - D-3 NOP Berggruen Institute Project
   - D-4 Berggruen Withdrawal Letter 2017 Application
   - D-5 Berggruen EAF – 2017
   - D-6 NOP Retreat At Benedict Canyon
   - D-7 Los Angeles Article: Developer planning new homes, hotel on 33 acres in the 90210 – It will be called the Retreat at Benedict Canyon, dated March 23, 2018
E. Mountain Lion Documentation
   - E-1 Individual and Population Level Resource Selection Patterns of Mountain Lions

Preying on Mule Deer Along an Urban-Wildland Gradient, Benson et al., 2016.
E-2 Los Angeles is a Metropolitan Den for Mountain Lions, UCLA Environment and Climate, July 13, 2016.
E-3 Local Mountain Lion Population Faces Precipitous Decline in Genetic Diversity Within 50 Years, Possible Extinction, NPS, August 30, 2016
E-4 Where do Mountain Lions Hunt in Los Angeles, The Verge, July 15, 2016
E-5 Lions in the Santa Monica Mountains, NPS, printed July 2021
E-6 Staff Report California Fish and Game Commission, Mountain Lion CESA Petition, April 15-16 2020 and attachments including the Petition for Listing

F. Letter from Traffic Engineer Allyn Rifkin regarding defects in the Traffic Analysis in the FEIR
G. MSMU Failure to Implement Shelter In Place During Getty Fire
G-1 Getty Fire: Students make harrowing escape from Mount St. Mary's University as flames approach, Los Angeles Times, October, 28, 2019
G-2 Mount Saint Mary's University students evacuate after Getty Fire breaks out near hilltop campus, ABC, October 28, 2019
G-3 Email Re Fires in the Area and Evacuation by MSMU Students
G-4 Photos of Getty Fire
H. Inter-Departmental Correspondence from the Fire Department on the NOP for the Project, dated April 3, 2018, April 15, 2018, March 15, 2018 and October 17, 2017
I. Letter from Fire Experts, The McMullen Company, Inc., dated June 12, 2018, on the DEIR
J. Letters from the Mountaingate Open Space Maintenance Association on the DEIR
J-1 Letter dated June 6, 2018
J-2 Letter dated June 12, 2018
K. DEIR Table ES-1 – Summary of Project Impacts, Project Design Features, and Mitigation Measures
L. Highlighted copy of FEIR analysis on New Alternative 5 showing reliance on PDFs
M. Letter from CBC - Request for Revocation — Conditional Use Authority — Case No. CPC 4072 — Mount St. Mary's University - 12001 Chalon Road, Los Angeles, CA 90049; Deemed-Approved CPC-1952-4072-CU-PA 1; ENV-2016-2319-EIR, dated May 29, 2018
N. City's Lack of Mitigation Enforcement - Audio Links Item 3 Central Area Planning Commission Regular Meeting, Tuesday, September 8, 2015
N-1 Audio Links Item 3 Central Area Planning Commission Regular Meeting, Tuesday, September 8, 2015
N-2 Transcript portions of Item 3 Discussing Lack of Mitigation Capability
N-3 Mitigation Monitoring Plan for Project
O. Letter on the FEIR from Travis Longcore, PhD and Catherine Rich, of Land Protection Partners