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Memo

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FROM: Scott Gregory, Lamphier-Gregory

SUBJECT: Head Royce PUD Project, CEQA Appeal of the Oakland Planning Commission's CEQA Determination

DATE: August 15, 2023

This memorandum provides responses to the Appeal of the Oakland Planning Commission's April 19, 2023 CEQA Determination and approval of the Head Royce School's PUD Project.

The Appeal was filed by Leila H. Moncharsh of the Law Offices of Veneruso & Moncharsh on behalf of the Neighborhood Steering Committee, which consists of representatives from each street around Head Royce School. The Appeal includes one letter dated May 1, 2023 addressing two appeals to the Planning Commission's April 19, 2023 decision. One appeal is in response to the Planning Commission's certification of the Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA), and a separate appeal of the Planning Commission's decision to grant Head-Royce School numerous permits and approvals. The CEQA appeal also includes two additional letters from the Law Offices of Veneruso & Moncharsh (dated April 18, 2023 and April 19, 2023), and three additional letters/reports prepared by experts on specific subject matters pursuant to the CEQA appeal, including letters/reports by William Weisgerber (wildfire prevention and evacuation), Jeff Pack (sound), and Clearwater Hydrology (drainage).

This memorandum provides the EIR consultant team's responses to specific challenges cited in the Appeal of the Planning Commission's certification of the EIR under CEQA. This memorandum does not address the merits of the Planning Commission's decision to grant Head-Royce School its various permits and approvals.

This response to the CEQA appeal is prepared in a manner similar to Responses to Comments on the Draft EIR. Accordingly, this memo includes an overview response to each of the broader grounds of the CEQA appeal that is included within the three letters of Veneruso & Moncharsh, as well as individual and more detailed responses to each of the three technical letters/reports provided by William Weisgerber, Jeffrey Pack and Clearwater Hydrology.

<u>Master Responses to Broader Topics of the CEQA Appeal</u>

The CEQA Appeal addresses four primary topics of the EIR, which include the following:

- Wildfire Hazards
- Emergency Evacuation
- Noise
- Hydrology and Drainage

Master Response to the Appeal - Wildfire Hazards

Exacerbating Existing Wildfire Conditions

Grounds of the Appeal

The appeal suggests that, "*Regardless of the CEQA thresholds set for exacerbating existing conditions, the introduction and presence of an increased vulnerable population into the Very High Fire Hazard Severity Zone (VHFSHZ), by definition, exacerbates the severity of the existing condition of the life/safety situation. In the absence of recognizing this level of life-safety impact – by performing due diligence in advance of a decision - the only logical conclusion that decision makers can reach is that this Project is not ready for approval*." It also suggests that, *"the CEQA process, in its current form, is unbending at every level in the face of introducing hundreds of additional vulnerable populations into the VHFSHZ, by excusing it away as not meeting CEQA thresholds for exacerbating existing conditions*." The appeal, "*strongly disagrees that the EIR presents sufficient information for City decision-makers to evaluate risk when weighing the relative merits of the proposed Project".*

Information Presented in the EIR

The analysis of wildfire impacts presented in the Head-Royce School PUD Project EIR is based on technical analysis prepared by EIR consulting team member Carol Rice, Principal of Wildland Res. Mgt., an expert in the field of wildfire hazard analysis and preparation of Vegetation Management Plans. This professional expert analysis and the recommended Vegetation Management Plan for the School were accurately summarized in the EIR, presented in whole as an Appendix to the EIR, and made available to the public for review and comment.

The EIR clearly identifies the Project site as being located in a Very High Fire Hazard Severity Zone (VHFHSZ) as identified by the City of Oakland and CalFire, and that the School is located in a Wildland Urban Interface (WUI) zone (see DEIR pages 16-1 through 16-4). The EIR also presents fire hazard factors that are specific to the Project site, including localized weather conditions that can result in extreme fire danger and high ignition potential, hazardous vegetation and fuel loads, and older buildings constructed well before current Fire Code requirements (DEIR pages 16-5 and 16-5). The EIR also provides an overview of the regulatory framework pertaining to wildfire protection. This regulatory framework includes the California Fire Code requirements for Wildland-Urban Interface Fire Areas; the identification of Fire Hazard Severity Zones; and requirements for wildfire protection, including new building construction materials, hazardous vegetation and fuel management, and defensible space requirements. Specifically, the EIR identifies City of Oakland Fire Code requirements that apply to areas designated as VHFHSZs, including required preparation of Vegetation Management Plans. These regulations do not prohibit new construction or prohibit increases in population in areas designated as VHFHSZs, but do require measures that serve to reduce fire hazards at individual properties.

The EIR clearly indicates that the Project site is located in, "one of the highest risk areas in the country for devastating wildland urban interface fires." It evaluates whether the Project might exacerbate wildland fire-hazard conditions by bringing additional development and people into an area at risk of fire hazards, or by failing to comply with regulatory measures for fire hazard reduction. The EIR (Impact Fire-1) identifies that, "*the Project would exacerbate the current exposure of people and structures to a significant risk of loss, injury or death involving wildland fires by adding School buildings and increasing school enrollment at a school located within a VHFHSZ*" (DEIR page 16-17).

However, as set forth below, this increased exposure can be fully mitigated through the implementation of project upgrades to existing buildings, fire-safe code requirements and several mitigation measures that would reduce the exposure and risk to a less than significant level.

Mitigating Exacerbated Wildland Fire Hazard Conditions

Grounds of the Appeal

The appeal suggests that a Vegetation Management Plan needs to be, "*fully vetted as part of CEQA, the EIR, and prior to granting any building permits*". The appeal concurs with the EIRs requirement that the School submit a Vegetation Management Plan to the Oakland Fire Department for review and approval prior to issuance of any construction-related permits, with ongoing monitoring and inspection by OFD prior to, during, and after construction of the Project.

Information Presented in the EIR

To address potential exacerbation of wildfire hazards, the EIR cites California Fire Code and City of Oakland Fire Code requirements that apply to areas designated as VHFHSZs. These codes require preparation of a Vegetation Management Plan to reduce the potential for a project to exacerbate the risks of wildland fires. Pursuant to these code requirements, the consulting expert in the field of wildfire hazards that helped prepare the EIR developed a Vegetation Management Plan for the School, designed to provide an enhanced level of wildfire safety at the Head-Royce School. The Vegetation Management Plan addresses both management of wildlands and on-site landscaping. A summary of the Vegetation Management Plan's recommendations is presented in the EIR, and the recommended Vegetation Management Plan is provided in Appendix 16 of the EIR. The EIR's recommended Vegetation Management Plan includes the following required components:

- identifies how to incorporate fire-safe plants and vegetation at the School to reduce fire risk to structures
- specifies vegetation treatments within differing Fuel Management Zones at the School, as required to create sufficient defensible space, and
- lists a sequence of scheduled vegetation management practices to be implemented by the School during construction and on-going throughout the life of the Project, to reduce fuel loads and fire hazards

The EIR's Vegetation Management Plan satisfies the requirements of the California Fire Code, the City of Oakland Fire Code, and City of Oakland's Standard Conditions of Approval for projects located within the designated VHFHSZ. The Vegetation Management Plan was fully vetted as part of the CEQA process for this EIR. With implementation of the Vegetation Management Plan and other construction-period requirements, the EIR finds that the Project will comply with all Defensible Space requirements of the California and Oakland Fire Codes. Compliance with these requirements will reduce the Project's potential to exacerbate the current risk of wildland fires.

The EIR does not suggest that implementation of the required Vegetation Management Plan would reduce or materially lessen existing risk of wildfire in the area. Rather, the EIR concludes that implementation of the Vegetation Management Plan and compliance with other codes and regulations pertaining to fire-safe development would substantially reduce the potential for the Project to exacerbate these existing hazardous conditions, such that the Project would not increase fire hazards.

A Standard Conditions of Approval/Mitigation Monitoring Program (SCAMMP) was prepared for the Head Royce School Planned Unit Development (PUD) Project. That SCAMMP includes SCA Fire-1, Designated Very High Fire Severity Zone – Vegetation Management, which requires the Vegetation Management Plan to be submitted for City review and approval, and implemented prior to, during, and after construction of the Project. The Vegetation Management Plan is required prior to approval of any construction-related permit for the Project, is subject to approval by the Oakland Fire Department, and subject to monitoring and inspection

by the Oakland Fire Department. A draft of the Vegetation Management Plan as prepared by the EIR consultant is included as part of the EIR (Appendix 16A).

Effective Mitigation of Wildfire Impacts

Grounds of the Appeal

The appeal suggests that Head-Royce School has, "*a bad history of non-compliance with vegetation management, providing Fire Department photos and inspection citations to demonstrate that failing*". The appeal suggests that the School "*created a firetrap on its Campus in 2018, and that it remained in that condition past 2020, when the EIR consultants toured the site*". The appeal asserts that, "*despite overwhelming evidence of permit and inspection non-compliance, the EIR treats HRS as simply needing some suggestions and guidance*".

The appeal asserts that the Oakland Planning Commission demonstrated 'abuse of discretion' by imposing ineffective mitigation measures and permit conditions.

CEQA's Authority to Mitigate Impacts

Pursuant to CEQA Guidelines section 15041, the City has authority to require implementation of the Vegetation Management Plan and to require compliance with all other applicable federal, state and local laws and code requirements pertaining to fire protection and life safety systems, fire service features, and materials and construction methods for fire-safe structures. CEQA Guidelines section 15126 further provides that mitigation measures must be fully enforceable through permit conditions, agreements or other legally binding instruments.

If the Project is approved, it is standard City practice to require the School to sign a copy of the approval letter and all conditions and mitigation measures pursuant to that approval (including the Vegetation Management Plan). The signed copy is to be submitted with each set of subsequent permit plans for demolition, grading and building permits. The School will then be responsible for compliance with all the Conditions of Approval and all adopted mitigation measures at its sole cost and expense, and subject to review and approval of the City of Oakland. Violation of any term, condition or mitigation measure relating to the Project's approvals (including the Vegetation Management Plan) is unlawful, prohibited and a violation of the Oakland Municipal Code. The City reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, to revoke the Project's approvals if the applicant violates of any of the Project's Conditions or mitigation measures, or to take other appropriate enforcement actions.

Regardless of the School's good or bad history with prior fire hazard inspections and compliance, implementation of the Vegetation Management Plan is an absolute requirement of the Project's approval and is enforceable through permit conditions. This condition of approval is neither a suggestion nor a general guidance, but rather a definitive obligation of the School.

Comparison to the California Attorney General's Best Practices Guidance for Wildfire Mitigation

In October of 2022, the California Attorney General issued guidance with best practices and mitigation measures for local governments considering approval of development projects in fire-prone areas. This Guidance document was issued well after the City published a Notice of Preparation for this EIR in February of 2019, and well after the City issued its Notice of Availability/Notice of Public Hearing of the Draft EIR in November of 2021. The Guidance document was not raised as a comment on the Draft EIR, and was not addressed in the February 2023 Final EIR. Given the timing of the California Attorney General's Guidance document, the EIR was not required to address these guidance recommendations for considering and adopting feasible mitigation measures or alternatives to avoid or reduce a project's impacts to potential wildfire risks.

However, please see the Responses to Weisgerber Consulting's Letter 4, Response to Comment 4-14, which provides a comparison of the Head-Royce School Project and the conclusions of the EIR, to the Attorney General's Guidance document. This comparison demonstrates that the Project provides substantial compliance with the Attorney General's Guidance document.

Master Response to the Appeal - Emergency Evacuation

A substantial portion of the CEQA appeal pertains to the EIR's analysis and approach for evaluating the Project's effects on potential emergency evacuation conditions, particularly under a mass evacuation of the Oakland Hills during an uncontrolled wildfire event. The appeal finds fault with the EIR's analysis of this condition for the following primary reasons:

- The appeal suggests that the EIR does not provide an adequate baseline of existing conditions related to a mass evacuation scenario
- The appeal claims the EIR does not adequately analyze the Project's impacts, specifically by adding more students to a panicked and chaotic evacuation condition
- The appeal disagrees with the EIR conclusion that, with implementation of the recommended mitigation measure (i.e., preparation and implementation of an Emergency Evacuation Plan), the Project's impacts related to emergency evacuation will be reduced to less than significant levels, and
- The appeal charges that the EIR inappropriately defers necessary mitigation

Each of these grounds for the CEQA appeal is addressed below.

Emergency Evacuation Baseline

Grounds of the Appeal

The appeal suggests that the EIR "*does not provide baselines showing, under pre-Project conditions, whether it would be possible to evacuate the current population at HRS*". It also suggests that, "*it should then be of paramount importance to update the existing conditions modeling for any proposed expansion, such as the HRS South Campus, as part and parcel of due diligence*." Attachments to the appeal provide references to a number of evacuation modeling tools that can simulate a Wildland-Urban Interface fire evacuation, accounting for fire spread, pedestrian movement, and traffic. These referenced tools can also consider situational awareness by responders, and human behavior of residents in evacuation scenarios. Attachments to the appeal also provide references to other engineering studies prepared specifically for modeling Wildland-Urban Interface (WUI) egress and evacuation.

The appeal concludes that, "*the missing baseline from the EIR violates CEQA because establishing a baseline at the beginning of the CEQA process is a fundamental requirement, so that changes brought about by a project can be seen in context and significant effects can be accurately identified*".

Baseline Information Presented in the EIR

The appeal is correct that no technical evacuation modeling tools were used for the EIR to simulate a wildland fire or to model a major evacuation scenario. However, the EIR does provide an adequate baseline from which to measure the Project's potential impact. Baseline information presented in the EIR related to emergency evacuation includes the following:

- The EIR clearly identifies that current research on California wildfires has found that wildfires can spread quickly, may overwhelm officials and communication systems, and can over-stress an evacuation processes. With a high Diablo wind event and hazardous fire conditions, a wildfire that begins in the Oakland Hills could reach Head-Royce School within 15 to 30 minutes.

- Under a catastrophic wildfire evacuation scenario, as many as 9,000 people from neighborhoods located above Highway 13 and neighborhoods below Highway 13 but in proximity to the School, plus people from Montclair Village and people from surrounding institutional uses, may seek to use Lincoln Avenue as their primary vehicle evacuation route to safer, downhill locations. Lincoln Avenue is expected to be a main thoroughfare for evacuees going downhill and emergency vehicles going uphill, with traffic congestion being a primary concern.
- As of the date of publication of the EIR, the City of Oakland does not have a publicly facing evacuation plan for the Oakland Hills. Multiple public documents including the Oakland 2016-2021 Local Hazard Mitigation Plan, the Oakland Safety Plan, and now the recently published City of Oakland 2023 Annex to the Emergency Operations Plan, identify the need to improve evacuation procedures. [1]
- The City's prior 2010 Local Hazard Mitigation Plan encouraged development of plans for evacuation or sheltering-in-place of schoolchildren during periods of high fire danger, specifically recognizing that overloading of streets near schools by parents attempting to pick-up their children during these periods could restrict uphill access by fire personnel and equipment. [2]
- Head-Royce School had an Emergency Preparedness Manual (2020), which provided its own procedures and evacuation plans for the School in the event of an emergency. As indicated in that Emergency Preparedness Manual, the School had a shelter-in-place protocol, unless Incident Command authorized an evacuation procedure. Parents are to be instructed not to attempt to pick up their students during an emergency until receiving instructions about when it is safe for students to be picked-up.
- As of November 2020, the Head-Royce School North Campus had a number of pedestrian egress points that were not optimally maintained for an emergency pedestrian evacuation.

This EIR baseline information provides adequate context to assess the potential effects that might result from the Project as related to an emergency evacuation.

Evacuation Impacts

Grounds of the Appeal

The appeal points to the fact that the EIR "*does not include a traffic study showing what would happen in the event that there was a typical mix of vehicles and pedestrians of all ages trying to evacuate at the same time*". It also notes that the EIR, "*does not discuss the role of panic and chaos in determining whether it is possible to perform a safe evacuate so many people, including an additional 344 school-aged children, during a mass evacuation*".

The appeal asserts that the EIR needed to, "*either show that an evacuation plan would reduce the danger to the neighborhood, the school, and neighbors above highway 13 to less than significant, or it needed to discuss alternatives to the Project's increase in enrollment*". Attachments to the appeal provide the, "*expectations of the California Attorney General as to what should be analyzed in an EIR*", and that the EIR, "*did not consider this laundry list of items that should have been provided as part of the analysis*." The appeal cites CEQA case law that, "requires agencies to analyze any significant environmental effects a project might cause or risk exacerbating by bringing development and people into the area affected, and that the EIR, "*violated this*

[1] City of Oakland, *Annex to the Emergency Operations Plan, Hazard Specific Annex: Wildfire*, April 2023, which identifies the Oakland Police Department as the department with primary responsibility to develop plans and procedures to support evacuation and traffic management during a wildland fire

[2] City of Oakland Annex to the 2010 Association of Bay Area Governments Local Hazard Mitigation Plan

mandate by ignoring the Attorney General's directive as to what should be analyzed in an EIR." The appeal asserts that the EIR does not contain "*sufficient detail to enable those who did not participate in its preparation to understand and consider meaningfully the Project's impact on the ability of the campus and community to safely evacuate*". Finally, the appeal asserts that, "*nearby residents, parents, uphill neighbors and School employees have the right to know the Project's impact on an evacuation. Without this crucial information, the EIR fails as an informational document*."

Impact Analysis as Presented in the EIR

Per CEQA Guidelines Appendix G, the CEQA threshold pertaining to emergency evacuation is whether the project would, "impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan." This is the threshold applied in the EIR. As concluded in the EIR, the City of Oakland does not have a publicly facing evacuation plan for the Oakland Hills, and there are no specified public emergency evacuation routes to be followed. The only emergency evacuation plan strategy that was identified at the time of preparation of the EIR was the City's Local Hazard Mitigation Plan. This Plan encourages preparation of plans for evacuation or sheltering in place of schoolchildren during periods of high fire danger, specifically recognizing that overloading of streets near schools by parents attempting to pick-up their children during these periods can restrict access by fire personnel and equipment. As such, the EIR does not find that the Project would conflict with or interfere with any such adopted emergency response plan or emergency evacuation plan.

Irrespective of the presence (or lack thereof) of a publicly facing evacuation plan, the EIR does evaluate whether the Project would exacerbate wildfire hazards by substantially contributing to a condition whereby community residents would be unable to evacuate safely due to increased traffic congestion on potential evacuation routes. This approach to analysis of emergency evacuation is consistent with recent California Supreme Court decisions, which found that "additional people competing for the same limited routes can cause congestion and delay in evacuation, resulting in increased wildfire related deaths. By bringing a significant number of people into the area, [a project] may significantly exacerbate existing environmental hazards, specifically, wildfires and their associated risks." Therefore, this issue was addressed in the EIR.

The EIR recognizes that Head-Royce's then-effective Emergency Preparedness Manual emphasized a shelter-in-place protocol. The School's gym is a fire-hardened structure, and the 2020 Emergency Preparedness Manual directed that shelter-in-place action is to occur at that facility. Both EIR technical consultants (Dr. Wong and Wildland Res. Mgt.) acknowledged this fire-hardened structure, but strongly recommended against shelter-in-place as the primary protocol under a wildfire event. They found that even a strongly fire-hardened structure such as the gym might not provide effective protection against extreme heat and smoke under a wildfire event. Accordingly, these EIR consultants recommended an evacuation procedure for the School.

The EIR clearly identifies that the Project would increase student enrollment by 344 additional students and 17 staff member, representing an increase of 361 new people that would potentially compete for the same limited evacuation routes to escape a wildfire hazard. Under a catastrophic evacuation scenario, as many as 9,000 people may be seeking to use Lincoln Avenue as an evacuation route to safer downhill locations, and the Project would add 361 more people (or an approximately 4 percent increase in people) potentially attempting to use Lincoln as an evacuation route.

The Evacuation Planning Recommendations report for Head-Royce School (Stephen Wong, November 2, 2020, Appendix 16B of the EIR), evaluated a number of potential evacuation scenarios for the School, including evacuation by vehicles. That evaluation did not recommend a vehicle evacuation from Campus. It found that a vehicle evacuation would add significant congestion to what can already be expected to be a heavily congested evacuation route. Additionally, bus and/or carpool loading would conflict with other evacuating vehicles on the roadway, and not enough vehicles are available to evacuate the School population quickly and efficiently. A vehicle evacuation was only advised if there is substantial forewarning of an

imminent evacuation, and if congestion on the surrounding roadways is low. Rather, the Evacuation Planning Recommendations report included in the EIR recommends a pedestrian evacuation for the School. Pedestrian evacuation was considered the most likely scenario given that most students do not have access to a vehicle, is likely to be faster than other types of evacuations in most situations, and would minimize the exacerbation of vehicle congestion on Lincoln Avenue from evacuees of the surrounding neighborhoods.

Accordingly, the EIR does consider the potential impact of adding more people that would compete for the same limited evacuation route down Lincoln Avenue, and recommends an evacuation strategy that minimizes its contribution to traffic congestion and delay on the Lincoln Avenue evacuation route. The pedestrian evacuation scenario substantially limits the Project's exacerbation of the anticipated over-burdened roadway capacity in the event of an evacuation of the Oakland Hills.

Effective Mitigation of Exacerbated Evacuation Conditions

Grounds for the Appeal

The appeal suggests that the EIR needed to, "*either show that an evacuation plan would reduce the danger to the neighborhood, the school, and neighbors above Highway 13 to less than significant, or it needed to discuss alternatives to the Project's increase in enrollment. The appeal states that the EIR did neither, and thus does not fulfill its obligation to either mitigate the evacuation dangers, or pursue another alternative"*. The appeal also suggests that the EIR, "*failed to show how the mitigation of a future evacuation plan would even occur. It appears that the approach was 'just trust HRS because they are a wealthy private school and therefore, can be trusted*", and that, "*there is no evidence that the EIR has met its legal obligation to show that its proffered mitigation will reduce the vegetation management and evacuation impacts to less than significant*".

The appeal also suggests that, '*the EIR concedes that Mr. Weisgerber is a recognized expert on the topic of wildfire prevention and evacuation procedures, but then ignores most of what Mr. Weisgerber said about the emergent need for an evacuation plan*".

Mitigation as Presented in the EIR

To be clear, it is not possible for the Project to reduce the existing wildfire dangers in the surrounding neighborhood or in the neighborhoods above Highway 13. The existing wildfire danger in the Very High Fire Hazard Severity Zone associated with the Oakland Hills is an existing condition that is influenced by local extreme wind and weather conditions, steep and varied terrain and a complex mosaic of different vegetation types with interspersed areas of development, representing a very high risk for wildland urban interface fires. It is also not possible for the School to develop a plan that can reduce the risks and capacity constraints to people from these neighborhoods related to an evacuation during a wildfire. The high fire risks, limited evacuation routes, and lack of a comprehensive area-wide evacuation plan are conditions that exist with or without the Project.

The obligation of this EIR is to seek mitigation measures that can reduce or avoid the Project's exacerbation of these existing conditions. The EIR does this by requiring implementation of a Vegetation Management Plan to reduce on-site fuel load, and by including a mitigation measure to address the Project's potential to exacerbate existing capacity constraints associated with an emergency evacuation of the Oakland Hills (Mitigation Measure Wildfire and Emergency Evacuation-1, Emergency Evacuation Plan). This mitigation measure involves a pedestrian-based evacuation plan for the School that does not contribute to anticipated traffic congestion on Lincoln Avenue, and recognizes the School's limited capability to conduct a full vehicle evacuation given the relatively small number of School-related vehicles as compared to the number of School students and faculty. This mitigation measure was developed with input from City departments, the EIRs technical evacuation expert (Dr. Wong) and the detailed comments as provided by Mr. Weisgerber, President of Weisgerber Consulting as included in the Neighborhood Steering Committee's comment letter on the Draft EIR. Mr. Weisgerber's review included a number of suggested improvements to the recommendations of the

Draft EIR that helped bolster the effectiveness of the recommended Pedestrian Evacuation Plan. Much of Mr. Weisgerber's recognized expert comments on the topic of evacuation procedures has been included in this mitigation measure, and not ignored.

The EIR's ***Mitigation Measure Wildfire and Emergency Evacuation-1: Emergency Evacuation Plan*** includes the following important components:

- The School shall prepare a full, stand-alone Emergency Evacuation Plan. This Emergency Evacuation Plan shall be prepared in consultation with a professional emergency evacuation expert, and shall consider those recommendations as provided in Appendix 16B of the Draft EIR, as well as those additional recommendations as included in Mr. Weisgerber's peer review/comment letter. Selection of the most appropriate and effective details of the Emergency Evacuation Plan are to be conducted by the professional emergency evacuation expert retained by the School, and subject to review and approval by the Oakland Fire Department, with input from Emergency Services, Oakland Police Department and the Oakland Department of Transportation.
- Approval of the Emergency Evacuation Plan by the Oakland Fire Department must be obtained prior to issuance of a certificate of occupancy for the first building permit that would enable an increase of current student enrollment.

The Emergency Evacuation Plan shall address, at a minimum, the following considerations and performance standards:

- Establish communication connections with emergency alert systems. This may include developing a liaison relationship with the Fire Marshal and/or safety personnel as designated by the City Administrator, and/or OFD Operations Center (as do public schools).
- Establish a power-independent communication connection (such as cell phone, satellite phone, etc.) with the Emergency Management System to maintain emergency response communications in the event of an emergency and for real time updates.
- Participate in Alameda County's public alert system provided by Everbridge (called AC Alert), which Oakland first-responders use to broadcast incident-specific messages for any event.
- Remove existing physical obstacles throughout the Campus (both North and South) that may hinder a successful pedestrian evacuation, as identified by Dr. Wong in Appendix 16B of the EIR. Appendix 16B of the EIR provides recommendations that Head-Royce School should address to improve egress pathways, gates, stairs, gate openings and ADA compliance, to better prepare for an emergency evacuation.
- Establish accountability procedures for managing a pedestrian evacuation. These procedures should ensure a methodology for managing and accounting for all primary grade children during an evacuation, with responsibilities assigned to faculty and staff (and potentially older students) to ensure that all students are safely managed under emergency mass evacuation conditions. This may include classroom "all clear" verification, identifying "rally points" along the travel route, and headcount verification that all students have reached the designated evacuation assembly point.
- Identify evacuation destinations, including primary and secondary, and potentially tertiary evacuation destinations, which should be established in consultation with City reviewers. The pre-designated assembly points should be communicated to all parents and guardians, with methodologies for adequately communicating emergency evacuation information and instructions on how reunification with their students is to be achieved.
- No at-school reunification should be permitted under an evacuation condition (i.e., parents and guardians shall not be permitted to pick-up their children by driving to Campus).

- Once the Emergency Evacuation Plan has been approved by the City, it shall be published on the School's website so that neighbors and the public are informed of the School's evacuation strategy.
- The School shall ensure that all faculty, staff, students and parents are fully trained on the evacuation plan, with a minimum of semi-annual exercises observed by the OFD, to ensure that the Campus is well indoctrinated toward an emergency reflex response to a disaster.

The Emergency Evacuation Plan for the School will help improve and bolster the effectiveness of a pedestrian evacuation under emergency conditions, and will minimize conflicts with an anticipated highly congested vehicular evacuation on Lincoln Avenue of others from the Oakland Hills neighborhoods under an emergency evacuation scenario.

Mitigation is Not Deferred

Grounds for the Appeal

The appeal suggests that the mitigation measure included in the EIR calling for preparation of an Emergency Evacuation Plan improperly defers analysis of the effectiveness of such a Plan, and that it does not establish necessary performance standards to be met in a way that effectively mitigates the impact.

The appeal further suggests that the requirements related to preparation of an Emergency Evacuation Plan can be put-off until some undetermined time in the future. The appeal even suggests that the EIR requirements allow the School to defer providing an Evacuation Plan for at least six years, and that the School can even ask for more time, possibly never preparing an Emergency Evacuation Plan at all.

Mitigation Standards as Presented in the EIR

The EIR's ***Mitigation Measure Wildfire and Emergency Evacuation-1: Emergency Evacuation Plan*** does not improperly defer mitigation. Rather, the EIR mitigation measure commits the School to developing a precise pre-evacuation plan and emergency evacuation procedures that satisfy the specific performance criteria as articulated in the mitigation measure. The EIR mitigation measure includes specific pre-evacuation planning and preparation requirements, as well as specific emergency evacuation procedures required during an evacuation.

The EIR mitigation measure provides that the selection of the most appropriate and effective details of the School's Emergency Evacuation Plan is to be conducted by a professional emergency evacuation expert retained by the School. The School's proposed Emergency Evacuation Plan shall then be subject to review and approval by the Oakland Fire Department, with input from Emergency Services, Oakland Police Department and the Oakland Department of Transportation, ensuring all City standards and requirements for the safest and most effective emergency evacuation are incorporated. Accordingly, the EIR and its mitigation measure requiring preparation of a detailed Emergency Evacuation Plan that is fully consistent with these performance standards and requirements:

- does not "wait for development of questionable mitigation measures to kick-in down the road", and
- does not "put-off analysis or order a report without setting standards" that demonstrate how the Project can avoid exacerbation of an emergency evacuation hazard

The EIR does not suggest that the required pre-evacuation plans and emergency evacuation procedures will eliminate or fully reduce the risk of lost lives and property during a catastrophic wildfire, nor will it eliminate the potential for chaos or panic as people try to escape such a wildfire. Rather, by introducing the pedestrian evacuation strategy for faculty and students from Head-Royce, the School would not compete with residents of the surrounding area for vehicular evacuation on limited roadway evacuation routes, and would not add additional vehicle congestion and delay. Residents in the surrounding area may also seek to evacuate on foot because of congested or stopped traffic on Lincoln Avenue. The School's contribution to a potentially

crowded pedestrian evacuation will have been practiced pursuant to prior emergency preparedness drills, will be as well organized and efficient as is practical given the emergency conditions that would necessitate such an evacuation, and will include secondary and potentially tertiary evacuation destinations and routes.

Mitigation Timing Requirements as Presented in the EIR

The EIR mitigation measure requiring an Emergency Evacuation Plan does not put-off preparation this Plan to some undetermined time in the future, or six years from now, and certainly does not allow for never preparing an Emergency Evacuation Plan. Rather, the EIR mitigation measure requires approval of the School's Emergency Evacuation Plan by the Oakland Fire Department prior to issuance of a certificate of occupancy for the first building or construction permit that would enable any increase over currently permitted student enrollment. In other words, before the School can increase its enrollment beyond the limits of the current permitted capacity, or before the potential impact of the Project will be realized.

Before the OFD can consider such approvals, the School is required to provide the City with a proposed Emergency Evacuation Plan prepared in consultation with a professional emergency evacuation expert. That proposed Emergency Evacuation Plan is then subject to review and input from Emergency Services, the Oakland Police Department and the Oakland Department of Transportation, prior to consideration of approval by the Oakland Fire Department.

Head-Royce School's Draft Wildfire Preparedness and Emergency Evacuation Plan

Recognizing the time requirements involved in the review and approval process of an evacuation plan, the School has prepared a draft *Wildfire Preparedness and Emergency Evacuation Plan*, prepared in consultation with PyroAnalysis (a fire prevention and protection consulting firm) and its Principal Consultant, Shane Lauderdale (an NFPA-Certified Fire Protection Specialist). Pursuant to the EIR mitigation measure, this draft Plan will be subject to detailed review and approval by the Oakland Fire Department prior to any increase in student enrollment pursuant to the Project.

The following is not intended as part of the Fire Department's detailed review, but only as a check on the Plan's compliance with the EIR mitigation measure requirements. It does appear that the School's proposed *Wildfire Preparedness and Emergency Evacuation Plan does address* the majority of the pre-evacuation planning and preparation requirements, and a majority of the emergency evacuation procedures required by the EIR Mitigation Measure Fire-1.

- It was prepared in consultation with PyroAnalysis (a fire prevention and protection consulting firm) and its Principal Consultant, Shane Lauderdale (an NFPA-Certified Fire Protection Specialist)
- It establishes an Emergency Management Team (EMT) comprised of the Head of School, the Chief Financial and Operating Officer, the Director of Communications and the School's Fire Emergency Consultant
- It provides that the EMT will be enrolled in multiple services that provide communications and notifications of pending Red Flag Warnings (RFW), Air Quality Alerts, PG&E PSPS shut-offs, and other emergency alert systems including AC Alert/Everbridge, Zonehaven, the Interactive National Weather Service (INWS) and news media outlets.
- It identifies evacuation exits from the Campus, including the main gates to the North and South Campuses, the middle gate on Lincoln Avenue, the Whittle gate, the driveway to the athletic fields on the North Campus, and the stairs to the tennis court allowing egress to Whittle Avenue. Although School gates are generally locked to limit access from outside, they are now all equipped with panic bars to allow immediate exit in case of emergency.
- It provides that Lower School personnel will be assigned to assist with students in grades K-5, and that additional staff members will be designated to assist with the evacuation of staff or students

with physical disabilities. If individuals with physical disabilities are not capable of a pedestrian evacuation, they will be transported by vehicle to the designated off-campus assembly area.

- It establishes certain accountability procedures for managing a pedestrian evacuation, including adult personnel walking with groups of up to twenty grade 6-12 students, and up to 10 grade K-5 students during an evacuation. Students will be instructed to leave campus in pairs. Upon arrival at the evacuation destination, students and adults are to congregate with one another as closely as possible. If circumstances allow, groups should assemble in a pattern similar to the formation used for all-school fire drills, as this will facilitate the reunification process. Attendance will be taken immediately upon arrival so that any missing persons can be identified and accounted for as quickly as possible.
- It identifies the primary default destination for evacuation/reunification as being the Caltrans Park & Ride lot located under the MacArthur Avenue/Interstate 580 overpass, approximately 1.2 miles down Lincoln Avenue from the School. It also identifies a secondary evacuation/reunification area as the Dimond Park Tennis Courts approximately 0.7 miles from the School.
- To ensure that Lincoln Avenue remains as accessible as possible for first responders and vehicular evacuation of the surrounding neighborhood, the Plan provides that parents and guardians are not to pick-up their child from the campus if an immediate wildfire emergency is declared. Instead, they will be provided direction by the Communications Team to either wait for the immediate danger to subside while students shelter in place on campus, or to reunify with their student(s) in one of the two off-site evacuation destination locations.
- It provides a methodology for communicating emergency evacuation information and instructions on how reunification with students is to be achieved. Periodic electronic updates are to be transmitted to the parent community to reassure them that a reunification process will commence as soon as it is safe to do so. When it is safe to release students, it is expected that the evacuation process will proceed in a sequential manner by grade, for example, with kindergarten students picked up first and 12th grade students last. For families with multiple students, all students in the household may be released with the youngest student. The Communications Team will transmit regular electronic messages to parents throughout the process to ensure that the community is well informed and that there is an orderly process to minimize the amount of vehicle traffic. The IC will coordinate with local authorities to identify the nearest safe location to execute the reunification process.

The School's draft *Wildfire Preparedness and Emergency Evacuation Plan* further provides the following additional precautionary measures that were not specifically cited in the EIR mitigation measure:

- If a Red Flag Warning or Fire Weather Watch is issued for the School area, the School's Emergency Management Team will be convened for evaluation of the risk. The Team will communicate to the School community that Red Flag conditions exist for the day, and that further steps, including the potential for a campus closure, may become necessary.
- The School's Emergency Management Team will ensure that students and faculty will not come to campus if a Wildfire Evacuation Order or Evacuation Warning has been issued by a governmental authority before the start of a school day. If the Evacuation Order is issued after the commencement of the school day, the School's Incident Commander and the Emergency Management Team will work together to evacuate the campus in accordance with the protocols in the Plan.
- When wildfire risk is particularly high for the area surrounding the School, PG&E may announce a power shutdown (PSPS event) affecting the campus. PG&E provides notice of such projected shut-offs to all PG&E account holders through texts, emails and phone calls. The School is a PG&E customer and will be notified in advance of all pending PSPS events. If a PSPS event occurs, the campus will be closed for instruction and other school activities during the shutdown period, and no

students will be allowed on the campus. If the shutdown occurs while school is in session, the Head of School will determine if the School will close early, depending on the circumstances at the time.

These precautionary measures are intended to reduce the need for a potential emergency evacuation by preemptively closing school on those days when fire risks are high.

The School's draft Wildfire Preparedness and Emergency Evacuation Plan does not specifically address the following measures as required by the EIR's Mitigation Measure Wildfire and Emergency Evacuation-1, Emergency Evacuation Plan:

- It does not address the specific actions that may have already been taken, or that remain to be taken by the School, to remove existing physical obstacles that may hinder a successful pedestrian evacuation (i.e., improved egress pathways, gates, stairs, gate openings and ADA compliance) as identified in Appendix 16B of the EIR.
- It does not specify a schedule or minimum number of annual evacuation exercises to be initiated by the School to train and prepare faculty, staff, students and parents for an emergency evacuation.

However, since the approved Emergency Evacuation Plan is not required until approval of the first building/construction permit that allows for an increase in student enrollment, , Head-Royce School has the ability to adequately address these above two measures before final submittal. The draft Emergency Evacuation Plan has been provided early, for public information purposes. It shows that Head-Royce School is proactively working to address the required mitigation measures.

City of Oakland Wildfire Annex to the Emergency Operations Plan

The City of Oakland Planning Commission voted to certify the Head-Royce School PUD Project EIR on April 19, 2023. Shortly thereafter (or at nearly the same time), the City of Oakland published its *Hazard Specific Annex: Wildfire Annex to the Emergency Operations Plan* (April 2023). The Wildland Fire Annex to the Emergency Operations Plan (2023 Annex) describes the unique conditions, situation, and response and recovery actions that City departments will undertake during a wildland fire incident, and assigns responsibilities for Emergency Support Functions.

The 2023 Annex identifies the Oakland Police Department as being the primary department responsible for the Emergency Support Functions of law enforcement. The Oakland Police Department's responsibilities for preparedness and responses to an emergency evacuation condition include, but are not limited to, development of plans and procedures to support evacuation and traffic management, and coordination with Firefighting to designate areas to be warned and/or evacuated. The Police Department is also responsible for providing security for evacuated areas, providing security patrols and checkpoints to control access into the evacuated area, and establishing emergency traffic routes with monitoring so that evacuation routes do not pass through hazard zones.

The 2023 Annex also identifies the Oakland Police Department and the Oakland Fire Department as being the primary departments responsible for the Emergency Support Functions of an evacuation. Their responsibilities for both preparedness and responses to an emergency condition include, but are not limited to development of plans and procedures to support evacuation and traffic management, including identify and publishing evacuation routes for high risk fire areas, and identifying evacuation routes that should be used for a specific incident. Whereas the 2023 Annex does assign specific responsibilities to City departments for preparedness responses to a wildland fire incident, it does not yet include the specific plans and procedures for supporting evacuation and traffic management during a wildland fire, nor does it yet identify or publish evacuation routes for high-risk fire areas. It does point to the need for evacuees (including the School) to be able to respond to actual events at the time of an evacuation, potentially including re-routing the School's assumed evacuation routes based on the specific evacuation incident. By establishing communication connections with emergency alert systems and participating in Alameda County's public alert

system, the School will be better prepared to respond to the Oakland Police Department and the Oakland Fire Department's directions for a specific wildfire incident.

See also a more detailed description of the City of Oakland's 2023 Wildfire Annex in response to Letter 4 (Weisgerber Consulting), Response to Comment 4-3.

Master Response to the Appeal - Noise

Factual, Expert Analysis and Documentation

Grounds for the Appeal

The appeal suggests that the Noise portion of the EIR is inadequate because it relies on conclusory statements without factual or expert support. The appeal asserts that the EIR preparer, "*did not have the expertise to opine about the interpretation of acoustics data or realize that data was missing, and that there is no evidence that the EIR preparer had any expertise in acoustics*." The appeal asserts that work on the EIR, "*fell way below what one would expect of a competent acoustics expert*", and that the City Council should require that the noise section be redone in a recirculated EIR prepared by, "*a reputable acoustics company that is provided with sufficient funding to complete the task.*"

Technical Noise Analysis in the EIR

It is not clear from the appeal whether the appellant is asserting that the technical noise analysis prepared by Illingworth & Rodkin and presented in Appendix 16 to the EIR falls below what they expect of a competent and reputable acoustics expert, or whether the appellant is asserting that Lamphier-Gregory (the City's EIR consultant) has made incorrect conclusory statements in the EIR, without factual or expert support from Illingworth & Rodkin.

Illingworth & Rodkin is one of the Bay Area's preeminent acoustics and air quality technical consulting firms. They have vast expertise and experience in preparing technical acoustic studies, including technical report for City of Oakland CEQA documents, spanning over decades. To assert that they are not a reputable acoustics company is not only insulting, but is naively ill informed. For some of the more complex analysis of noise impacts related to outdoor graduation ceremonies, Illingworth & Rodkin's work was also subject to peer review by RGD Acoustics, another preeminent Bay Area acoustic technical consulting firm. The appeal relies on assertions made by Mr. Pack of Pack Associates, claiming that the EIR contains numerous technical mistakes. However, the EIR's Response to Comments document and this Response to the Appeal refute these claims of technical mistakes, and provide substantial evidence that the technical acoustic work contained in the EIR has been prepared correctly, meeting the standards and thresholds set by the City of Oakland.

Lamphier-Gregory has been preparing CEQA documents on behalf of the City of Oakland for over 25 years, and has proven our expertise and capability of incorporating complex information prepared by technical subconsultants into CEQA documents in an accurate manner. Mr. Pack's assertion that Lamphier-Gregory has made incorrect conclusory statements in the EIR without factual or expert support is not itself supported by any examples of where the EIR text deviates from, or is not supported by the work prepared by the technical noise subconsultants at Illingworth & Rodkin.

Adequate Noise Baseline

Grounds for the Appeal

The appeal asserts that the EIR does not present an adequate baseline of noise information, which is needed to understand the difference between pre- and post-Project noise conditions. The appeal asserts that the EIR preparer, "*waited until after the comment period on the Draft EIR had closed, and then obtained some noise*

measurements . . . a month before the Planning Commission hearing." It failed to report the baseline noise measurements along Lincoln Avenue, "*making it impossible to know the pre- and post- project sound conditions*."

Baseline Noise information Presented in the EIR

As fully addressed in the EIR's Response to Comments document, much of the original technical noise analysis work for the Draft EIR was conducted during the summer of 2020, when the Covid-19 pandemic resulted in shelter-in-place regulations and prohibitions on fieldwork. Even after the shelter-in-place restrictions were lifted, the closures of offices and businesses throughout the Bay Area (including closure of Head-Royce School) resulted in substantially reduced outdoor activity and resulting low traffic levels. Noise measurements that might have been taken at that time would have shown an abnormally low level of surrounding ambient noise levels due to the reduced level of outdoor activity.

Therefore, baseline noise data presented in the Draft EIR was derived from several different sources:

- Noise measurements had previously been conducted at the Head-Royce School in June of 2019 (i.e., pre Covid-19 pandemic). These noise measurements were taken at the School by Salter Associates (a professional acoustics firm). Daytime periodic noise levels along Lincoln Avenue were found to range from 48 to 60 dBA Leq on weekdays. Weekday average day-night noise levels were calculated to be 53 dBA Ldn. Daytime background noise levels representative of background noise levels in the surrounding residential areas ranged from 40 to 45 dBA L_{90} (or 90% of the measured hour) on weekdays.
- The results of the June 2019 noise monitoring were compared to traffic noise modeling using the Federal Highway Administration's Traffic Noise Model. Based on noise modeling and using pre-existing traffic volume inputs, average day/night traffic noise levels at 50 feet from the center of Lincoln Avenue were calculated to be approximately 61 dBA Ldn under existing conditions. Average day/night noise levels at a distance of 180 feet from the centerline of Lincoln Avenue (representative of background noise levels in the surrounding residential areas) were calculated to be 53 dBA Ldn.
- In March of 2022, Illingworth & Rodkin conducted additional noise monitoring and measurements during a period when school was in session. The March 2022 noise measurement data generally confirmed the Draft EIR's assumptions for ambient noise conditions.
    - Hourly average traffic noise on Lincoln was found to be 61 to 65 dB Leq during the daytime - and 52 to 62 dB Leq during the nighttime, for an average day/night traffic-generated noise level within 50 feet of the center of Lincoln Avenue of 65 dBA Ldn.
    - Hourly average ambient noise in the surrounding residential neighborhood was found to be 41 to 49 dB Leq during the daytime - and 35 to 49 dB Leq during the nighttime, for an average day/night noise level of 49 dBA Ldn in the surrounding neighborhood.

The most current (March 2022) noise measurement data generally confirms the assumptions for ambient noise conditions as presented in the Draft EIR. Average day/night traffic-generated noise levels within 50 feet of the center of Lincoln Avenue are as high as 65 dBA Ldn, and average day/night ambient noise conditions in the surrounding residential neighborhood are at 49 to 50 dBA Ldn.

Appropriate Use of Noise Thresholds to Assess Project Impacts

The assertions of the appeal that pertaining to the noise thresholds remain similar to those comments presented by Pack Associates, Inc. in their comments on the Draft EIR. The general theme of these comments is that that each potential noise source attributed to the Project needs to be evaluated as both an operational noise source and as a permanent noise increase. As identified in the Draft EIR (at page 13-18):

- Operational noise in excess of City of Oakland CEQA thresholds would occur if the Project's operations were to exceed the noise level standards specified in the Oakland Municipal Code (OMC Section 17.120.050), and as conservatively adjusted down by 5 dBA to account for noise sources consisting primarily of speech or music (see Table 13-5 in the Draft EIR). These noise standards are expressed as L_x, representing the noise level that is exceeded X percent of a given period (e.g., L_{33}, L_{17}, with L_{max} representing the maximum instantaneous noise level).
- Permanent noise in excess of City of Oakland thresholds would occur if the Project were to permanently increase the existing ambient (average day/night) noise level by 5 dBA Ldn or more where resulting noise level would be less than 60 dBA Ldn. Alternatively, permanent noise in excess of City of Oakland thresholds would occur if the Project were to permanently increase the existing ambient noise level by 3 dBA Ldn or greater where resulting noise level would be 60 dBA Ldn greater (where dBA Ldn is expressed as an average day/night noise level).

Operational Noise

As clearly described in the EIR, the Project's proposed new operational noise sources include proposed outdoor classrooms, daily use of the central Commons outdoor space, school recess held at the existing recreation field, a dust collection system on the interior of the Building 2, proposed parking lots, two proposed audible crosswalk signals for pedestrian crossings of Lincoln Avenue, and a loading dock at the Performing Arts Center building. Operational noise sources also include each of the Project's expected "special events" (including graduation ceremonies to be held in the outdoor Commons, and Special School Events held at the Performing Arts Center), and traffic noise along the Loop Road. These operational activities of the Project would not occur every day, would not occur during the nighttime when school is not in session, and would not occur continuously throughout the day. Therefore, the City of Oakland's operational thresholds were appropriately used for analysis of these new noise sources.

Analysis of operational noise impacts as presented in the EIR relied on the use of computerized modeling of the noise sources using SoundPLAN Version V8.2. SoundPLAN is a sophisticated three-dimensional noise mapping software that takes the characteristics of the noise source, and the geometry of the receivers, surrounding terrain and any intervening structures into account. SoundPLAN was used to calculate noise contours for each operational noise source, and the results of the model are presented in the EIR as noise contours emanating from each noise source (Figures 13-5 through 13-7), and as individual sound levels at identified sensitive receptors (Tables 13-9 through 13-14). These results are technically accurate, based on reliable modeling techniques, and accurate source data for sound levels.

As shown on these EIR figures and tables, all but one of the Project's operational noise sources would not generate noise levels that would exceed the operation noise thresholds, either individually or under simultaneous cumulative conditions. The exception is noise attributed to annual outdoor graduation ceremonies, which would include crowd noise and amplified sound that would exceed operational noise thresholds. Mitigation measures are identified in the EIR to reduce this operational noise source to levels that would not exceed the thresholds (i.e., to levels of less than significant).

Permanent Noise

As also clearly described in the EIR, the City of Oakland thresholds for a permanent noise increase were used to measure the significance of increased traffic noise on Lincoln Avenue, where traffic occurs throughout all hours of every day. Based on the Project's increase in traffic as projected in the Project's Transportation Impact Assessment, traffic noise levels along Lincoln Avenue are calculated to increase by 1 dBA Ldn over existing conditions with the addition of Project-generated traffic. This 1 dBA increase in traffic noise along Lincoln Avenue is less than the City's 3-dBA or 5-dBA Ldn increase over ambient levels, and this impact was correctly identified as being less than significant.

Comparison of Operational versus Permanent Thresholds for assessing Noise Impacts

The appeal (supported by the letter from Edward L. Pack Associates, Inc. – see Letter 5), asserts that the EIR should have used both operational and permanent thresholds to assess the impacts of each of the Project's noise sources. The appeal does not provide any evidence supporting its assertion that an analysis of the Project's operational noise sources against the permanent noise threshold would indicate a new or more significant noise impact. The appeal only provides theoretical calculations of how this analysis could be conducted.

This same assertion was included in public comments on the Draft EIR. As part of the Response to Comments included in the Final EIR, two examples were provided of an analysis of operational noise impacts as compared to the permanent noise threshold, as suggested by Pack. These two examples (performed for two nearby residential receptor locations) demonstrate that using permanent noise threshold for operational noise sources would not result in a new or more significant noise impact. Rather, the Municipal Code's operational noise source thresholds appear to be more restrictive of operational noise than are the permanent noise threshold. This is primarily because the permanent noise threshold relies on a day/night average calculation of noise that occurs over a full 24-hour day, which includes more than 12 hours of each day when the School would not be making any perceivable operational noise. The City of Oakland Noise Ordinance's operational limits appear to be more restrictive of the Project's operational noise impacts as compared to the City's permanent noise thresholds, and the operational noise thresholds were appropriately used in the EIR.

Neighbors near the Project will be able to hear new noise sources attributable to the Project and may find this new noise to be irritating or annoying. However, based on the City's correctly applied operational noise thresholds, the Project's new noise sources (other than graduation ceremonies) would not exceed the Noise Ordinance limits and the Project's operational noise would not be significant according to the City's CEQA thresholds.

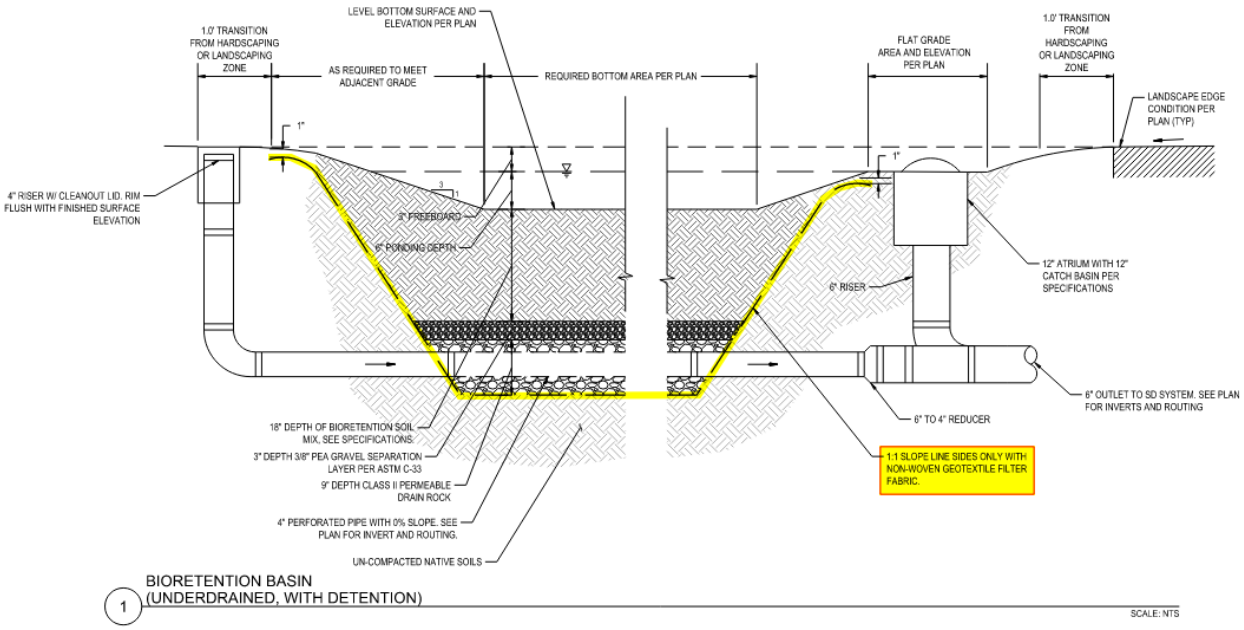
Master Response to the Appeal - Drainage and Hydrology

Grounds for the Appeal

The appeal indicated that the appellant has been unable to find a final drainage plan showing the changes referenced in the Final EIR, demonstrating how drainage near two off-site properties will be handled. The appeal requests an answer to this question.

The Project's Design Detail

Pursuant to the recommendations of the Project's geotechnical engineering consultant (Rockridge Geotechnical), the Project does propose to line the retention basins that are to be located south of the Loop Road and to connect these retention basins with underground pipe, rather than earthen bottom basins and an open swale. See the detail drawing from Sheet C7.04 of the Final Development Plan's Engineering Plan Set (below), which does call for geotextile lining and piping.



Master Response to the Appeal – Loop Road and Parking

Grounds for the Appeal

The Appeal suggests that the new Loop Road will changes the way the School will manage drop off and pick up, and is not a benefit to the neighborhood. It suggests that Lincoln Avenue is congested every school day and often because of HRS evening and weekend special events, and that the Loop Road will not correct the drop off and pick up traffic congestion. The appeal also suggests that the School is severely under-parked now, and will continue to be under-parked in the future.

The Project's Design for the Loop Road

Although traffic issues related to level of service standards are no longer a component of CEQA, the EIR Project Description does describe how vehicular access to the proposed South Campus will be from Lincoln Avenue, via a new internal, one-way Loop Road that would ring the internal perimeter of the proposed South Campus. The entrance to this Loop Road would be at or near the existing curb cut and driveway off Lincoln Avenue at the easterly (upper) end of the proposed South Campus, and the exit would be at a similar existing curb cut and driveway off Lincoln at the westerly (lower) end of the proposed South Campus. The new Loop Road would provide on-Campus, off-street queuing space for vehicles. Two distinct drop-off and pick-up points (one for the Upper School, and one for the Lower and Middle Schools) would provide an alternative to the current drop-off and pick-up location along Lincoln Avenue. Other than public and private bus loading and unloading (which would continue at Lincoln Avenue), all vehicle pick-up and drop-off activity at the School would occur along this Loop Road, rather than as currently occurs along Lincoln Avenue. The existing loading zones for AC Transit and private buses would be maintained on Lincoln Avenue as the width of the Loop road is too narrow to accommodate these larger vehicles, but the Loop Road is sized to accommodate emergency vehicles.

The new internal Loop Road would replace the circuitous turn-around routes called "the Alida Loop", which relies on public streets in the adjacent, downhill neighborhood to change direction on Lincoln Avenue, and to use the Mormon Temple parking lot near Highway 13 as a staging area for afternoon pick-up.

Separate and apart from the CEQA document, the City has prepared a Transportation Impact Report (TIR) for the Project. This TIR is not a CEQA document or part of the CEQA review of the Project, but is a separate analysis required by the City to ensure consistency with the General Plan and other adopted plans and policies. Thus, it is not included in the EIR, nor is it part of the CEQA-mandated EIR public review process. The TIR is part of the public record of the City's decision-making process. It was made available for public review, along with other information relevant to considerations on the Project's merit. That TIR also included a traffic simulation model that visually demonstrated traffic flow along Lincoln Avenue under existing conditions (where all drop-off and pick-up activity occurs along Lincoln Avenue) and a separate simulation that visually demonstrated traffic flow along Lincoln Avenue under existing conditions with all drop-off and pick-up activity occurring along the Loop Road. The simulation provides a clear demonstration of the relative merits of the Loop Road as alleviating traffic congestion during the drop-off and pick-up periods. It can be viewed at the following link:

https://www.oaklandca.gov/projects/head-royce

Parking

The Project proposes to add 25 new on-site parking spaces, and to retain and redesign the 129 paved parking spaces that currently exist, for a net of 154 total parking spaces on the proposed South Campus. In addition, the existing Campus also has 154 parking spaces that are not proposed to change pursuant to the Project. School-wide, with the Project, there would be 308 total off-street parking spaces on the overall Campus.

Based on the School's own parking demand study in support of the Project, the School expects that 344 off-street parking spaces would be required to meet the anticipated demand. To accommodate the anticipated demand for 344 total off-street parking spaces at full enrollment, the School proposes to either add 36 stacked parking spaces at the existing Campus or to reduce parking demand by prohibiting some or all students from driving to school (currently, approximately 90 students [juniors and seniors] have permits to drive to and park at the Campus).

Responses to Weisgerber Consulting, Letter 4, dated March 20, 2023

Response to Comment 4-1

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'H-R School's Draft Wildfire Preparedness and Emergency Evacuation Plan'.

Response to Comment 4-2

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'Evacuation Baseline'.

Response to Comment 4-3

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'H-R School's Draft Wildfire Preparedness and Emergency Evacuation Plan'. In response to specific statements of this comment, the EIR and the School's Draft Wildfire Preparedness and Emergency Evacuation Plan do address the following:

- The EIR and the School's draft Plan do anchor an evacuation strategy to the viability of Lincoln Avenue as the primary route, but also identifies the need for alternative secondary and perhaps tertiary evacuation routes as well.
- The EIR mitigation measure and the School's draft Plan do assume a simultaneous evacuation of the HRS and surrounding populations, and so relies on a pedestrian evacuation so as to not exacerbate vehicle congestion on Lincoln.
- Certainly, a mass evacuation of the Oakland Hills in the event of a wildfire can be expected to lead to a frantic population trying to escape harm's way on foot, bicycle and vehicles. There is no expectation that the School's evacuation would simply be a "calm march down the street', but both the EIR and the School's Plan seek to prepare for an organized and rehearsed evacuation, controlled as best as possible.

Response to Comment 4-4

Comment noted.

Response to Comment 4-5

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'Evacuation Impacts'.

This Master Response demonstrates that the EIR recognized Head-Royce's prior shelter-in-place protocol, but strongly recommended against shelter-in-place as the primary protocol under a wildfire event. Accordingly, the EIR recommended an evacuation procedure. The EIR analyses recommends a pedestrian evacuation for the School as the most likely and effective scenario, given that most students do not have access to a vehicle, and pedestrian evacuation is likely to be faster than other types of evacuations in most situations. A pedestrian evacuation would also minimize the exacerbation of vehicle congestion on Lincoln Avenue from evacuees from the surrounding neighborhoods. The pedestrian evacuation scenario substantially limits the Project's exacerbation of the anticipated over-burdened roadway capacity in the event of an evacuation of the Oakland Hills.

Response to Comment 4-6

Please see Master Response to the Appeal regarding Evacuation, sections subtitled 'Evacuation Impacts' and 'Effective Mitigation'.

Response to Comment 4-7

Although the CEQA process is intentionally structured, it is neither unbending nor does it excuse away potential impacts of the Project. Rather, the EIR specifically recognizes that the Project's increase of new students and faculty at the School could exacerbate an emergency evacuation, and recommends a mitigation measure that seeks to minimize its impact to an acknowledged, heavily congested vehicle evacuation route via a structure pedestrian evacuation. The EIR's mitigation measure requires the School to prepare a detailed pedestrian Evacuation Plan that meets identified performance standards (including those standards as recommended by Weisgerber Consulting), to be reviewed and approved by the Oakland Fire Department prior to introducing any more students to the area.

Response to Comment 4-8

The EIR's mitigation measure requires the School to complete sufficient due diligence with respect to significant life-safety issues associated with the addition of 344 students and faculty by prepare a detailed pedestrian Evacuation Plan that meets the identified performance standards (including those standards as recommended by Weisgerber Consulting). This Plan must be reviewed and approved by the Oakland Fire Department prior to introducing any more students to the School.

Response to Comment 4-9

The CEQA process for this Project has been highly informed and has benefited from the comments provided by the public and by technical peer-review (including the peer-review by Weisgerber Consulting) during the public review process. These comments and reviews have improved the CEQA analysis and the formulation of appropriate and effective mitigation measures.

Response to Comment 4-10

The EIR does not preclude the School from developing their own safeguards for mass evacuation planning just because the City of Oakland does not yet have a publicly facing evacuation plan for the Oakland Hills. Rather, the EIR requires the School to prepare a detailed, professionally developed Evacuation Plan specific to the School and in recognition of anticipated traffic congestion and panic in the event of a mass evacuation, and to have that Plan reviewed and approved by the Oakland Fire Department prior to introducing any more students to the School.

Response to Comment 4-11

The EIR does not suggest that the School's required Evacuation Plan be premised on an assumed lower risk of an evacuation, based only on the timing of School operations. The EIR's required mitigation measure for an Evacuation Plan must assume a concurrent full evacuation of the School, at the same time as a full evacuation of the nearly 9,000 people within the Oakland Hills that will likely rely on Lincoln Avenue as their primary evacuation route.

Response to Comment 4-12

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'Timing Requirements for a Head-Royce Emergency Evacuation Plan'.

Response to Comment 4-13

Comment noted.

Response to Comment 4-14

In October of 2022, the California Attorney General issued guidance with best practices and mitigation measures for local governments considering approval of development projects in fire-prone areas. This Guidance document notes that CEQA requires lead agencies to consider and adopt feasible mitigation measures or alternatives to avoid or reduce a project's impacts to potential wildfire risks and exacerbation of emergency evacuations. The Guidance document indicates that EIRs for projects in fire-prone areas should first analyze the increased wildfire risks and evacuation impacts, and then consider feasible mitigation and alternatives to avoid or reduce those impacts. The Guidance document also sets forth a list of example mitigation measures and design alternatives that may reduce wildfire risk impacts, noting that this list is not exclusive, and that a lead agency's adoption of some or all of these mitigation measures for a particular project may not be sufficient to comply with CEQA's requirements.

The following provides a comparison of the Head-Royce School Project and the conclusions of the EIR, to the recommended mitigation measures and alternatives recommendations of the Attorney General's Guidance document relative to wildfire risks:

1. *Avoid and minimize low-density exurban development patterns or leapfrog-type developments (i.e., those with undeveloped wildland between developed areas).*

   The Head-Royce Project site (the proposed South Campus) is not a low-density exurban development or a leapfrog-type development. There are no undeveloped wildlands between the Project's proposed South Campus and other already developed areas. The proposed Head-Royce School South Campus is bisected from the North campus by Lincoln Avenue. Immediately adjacent to, and uphill from the South Campus, is the Ability Now Bay Area property and its associated buildings. The remainder of the Project Area vicinity is characterized primarily by single-family residential neighborhoods to the north, west and south. There are two large institutional uses to the north (beyond the Ability Now property), including the Ascension Greek Orthodox Cathedral and the Oakland California Temple of the Church of Jesus Christ of Latter-day Saints, both located uphill of the Project Area and below Highway 13.

2. *Decrease the extent and amount of "edge", or interface area, where development is adjacent to undeveloped wildlands.*

   The proposed Head-Royce School South Campus site is not an "edge" or interface area with wildlands. The nearest wildlands area is within the Roberts Regional Park, approximately 0.5 miles to the northeast, on the opposite, uphill side of Highway 13 and separated from the proposed South Campus by the Ability Now Bay Area property, the Ascension Greek Orthodox Cathedral and the Oakland California Temple of the Church of Jesus Christ of Latter-day Saints.

3. *Create buffer zones and defensible space within and adjacent to the development, with particular attention to ensuring that vegetation will not touch structures or overhang roofs. It is also important that legal obligations be structured so that defensible space measures are retained over time.*

   The Project's Vegetation Management Plan as presented in the EIR identifies individual vegetation treatments required for differing fuel management zones within the Project site, as required to create sufficient defensible space. The Vegetation Management Plan identifies seven fuel management zones based on their proximity to roads and structures, and depending on vegetation type. Fuel treatments for areas in proximity to structures include a non-combustible Zone, a landscaping zone and a roadway zone. Four other general vegetative zones throughout the Campus are addressed in the Vegetation Management Plan based on the presence different fuels, including: grasses, shrubs/bushes, woodlands with shrubs underneath, and riparian woodland. These fuel management zones establish buffer areas and defensible space within and adjacent to the Project's development, with particular attention to ensuring that vegetation will not touch structures or overhang roofs.

The Project's Vegetation Management Plan also includes a required sequence and schedule of vegetation management practices that include initial vegetation management actions to be completed before construction begins, and a schedule for grass cutting and other vegetation management and pruning. The Vegetation Management Plan also requires annual vegetation management measures that include removal of all combustible vegetation along roadways, driveways, access roads, and trails according to stated standards; maintenance of the emergency-access easement; and maintenance of the defensible space around structures according to stated standards for the various zones. As a condition of approval for the Project, the Vegetation Management Plan is a definitive, legal obligation of the School.

4. *Site projects to maximize the role of low-flammability landscape features that may buffer the development from fire spread.*

   The Vegetation Management Plan for the School as prepared for the EIR specifically identifies zones where fire-safe plants and vegetation shall be used to reduce fire risk to structures. It also specifies vegetation treatments within differing Fuel Management Zones to create sufficient defensible space, and lists a sequence of scheduled vegetation management practices to be implemented by the School during construction and ongoing throughout the life of the Project to reduce fuel loads and fire hazards.

5. *Underground all power lines.*

   Pursuant to the EIR's required SCA Utilities-4, Underground Utilities, the project applicant shall place underground all new utilities serving the Project and under the control of the Project applicant and the City, including all new gas, electric, cable, and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits, and similar facilities. The new facilities shall be placed underground along the Project's street frontage and from the Project structures to the point of service. Utilities under the control of other agencies such as PG&E shall be placed underground if feasible. All utilities shall be installed in accordance with standard specifications of the serving utilities.

6. *Limit development along steep slopes and amidst rugged terrain, to decrease exposure to rapid fire-spread and increase accessibility for firefighting.*

   The proposed South Campus includes gently hilly terrain that generally slopes up from the south to north toward Lincoln Avenue, with an average grade change of approximately 30 over 625 feet of site width (nearly 5% slope) north to south, and an average grade change of approximately 50 feet over 520 feet of site length along Lincoln (over 9% slope). This does not represent the type of steep slopes or rugged terrain where the Guidance document suggests that development should be limited.

7. *Place development close to existing or planned ingress/egress and designated evacuation routes to evacuate the project population and the existing community population efficiently, consistent with evacuation plans, while simultaneously allowing emergency access.*

   The proposed South Campus is located immediately adjacent to Lincoln Avenue (an expected primary emergency evacuation route). The Project's proposed Loop Road will provide two connected ingress/egress points along Lincoln, and the Loop Road will be wide enough to accommodate emergency vehicle access. The School has indicated their willingness to connect the Loop Road to the public road serving the adjacent neighborhood to the southeast as an EVA-only access to facilitate improved emergency access to that neighborhood.

8. *Place projects close to adequate emergency services.*

   The OFD fire station nearest to the Project site is Station 25, located at 2795 Butters Drive and just uphill and across Highway 13 (approximately 1 mile or a two-minute drive). Station 16 is located at 3600 13th Avenue (approximately 2.3 miles, or an eight minute drive), and Station 17 is located at 3344 High Street (approximately 2.3 miles, or a seven minute drive). These fire stations can provide prompt fire protection service to the Project site.

9. *Construct additional points of ingress and egress and modify evacuation routes to minimize or avoid increasing evacuation times or emergency access response times.*

   The Project does include two interconnected points of ingress and egress within the South Campus via the proposed Loop Road. An additional emergency access to the Project site is available through Linnet Drive, but no through traffic is allowed at this emergency access point. The School has indicated their willingness to connect the Loop Road to the public road serving the adjacent neighborhood to the southeast as an EVA-only access to facilitate improved emergency access to that neighborhood.

10. Fire-harden structures and homes and upgrade building materials and installation techniques to increase the structure's resistance to heat, flames, and embers beyond what is required in applicable building codes, both for new structures and existing structures in proximity to the new development. *Require fire-hardened communication to the project site, including high-speed internet service.*

    Pursuant to the California Fire Code, section 4905: Wildfire Protection Building Construction, materials and construction methods for exterior wildfire exposure protection at the Project site shall comply with the wildfire protection building construction requirements contained in the California Building Standards Code, including California Building Code, Chapter 7A. These requirements establish minimum standards for the protection of life and property by increasing the ability of a building to resist the intrusion of flames or burning embers projected by a vegetation fire and contributes to a systematic reduction in conflagration losses, and apply to new buildings located in any Fire Hazard Severity Zone or any Wildland-Urban Interface Fire Area. Requirements include standards of material quality and ignition-resistant construction methods that pertain to roofing, vents, exterior coverings, exterior windows and door, decking and accessory structures.

11. *Enhance communication to the project population about emergency evacuation plans and evacuation zones.*

    Pursuant to EIR Mitigation Measure Fire-1, the School's required Emergency Evacuation Plan shall provide for communication connections with emergency alert systems. This may include developing a liaison relationship with the Fire Marshal and/or safety personnel as designated by the City Administrator, and/or OFD Operations Center (as do public schools). It shall also include establishing a power-independent communication connection (such as cell phone, satellite phone, etc.) with the Emergency Management System to maintain emergency response communications in the event of an emergency and for real time updates. The School shall also participate in Alameda County's public alert system provided by Everbridge (called AC Alert), which Oakland first-responders use to broadcast incident-specific messages for any event.

12. *Limit parking to ensure access roads are not clogged with parked vehicles.*

    The new Loop Road would be approximately 1,450 linear feet in length, providing on-Campus, off-street queuing space for vehicles. Two distinct drop-off and pick-up points (one for the Upper School, and one for the Lower and Middle Schools) would provide a required alternative to the current drop-off and pick-up location along Lincoln Avenue (see Figure 3-13). Other than for public and private bus loading and unloading (which would continue at Lincoln Avenue), all vehicle picking-up and dropping-off activity at the School would occur along this Loop Road, rather than as currently occurs along Lincoln Avenue. The loading zones for AC Transit and private buses would be maintained on Lincoln Avenue, as the width of the Loop road is too narrow to accommodate these vehicles, but the Loop Road is sized to accommodate emergency vehicles.

Response to Comment 4-16

This Final EIR's Response to Comment B-9 does differentiate the proposed School site from the potential locations of accessory dwelling units located in neighborhoods throughout the Oakland Hills. Both the School

Project and ADUs in the Oakland Hills introduce additional population to an area with very high fire hazard risks and a limited number of potential evacuation routes. As indicated in Response to Comment 4-14 above include the following:

- The proposed Head-Royce School South Campus site is not an "edge" site with a direct interface with wildlands.
- The proposed Head-Royce School South Campus site does not have undeveloped wildlands between it and other already developed areas.
- The proposed Head-Royce School South Campus site does not include steep slopes or rugged terrain.
- The proposed Head-Royce School South Campus site is immediately adjacent to Lincoln Avenue, an expected primary emergency evacuation route, the proposed Loop Road will provide two connected ingress/egress points, and the Loop Road will be wide enough to accommodate emergency vehicle access. Additionally, the School has indicated their willingness to connect the Loop Road to the public road serving the adjacent neighborhood to the southeast as an EVA-only access to facilitate improved emergency access to that neighborhood.
- ADU regulations are applicable to a narrow S-9 district overlay within the Very High Fire Severity Zone, where there is a high concentration of roads under 26-feet in width and dead end roads that are 600-feet or longer. Head-Royce School is not located within this S-9 district overlay. Thus, there are no specific fire-related ADU regulations within close proximity to the School.

The School's conditions are unlike potential ADU locations within the S-9 overlay district, which is characterized by steeper, "edge" neighborhoods within the Oakland Hills, where there may be narrower roads, less turnouts, and undeveloped wildlands between those ADU sites and other developed areas. In fact, this is why the City differentiates this area by creating the S-9 overlay, so that heightened ADU and development regulations can be narrowly tailored to the areas of most concern. Again, the School is not located in the S-9 overlay district.

Response to Comment 4-17

The EIRs mitigation measure Wildfire and Emergency Evacuation-1: Emergency Evacuation Plan, and the School's draft Wildfire Preparedness and Emergency Evacuation Plan provide for the following:

- Students will not be at School on those days when fire risks are highest, because the School intends to preemptively close school if/when a Red Flag Warning or Fire Weather Watch is issued, if a Wildfire Evacuation Order or Evacuation Warning has been issued, or if PG&E announces a power shutdown event affecting the School. If these conditions occur while school is in session, the Head of School will determine if the School will close early, or if an emergency evacuation needs to occur, depending on the circumstances at the time.
- The School will be best prepared to effect a timely emergency evacuation by monitoring local conditions and taking appropriate actions quickly upon receipt of such notifications. The School will enroll in and monitor alert systems such as AC Alert/Everbridge, Zonehaven and the Interactive National Weather Service, as well as Oakland's Police/Fire Departments communications and warnings.
- The most practical and effective emergency evacuation of the School is a pedestrian evacuation using the sidewalks along Lincoln Avenue, and/ or using Whittle and Fruitvale Avenues to reach Diamond Park as a secondary alternative. The EIR preparers, the City staff and the School recognize that Lincoln Avenue may quickly become too congested for an effective vehicle evacuation, that parents rushing to School would only serve to exacerbate these congested conditions, and that a pedestrian evacuation provides the greatest chance for an effective evacuation.

- A fast-moving wildfire can erupt with little warning, evacuation traffic may grind to a halt and that panic may ensue, with residents and student running down the sides and middle of the street – as is 'envisioned' in this comment. Even under these extreme conditions, the EIR concludes that the proposed pedestrian evacuation, as may be refined and modified pursuant to the Fire Department and the Police Department prior to its approval, offers the best option for evacuation under a crisis situation. No one 'envisions' students, faculty or residents from the surrounding community "calmly walking down the sidewalk" under such crisis conditions.

Response to Comment 4-18

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'Timing Requirements for a Head-Royce Emergency Evacuation Plan'.

Response to Comment 4-19

As is City standard practice, the City Planning Department has routed administrative draft document to all other applicable City departments and bureaus, including the Oakland Fire Department and the Oakland Police Department, prior to public release of the Draft EIR and the Final EIR. To the extent that these department or bureaus had comments on, or suggestions for the contents of the Draft EIR or the Final EIR, those comments and suggestions were incorporated into the documents prior to pubic release.

Response to Comment 4-20

Pursuant to City of Oakland SCA Fire-1, Designated Very High Fire Severity Zone – Vegetation Management, the Project applicant is required to submit its Vegetation Management Plan to the Oakland Fire Department for review and approval prior to issuance of any construction-related permit. The EIR's recommended Vegetation Management Plan has been made available for review and comment by Oakland Fire Department throughout the Project's permit application and CEQA process.

Response to Comment 4-21

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'H-R School's Draft Wildfire Preparedness and Emergency Evacuation Plan', and specifically noting that the School's draft Wildfire Preparedness and Emergency Evacuation Plan has been prepared in consultation with PyroAnalysis (a fire prevention and protection consulting firm) and its Principal Consultant, Shane Lauderdale (an NFPA-Certified Fire Protection Specialist).

Response to Comment 4-22

Comment noted.

Response to Comment 4-23

The EIR agrees with the need for urgency and attention in coordinating its draft Wildfire Preparedness and Emergency Evacuation Plan with the OFD, OPD and Oakland Emergency Services, requiring that these departments review and approve this Plan prior to any increase in student enrollment, as is required under the EIR mitigation measure. See Master Response to the Appeal regarding Evacuation, section subtitled 'Timing Requirements for a Head-Royce Emergency Evacuation Plan'.

Response to Comment 4-24

The EIR agrees with the requirement for the School's proposed draft Wildfire Preparedness and Emergency Evacuation Plan to be vetted through the public safety community, and that all faculty, staff, students and parents be trained on the Plan, with a minimum of semi-annual exercises. The vetting/review and approval

process of the School's proposed Evacuation Plan by the OFD (FPB and Emergency Services), the OPD Traffic Division, Oakland Public Works and Oakland Transportation Planning Division is required under the EIR mitigation measure, as is mandatory training and drills. See Master Response to the Appeal regarding Evacuation, subsection titled 'Mitigation Standards and Timing as Presented in the EIR'.

Response to Comment 4-25

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'H-R School's Draft Wildfire Preparedness and Emergency Evacuation Plan', and specifically noting that the School's draft Wildfire Preparedness and Emergency Evacuation Plan has been prepared in consultation with PyroAnalysis (a fire prevention and protection consulting firm) and its Principal Consultant, Shane Lauderdale (an NFPA-Certified Fire Protection Specialist).

Response to Comment 4-26

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'H-R School's Draft Wildfire Preparedness and Emergency Evacuation Plan', and specifically noting that the School's draft Wildfire Preparedness and Emergency Evacuation Plan has been prepared in consultation with a professional fire prevention and protection consulting firm and an NFPA-Certified Fire Protection Specialist. The School's Draft Wildfire Preparedness and Emergency Evacuation Plan does address evacuation routes and alternate routes, exit designs, evacuee accountability, ADA compliance considerations, and designs for emergency movement via bus/shuttle systems, a decision-making process for initiating evacuation, and a campus accountability system. See also Response to Comment 4-24 regarding public agency review, vetting and approvals.

Response to Comment 4-27

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'H-R School's Draft Wildfire Preparedness and Emergency Evacuation Plan'. Specifically note that the School's draft Wildfire Preparedness and Emergency Evacuation Plan does include training and practice drills to better supervise and manage a mass evacuation, ADA considerations for the campus population with mobility needs, managing student walking distances, and pre-designated assembly points that include primary and secondary assembly sites based on the circumstances.

Response to Comment 4-28

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'H-R School's Draft Wildfire Preparedness and Emergency Evacuation Plan'. Specifically note that the School's draft Wildfire Preparedness and Emergency Evacuation Plan does include a coordinated emergency communication plan for real time updates with the City of Oakland Emergency Operations Center and/or OFD Operations Center, as well as other emergency communication systems.

Response to Comment 4-29

Please see Master Response to the Appeal regarding Evacuation, section subtitled 'H-R School's Draft Wildfire Preparedness and Emergency Evacuation Plan'. Specifically note that the EIR mitigation measure does include training and practice drills to better supervise and manage a mass evacuation, and that this requirement must be incorporated into the School's Wildfire Preparedness and Emergency Evacuation Plan.

Response to Comment 4-30

The City of Oakland Planning Commission voted to certify the Head-Royce School PUD Project EIR on April 19, 2023. Shortly thereafter (or at nearly the same time), the City of Oakland published its Hazard Specific Annex: Wildfire Annex to the Emergency Operations Plan (April 2023). The Wildland Fire Annex to the Emergency

Operations Plan (2023 Annex) describes the unique conditions, situation, and response and recovery actions that City departments will undertake during a wildland fire incident, and assigns responsibilities for the following types of Emergency Support Functions (EFSs):

- Firefighting
- Mass care and shelter
- Public health and medical
- Search and Rescue
- Hazardous materials
- Food, agriculture, and animal services
- Law enforcement
- Public information
- Evacuation

The 2023 Annex notes that, "*During wildland fires, evacuation of large numbers of people from the wildland/urban interface (WUI) communities to safe areas is common. Evacuations require significant transportation and shelter coordination and resources."* It is assumed the population types that will need to use transportation resources for an evacuation in the City of Oakland include a general population 22,270 people, 2,040 homeless populations, 6,960 visitors and tourists, and as many as 16,520 out-of-City commuters. The 2023 Annex notes that, "*the numbers provided above are a worst-case estimate. Using the city population percentage overestimates the impacted populations in Oakland because the likelihood of the entire city needing to be evacuated for a wildfire is slim*."

The 2023 Annex identifies the Oakland Police Department as being the primary department responsible for the Emergency Support Functions of law enforcement. Its responsibilities for both preparedness (pre-event) and responses to an emergency condition include:

- Develop plans and procedures to support evacuation and traffic management during a wildland fire.
- In coordination with Firefighting, designate area to be warned and/or evacuated.
- Provide security for evacuated areas.
- Provide security patrols and checkpoints to control access into the evacuated area.
- Establish emergency traffic routes in coordination with Transportation, utilizing the Alameda County Operational Area Law Enforcement/Movement Plan, and monitor that evacuation routes do not pass through hazard zones.
- Coordinate with the Transportation traffic engineering to determine capacity and safety of evacuation routes and time necessary to complete evacuation.
- Identify alternate evacuation routes where necessary.
- Through field unit requests, identify persons/facilities that have functional evacuation requirements (i.e., those with disabilities and others with access or functional needs, hospitalized, elderly, institutionalized, incarcerated, etc.), check status and evacuate if necessary; coordinate with Transportation, Public Health and Medical for transportation needs.
- Prioritize the use of City vehicles and other resources for life saving missions.
- Establish evacuation assembly points in coordination with Firefighting.

- Place towing services on stand-by to assist disabled vehicles on evacuation routes.
- Monitor status of warning and evacuation processes.
- Coordinate with Public Works and Engineering resources to obtain necessary barricades and signs.
- Coordinate law enforcement and crowd control services at evacuation assembly areas.

The 2023 Annex identifies the Oakland Police Department and the Oakland Fire Department as being the primary departments responsible for the Emergency Support Functions of evacuation. Their responsibilities for both preparedness (pre-event) and responses to an emergency condition include development of plans and procedures to support evacuation and traffic management, including the following:

- Identify and publish evacuation routes for high risk fire areas (consider the use of signs, direct mail, or through third party sources such as utility bills, phone books, etc.).
- Identify evacuation routes that should be used for the specific incident.
- Analyze and provide information on who should be evacuated and for how long and when the evacuation should start.
- Provide information to Public Information on the evacuation order.
- Coordinate resources needed for the evacuation.
- Ensure that populations with disabilities and others with access and functional needs have been notified and that evacuation support is available.
- Work with Firefighting, Law Enforcement, and Management on a reentry plan

The 2023 Annex assigns specific responsibilities to City departments for preparedness responses to a wildland fire incident. It also point to the need for evacuees (including the School) to be able to respond to actual events at the time of an evacuation, potentially including re-routing the School's assumed evacuation routes based on the specific evacuation incident. By establishing communication connections with emergency alert systems and participating in Alameda County's public alert system, the School will be better prepared to respond to the Oakland Police Department and the Oakland Fire Department's directions for a specific wildfire incident, in as controlled a manner as possible.

Response to Comment 4-31

The EIR does recommend that the School's prior plan for shelter-in-place within the School's gymnasium (which has a very high fire rating for fire safety) was not an appropriate response to a wildfire event. The EIR further recommended that a pedestrian evacuation of the School during a wildfire event that threatened to spread to the School was a much more safe and acceptable strategy.

Response to Comment 4-32

Comment noted.

Responses to Pack Associates, Inc., Letter 5, dated March 27, 2023

Response to Comments 5-1, 5-3, 5-5, 5-7, 5-9 and 5-10

Each of these assertions presented by Edward L. Pack Associates, Inc. are of a consistent theme, suggesting that each potential operational noise source needed to be evaluated in the EIR under both the City's operational Noise Ordinance thresholds, and under the City's permanent General Plan thresholds. Please see Master Response to the Appeal regarding Noise, section subtitled 'Appropriate Use of Noise Thresholds to Assess Project Impacts'.

Response to Comment 5-2

Please see Master Response to the Appeal regarding Noise, section subtitled 'Adequate Noise Baseline'.

Response to Comment 5-4

Please see Master Response to the Appeal regarding Noise, section subtitled 'Factual, Expert Analysis and Documentation'.

Response to Comment 5-6

See the prior response to this comment as was provided in the Response to Comments in the Final EIR. As indicated in that prior response, given the existing noise levels at the site, the suggested speech sound levels of 75-78 dBA at 3 feet are well beyond the speech levels necessary for effective speech communication at an outdoor classroom.

Response to Comment 5-8

Please see Master Response to the Appeal regarding Noise, section subtitled 'Appropriate Use of Noise Thresholds to Assess Project Impacts'. The EIR analysis finds that all but one of the Project's operational noise sources would not generate noise levels that would exceed operation noise thresholds, either individually or under simultaneous cumulative conditions. The exception is noise attributed to annual outdoor graduation ceremonies, which would include crowd noise and amplified sound that would exceed operational noise thresholds. Mitigation measures are identified in the EIR to reduce the effects of amplified sound such that outdoor graduation ceremony noise would not exceed operational thresholds. The EIR does not rely on the Project's proposed property line wall for mitigation.

The Project does propose to construct a 6-foot high wall along the property line separating the Loop Road from the adjacent residences. Assuming a 6-foot height of the wall relative to the ground elevation of the Loop Road, and assuming that the wall is constructed of a solid surface (i.e., no designed openings or slats in the wall), a wall would be anticipated to provide 5 to 6 dBA of additional noise reduction to the adjacent shielded residences.

Response to Comment 5-11

"Sound intensity" is not referred to in the text of the EIR. The use of intensity is in the context as "the sound is intense." The comment does not affect the findings or conclusion of the EIR.

Response to Comment 5-12

Please see Master Response to the Appeal regarding Noise, section subtitled 'Appropriate Use of Noise Thresholds to Assess Project Impacts'. Also, please see previous replies to EIR comment letter, Edward L. Pack Associates, December 8, 2021 in the Final EIR Response to Comments document. The noise threshold criteria are properly applied.

Response to Comment 5-13

The noise assessment was based on SoundPLAN, which does take features such as topography and intervening structures into account. The FHA Traffic Noise Model was only used as a source input to the SoundPLAN model.

Response to Comment 5-14

Multiple tables of the Ln values are presented in the EIR for identified noise sources, for comparison to the time-based potential noise exposure limits. The Leq was hourly accounting for the duration, and is consistent with calculating the Ldn.

Response to Comment 5-15

The assessment as suggested would not change based on the metric. See previous response to the same comment in the Final EIR Response to Comments document.

Response to Comment 5-16

Per CEQA Guideline and City of Oakland's established CEQA Thresholds, the appropriate threshold for noise (not in the vicinity of an airstrip) is: "*Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies*"

By their nature, the noise sources generated by the proposed School are temporary and irregular. These are types of noise sources are appropriately assessed for each identified source, using Ln metrics. This data is presented in Tables 5 through 9 of Appendix 13 to the Draft EIR, and accurately referenced in Tables 13-9 through 13-13 of the Draft EIR. The City of Oakland's Noise Ordinance standards are specified in Table 13-5 of the Draft EIR.

Response to Comment 5-17

If exterior noise from interior PAC events exceeds the calculated levels, this can be mitigated by closing the windows if necessary.

Response to Comment 5-18

Table 13-11 of the Draft EIR presents the potential occurrence of exceedances of noise thresholds at each residence during a graduation event, as indicated by gray shading. The potential exceedances are greatest for the L33 levels. The level of exceedance for the Lmax, L2 and L17 (and L8) are shown as being lower than those for L33, and no special or additional consideration these other noise thresholds is needed. The Draft EIR clearly states that noise impacts from an annual outdoor graduation ceremony would have a significant impact once per year, and mitigation measures capable of reducing this impact to a less than significant level are provided in the EIR.

Response to Comment 5-19

Once the specific outdoor mechanical HVAC equipment for the PAC is selected, the need for noise reduction associated with this equipment will be properly assessed and implemented at the time of building permit if necessary, as required by City building code requirements.

Response to Comment 5-20

The daytime noise levels at the location of the requested residences are shown in Table 5 of Appendix 13 to the Draft EIR for the worst hour, and these daytime noise levels are well below the residential standard.

Response to Comment 5-21

See the prior response to this comment as was provided in the Response to Comments in the Final EIR. As indicated in that prior response, given the existing noise levels at the site, speech sound levels of 75-78 dBA at 3 feet (as was analyzed in the EIR) are well beyond what is necessary for effective speech communication at an outdoor classroom.

Response to Comment 5-22

See the prior response to this comment as was provided in the Response to Comments in the Final EIR. The analysis of noise attributed to an outdoor play area was based on actual data from multiple prior studies conducted by Illingworth & Rodkin.

Response to Comment 5-23

The additional analysis presented in the Final EIR at the request of this commenter does not indicate a new significant impact or a more significant impact than what was presented in the Draft EIR, and recirculation of this information is not warranted.

Response to Comment 5-24

The reviewer is correct that the L17 metric used in the Response to Comment document is different from the L17 metric used in the City of Oakland Noise Standards. This metric was used only to express the hourly timeframe in which multiple impulsive events, particularly door slams, would occur in an hour. Door slams are transient, essentially impulsive events. However, at 50 feet, noise due to car door slams range from Lmax values from 50 to 60 dBA and would not exceed even a L33 level of 60 dBA. Re-calculation for the Lmax, L2, L17 and L33 is not required.

Response to Comment 5-25

Please see Master Response to the Appeal regarding Noise, section subtitled 'Appropriate Use of Noise Thresholds to Assess Project Impacts'. The noise thresholds presented General Plan and those presented in the Oakland Noise Ordinance are two different thresholds that apply to different circumstance (permanent noise increase versus temporary noise increase). The Oakland Noise Ordinance standards (or thresholds) deal with a shorter period (e.g., 1 hour), and are more sensitive to changes in hourly noise levels than are the General Plan's Ldn thresholds.

Response to Comment 5-26

See Response to Comment 5-24.

Response to Comment 5-27

See Response to Comment 5-25.

Response to Comment 5-28

The City of Oakland's Standard Conditions of Approval (SCAs) relevant to reducing noise and vibration impacts during construction is applicable to the Project, and is referenced as SCA Noise-8 in the EIR. If the Project is approved, all applicable SCAs would be adopted as conditions of the Project's approval, including SCA that address noise and vibration. The SCAs are incorporated and required as part of all approved projects, and are not listed as mitigation measures.

Response to Comment 5-29

As indicated in the Draft EIR, the City of Oakland does not establish a vibration limit for construction. As shown in Table 13-15 of the Draft EIR, the California Department of Transportation recommends a vibration limit of 0.25 in/sec PPV to minimize the potential for cosmetic damage to sensitive historic structures, and 0.3 in/sec PPV as the threshold at which there is a risk of damage to older residential structures.

It has been Illingworth & Rodkin's experience on similar projects on California that the guidelines of the Federal Transit Administration for construction vibration (a vibration limit of 0.2 in/sec. PPV for typical wood framed houses) is overly conservative for residential structures of the type surrounding the Project, and therefore the Caltrans criteria of 0.3 in/sec was applied as being most appropriate.

Response to Comment 5-30

Please see Master Response to the Appeal regarding Noise, section subtitled 'Appropriate Use of Noise Thresholds to Assess Project Impacts'. The City of Oakland General Plan Noise Element relies on a normally acceptable exterior noise level of 60 dBA Ldn for school land uses, Therefore, Ldn (not CNEL) was deemed most applicable for this evaluation.

Response to Comment 5-32

This comment does not indicate a new significant impact or a more significant impact than what was presented in the Draft EIR, and recirculation is not warranted.

Response to Comment 5-32

Ldn is the summation (integral) of the A-weighted squared sound pressure for the daytime 07:00 to 22:00 hours, and nighttime A-weighted squared sound pressure for the period from 22:00 to 07:00 hours, divided by the reference pressure squared. This summation is divided by the 24 (hours), log taken and multiplied by 10. It is true that the pressures are additive, but only on p2 basis, not a level basis.

Response to Comment 5-33

Please see Master Response to the Appeal regarding Noise, section subtitled ''Factual, Expert Analysis and Documentation'. These comments appears to be the reviewer's opinion on the technical work conducted as part of the EIR, as well as an opinion about what information should be included in an EIR. As addressed in responses to the comments above, the commenter provides no substantial evidence to support these opinions regarding the competency of the persons preparing the EIR, the shortcomings of the noise study, or the inadequacy of the EIR.

Responses to Clearwater Hydrology, Letter 6, dated March 27, 2023

Response to Comment 6-1

Pursuant to the recommendations of the Project's geotechnical engineering consultant (Rockridge Geotechnical), the Project does propose to line the retention basins that are to be located south of the Loop Road and to connect these retention basins with underground pipe, rather than earthen bottom basins and an open swale. See the detail drawing from Sheet C7.04 of the Final Development Plan's Engineering Plan Set (see Master Response to the Appeal, Hydrology section), which does call for geotextile lining and piping.

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DONNA M. VENERUSO
LEILA H. MONCHARSH

April 18, 2023

Rebecca Lind
Re: PLN 18532-ER01

Dear Ms. Lind:

Please find attached expert reports from William Weisgerber (Wildfire prevention and evacuation), Jeff Pack (Sound), and Clearwater Hydrology (Drainage).

I represent NSC. Because we have had insufficient time to review all of the material, especially the voluminous documents released Friday (April 14), I will not be able to respond to all of it by tomorrow (April 19) when the Planning Commission will hold its hearing to consider your recommendation to certify the EIR and grant the PUD permit, as requested by Head Royce School. I am filing with this letter, besides the expert reports, Oakland Fire Department Records and a 2012 complaint with four volumes of evidentiary support. I will need time to supplement the rest of the records supporting the NSC's position that it opposes the project in its current condition and also opposes the certification of the EIR as it is deficient under CEQA.

A. The EIR's Analysis of Wildfire Safety and Evacuation Impacts Is Inadequate

The FEIR concedes that Mr. Weisgerber is a recognized expert on the topic of wildfire prevention and evacuation procedures: "Mr. Weisgerber clearly brings considerable expertise on the topic of emergency preparedness and evacuation planning." (FEIR, p. 3-11.) It then ignores most of what Mr. Weisgerber said about the emergent need for an evacuation plan. Instead, it asks that the decision-makers put off this requirement to some other, way down the road, after the first building is open for occupancy, time in the future to come up with one. This violates both CEQA and common sense.

The time to produce the evacuation plan is during the vetting of the project within the CEQA process, not waiting for questionable mitigation measures to kick in down the road. The EIR must show that the mitigation of an emergency evacuation plan will indeed mitigate the significant environmental impact of exacerbating emergency evacuation caused by increased enrollment and staff by 361 persons, including vulnerable children. Impermissible deferral of mitigation measures occurs under CEQA when the agency puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described. (Guideline, § 15126.4.)

The missing evacuation plan is the potential mitigation measure and the decision-makers have an obligation to review that plan and an analysis of why the plan will successfully mitigate the inability of the people uphill from the school, the school occupants, and the neighbors from safely evacuating from a wildfire in the VHFRZ. The FEIR proposal of waiting until later to come up with a plan improperly defers "the formulation of mitigation measures until after project approval; instead, the determination of whether a project will have significant environmental impacts, and the formulation of measures to mitigate those impacts, must occur *before* the project is approved. [Citation.]" (*Oakland Heritage Alliance v. City of Oakland* (2011) 195 Cal.App.4th 884, 906; see also CEQA Guidelines, § 15126.4, subd. (a)(1)(B).)

"[A]n exception to this general rule applies when the agency has committed itself to specific performance criteria for evaluating the efficacy of the measures to be implemented in the future, and the future mitigation measures are formulated and operational before the project activity that they regulate begins. [Citation.]" (*Center for Biological Diversity v. Department of Conservation, etc.* (2019) 36 Cal.App.5th 210, 239, 248 Cal.Rptr.3d 449.) Thus, " " 'for [the] kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process ..., the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval.' " " (*Oakland Heritage Alliance v. City of Oakland*, *supra*, at p. 906.)

"Conversely, " '[i]impermissible deferral of mitigation measures occurs when [the agency] puts off analysis or orders a report without either setting standards or demonstrating how the impact can be mitigated in the manner described...." (*Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 280-281– quotation marks omitted.)

Here, there is no evidence that the risk of lost lives and property as people try to escape wildfire can be adequately mitigated by any evacuation plan. In its analysis, the EIR points to no study or modeling that supports its conclusion that an evacuation plan can reduce the admitted impact of increased students and staff to less than significant. As such, the EIR has failed to meet its obligation as an informational document. CEQA legally required that the EIR must analyze and show that an evacuation plan can satisfactorily reduce the impact to less than significant. (PRC (§§ 21002.1, subd. (a), 21100, subd. (b), *King And Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 851 (*King*).)

The EIR has failed to analyze through modeling what the evacuation of nearly 9,000 people would have on secondary and tertiary escape routes. Nor does it include any traffic study regarding what would happen in the event that there was a typical mix of vehicles and pedestrians of all ages trying to evacuate at the same time. There is no discussion in the EIR regarding the role of panic and chaos in determining whether it is even possible to safely evacuate so many people, including the additional 344 school-aged children during a mass evacuation from the VHFSHZ where HRS is located.

The EIR also does not provide baselines showing pre-project whether it would be possible to evacuate the current population at HRS and then "it should be of paramount importance to update the existing modeling for any proposed expansion such as the HRS South Campus—as part and parcel of due diligence." (Weisberger letter, pp. 2-3.) The missing baseline from the EIR violates CEQA because establishing a baseline at the beginning of the CEQA process is a fundamental requirement so that changes brought about by a project can be seen in context and significant effects can be accurately identified. (*Save our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 125 ["baseline determination is the first rather than the last step in the environmental review process"]; see also *Communities for a Better Environment v. City of Richmond* (2010) 184

Cal.App.4th 70, 89.) When an EIR omits relevant baseline environmental information, the agency cannot make an informed assessment of the project's impacts. (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 952.)

In *Vineyard Area Citizens For Responsible Growth, Inc. v. City Of Rancho Cordova* (2007) 40 Cal.4th 412, 442 (*Vineyard*), our Supreme Court stated:

> The data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project. (*Ibid*. – quotation marks and cites omitted.)

The baseline modeling data regarding current possible evacuation conditions at HRS is completely missing. Actually, the only data from Mr. Wong's report and the City's fire department inspections shows that currently the North Campus would trap children inside due to the blocked gates and access points.

Page 3-6 of the FEIR basically says 'well, there's nothing stopping the City Council from making a policy decision that the project is appropriate for the proposed location.' It then says "However, the Project does present a very important concern pertaining to increasing the number of children that would be present within an area of very high fire hazard risk, and the Draft EIR does present sufficient information for City decision-makers to evaluate that risk when weighing the relative merits of the proposed project. . . ." It is strange to think that anyone would expect City Council members to sit there and weigh the so-called "merits of the proposed project" having a school for wealthy families against saving lives in the event of a likely wildfire. CEQA expects much more out of its City Council and so does the public.

Failing to go through CEQA's analysis and failing to provide baseline information does preclude the City Council from just rubber-stamping the project application. There is not enough information for decision-makers and the public to do anything more than speculate about whether some nonexistent evacuation plan might even work to save one, let alone potentially thousands of lives. (Weisgerber, pp. 3-4.) The only involved policy decision is whether the City Council wishes to take on the risk of

exacerbating the situation of already having an emergency evacuation problem, along with the financial liability.

The FEIR statement on page 3-9 that HRS would only be putting at risk evacuees 20%of the time is not accurate. The proposed conditions of approval provide a very liberal list of events and HRS is in use at least from 6:00 a.m. to 6:00 p.m. weekdays. In the past it has often operated 18 hours per day – all day during school and after-school activities and all evening for events. Further, its recent claim that it would not rent out its facilities for outside organizations does not solve the problem that the facilities will include four theaters along with other accessories consistent with an event center, not a school. It is a short jump to say that all of their events will belong to the school with no explanation why they would need four theaters unless they actually plan to use all of them and for fundraising of some sort. That use is going to overlap with school operations, nights, and weekends. So, 20% is an untruthful representation – and also an immoral approach to emergency evacuation.

The EIR does not analyze HRS' long history of failing or refusing to comply with its use permit. Following a neighborhood complaint to revoke or modify its use permit in 2012, the school agreed in 2016 to a modified use permit requiring it to prepare an emergency plan in 2016. The school ignored the condition and did not prepare or file with the planner any emergency plan until 2019 and only then, after the neighbors pointed out the violation. And then, it did not contain any evacuation plan. HRS is still is in violation of the condition. (See current 2016 CUP for HRS.)

According to the fire department records, HRS has routinely failed to comply with vegetation management inspections. In 2018 alone it took four violation notices before HRS got into compliance with fire vegetation management regulations. It has repeatedly failed the first inspection and delayed correcting the violation until the start of the school year at the end of August, having skipped all of the summer. After August, it failed to maintain vegetation management when inspected the following spring. (Submitted Fire Department records.)

Further, even the EIR preparer's fire expert found that the gates were blocked, locked, or in some other way unusable for emergency exit. Those

observations were made after HRS submitted its application for the instant project. Certainly by the time Mr. Wong found the access points blocked in 2021 or thereabouts, HRS should have had down the concept of emergency evacuation.

Just acknowledging some of the problems with HRS's violations of fire regulations and ignoring the rest of the history does not comply with CEQA requirements. Those facts alone, as evidenced by the NSC 2012 Complaint with four volumes of evidence all the way to today should have caused the EIR preparer to realize the admitted impact of the project on evacuation could not be reduced to less than significant. The EIR failed to show how the mitigation of a future evacuation plan would even occur. It appears that the approach was 'just trust HRS because they are a wealthy private school and therefore, can be trusted.' HRS burned through that trust with the neighbors and city planners decades ago from repeated violations of their use permits. In contravention to CEQA's legal requirements, there is no evidence that the EIR has met its legal obligation to show that its proffered mitigation will reduce the vegetation management and evacuation impacts to less than significant. (PRC (§§ 21002.1, subd. (a), 21100, subd. (b), *King And Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814, 851 (*King*).)

Further, the "mitigation measures discussed in the EIR should be feasible," meaning that they are "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." (*King, supra,* 45 Cal.App.5th at p. 852.) The record evidence demonstrates that the evacuation plan was already necessary in 2016. There is nothing in the record to support the long future timeline for getting that plan completed now. Furthermore, the EIR does not fulfill its obligation to either mitigate the evacuation dangers or pursue another alternative.

The Supreme Court has described the alternatives and mitigation sections of CEQA as 'the core' of an EIR." (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 597-603 – cite omitted.) Also:

> In furtherance of this policy, section 21081, subdivision (a), contains a substantive mandate requiring public agencies to refrain from approving projects with significant environmental

effects if there are feasible alternatives or mitigation measures that can substantially lessen or avoid those effects.

(*Ibid*. – quotation marks and cites omitted [appellate court upheld city's refusal to grant demolition permit where there was no showing of infeasibility to preserving historic resource].)

Here, the EIR needed to either show that an evacuation plan would reduce the danger to the neighborhood, the school, and neighbors above highway 13 to less than significant or it needed to discuss alternatives to the project's increase in enrollment. It did neither.

Mr. Weisgerber describes the expectations of the California Attorney General as to what should be analyzed in an EIR. (Weisgerber, p. 6.) The FEIR did not consider this laundry list of items that should have been provided as part of the analysis. CEQA requires agencies to analyze any significant environmental effects a project might cause or risk exacerbating by bringing development and people into the area affected. (14 CCR, § 15126.2(a); *Cal. Bldg. Indus. Assn.*, *supra*, 62 Cal.4th at 385.) This includes effects not only to flora, fauna, and other natural resources in the vicinity of the project, but also to *humans*. (Pub. Res. Code § 21083(b)(3) [agency must find impacts significant if project "will cause substantial adverse effects on human beings, either directly or indirectly"]; 14 CCR, § 15065 [project's potential to cause "substantial adverse effects on human beings, either directly or indirectly" must be evaluated under CEQA].) The EIR violated this mandate by ignoring the Attorney General's directive as to what should be analyzed in an EIR.

Put another way, the EIR does not contain "sufficient detail to enable those who did not participate in its preparation to understand and consider meaningfully" the Project's impact on the ability of the campus and community to safely evacuate. (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502.) Nearby residents, parents, uphill neighbors and employees at HRS have a right to know the project's impacts on evacuation. Without this crucial information, the EIR fails as an informational document. (*Id*. at 515.)

The FEIR makes a plethora of conclusory statements in responses to comments B-9 and B3-2, like that since HRS is located adjacent to Lincoln

Avenue, it presents a different situation than increasing density in the hills above highway 13 through increased proliferation of accessory dwelling units, a practice the City Fire Chief has criticized. The Fire Chief's concern about interfering with evacuation routes is no different because HRS is on Lincoln Avenue, an admitted fire escape route. There is no evidence to support the EIR's conclusion, such as modeling to show that Lincoln Avenue would remain serviceable as an escape route in the event of a wildfire, contrary to the FEIR response B-9.

Unsupported conclusionary statements do not suffice to support the FEIR's position that somehow, being located adjacent to Lincoln Avenue, will reduce the chances of lost lives due to blocking this wildfire escape route. (Guidelines, § 15126.6, subds. (c), (f)(2)(B)), [unsupported conclusory statements do not suffice], (*Laurel Heights, supra,* 47 Cal.3d at p. 404.) The FEIR's assumptions, premised on ambiguous generalizations rather than analysis and evidence, "failed to serve the purpose of enabling informed decision-making and public discussion." (See *San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750-751.

The EIR preparer could have chosen to obtain modeling of a probable wildfire evacuation situation but chose not. It also chose not to obtain an evacuation plan with supporting facts that would show it is possible to reduce the project's evacuation impacts to less than significant. It did none of that and probably for a good reason, e.g., that it is not possible to reduce the impact of the project to less than significant. At that point the FEIR was required to consider alternatives, such as the school opening a satellite school somewhere other than on Lincoln Avenue. *(Make UC A Good Neighbor v. Regents of University of California* (2023) 88 Cal.App.5th 656, 669.)

If there is no feasible mitigation or alternative available, the FEIR should have discussed overriding considerations. When an EIR has identified significant environmental effects that have not been mitigated, an agency may not approve the project unless it first finds additional mitigation infeasible due to "[s]pecific economic, legal, social, technological, or other considerations . . ." (Pub. Res. Code §21081(a)(3); *see* 14 CCR, §15091(a)(3).) An agency rejecting a mitigation measure as infeasible must be supported by substantial evidence in the record and "must explain in meaningful detail the reasons and facts supporting that conclusion." (*Marin Mun. Water Dist. v. KG Land Cal. Corp.* (1991) 235 Cal.App.3d 1652, 1664; see Pub. Res. Code,

§21081.5; 14 CCR, §15091(b).) Conclusory statements are inadequate. (*Village Laguna of Laguna Beach v. Bd. of Sups.* (1982) 134 Cal.App.3d 1022, 1034-1035.)

Yet, the EIR is totally silent as to why it is necessary to wait until the project is already constructed and right before occupancy before an evacuation plan is prepared. It does not say why it is infeasible to require an evacuation plan now when the plan can be vetted by experts, why an alternative is not viable, or why overriding considerations justify the City Council approving the project now with no evacuation plan. For these reasons, the EIR is deficient, and the City Council should not certify it.

In response to comment B3-8, the FEIR claims that OFD was consulted, but provides no opinions from OFD. Surely, something is missing! It is unheard of for an Oakland Fire Chief to remain muted on the topic of fire evacuation. The current chief was very outspoken about adding ADUs to the very high fire risk zone, despite political pressure to approve housing permits. It is hard to believe he has nothing to say on this topic of adding 361 people, including vulnerable students, into the middle of Lincoln Avenue.

The response to comment B3-13 again totally ignores that HRS has a long history of ignoring vegetation management requirements. As stated above, the EIR must show that a proposed mitigation will satisfactorily lessen an impact to less than significant. Just OFD and neighbors telling HRS repeatedly that they need to comply with fire codes, and HRS ignoring it all, does not equate to an adequate mitigation.

The response to comment B3-22 overlooks that it is HRS that is creating the evacuation problem, not the churches and the neighbors. Only HRS is located half-way down a very steep hill, has a main campus at the bottom of a steep canyon requiring children to climb out of it, insists on not providing sufficient onsite parking spots for all of its SOVs and busses, is constantly using public streets for parking, wants inconvenient tandem parking, and keeps expanding the number of students and staff that would need to be evacuated. The churches are located at the top of the Lincoln Avenue hill adjacent or very near highway 13 and its frontage road, provide an abundance of onsite parking to keep cars from blocking Lincoln Avenue during an emergency, have several escape routes, only operate in any large numbers on the weekend and not during HRS's hours, do not use public infrastructure for parking, and are not cheek and jowl next to houses. Their

staff and visitors can easily escape by foot or car. Ability Now is not located half way down the hill and has a very small number of persons using it, and again – plenty of onsite parking to avoid blocking Lincoln Avenue as an escape route. It also is not right next to housing.

As discussed above, the EIR also gave short shrift to analyzing emergency access both for people to escape a wildfire and for emergency vehicle access. We now know that one of the major problems during the 1991 wildfire that engulfed parts of Oakland and Berkeley was the lack of adequate means for simultaneous exit by fleeing residents and entry by fire personnel. Despite how important this issue has been in the past, and regardless of the dependence by fire personnel in the area above and through the Lincoln Avenue area having to rely on narrow winding roads with limited capacity, the EIR does not tell us its plan for solving that very problem. The public and decision makers lacked the information necessary to assess whether the project would result in inadequate emergency escape and emergency access. (See *County of Fresno*, *supra*, 6 Cal.5th at 516.)

The EIR's so-called "objectives" to reduce the risk of wildfire emergencies are nothing more than wishes rather than analysis. It does not even inform us how many cars will likely be on the roads during a potential evacuation, the capacity of the roads to handle evacuation, and how long it will take for evacuation to occur. The EIR contains very little information, indicating that there was any thought put into the specifics of a possible evacuation plan. (*League to Save Lake Tahoe Mountain etc. v. County of Placer* (2022) 75 Cal.App.5th 63, 134-143 [3DCA found adequate an EIR's analysis and mitigations for wildfire safety and evacuation because it contained many specifics supporting its analysis and its mitigation plans].)

In sum, the EIR's analysis of impacts on emergency response and evacuation plans contains only bare conclusions and opinions, with no reference to evidence or facts. CEQA requires more, and the City Council's approval of such an inadequate EIR would violate CEQA as a matter of law. (See *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918 935-36 [EIR's omission of essential information is a procedural violation subject to de novo review].)

Similarly, the EIR's reliance on its compliance with various codes and regulations pertaining to fire prevention to justify the EIR's less than significant determination also fails because compliance with applicable

regulations is not sufficient to conclude that a project will reduce a significant impact to less than significant. It does not relieve the EIR of its duty under CEQA to disclose project impacts. (*Kings County*, *supra*, 221 Cal.App.3d 692, 716-17; *Amador Waterways*, *supra*, 116 Cal.App.4th at 1108-09.) Finally, there is no explanation for why it would be necessary to wait, perhaps for decades, before HRS submits an evacuation plan that should have been included in an emergency plan – one that was already ordered in 2016 and ignored by HRS first by 2019 and now by 2023.

I will comment on the other two reports tomorrow morning. Thank you for considering my comments.

Sincerely,

Leila H. Moncharsh
Leila H. Moncharsh, J.D., M.U.P.

Attachments previously emailed

cc: Client

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April 19, 2023

Rebecca Lind
Re: PLN 18532-ER01

Dear Ms. Lind:

This is a continuation of the letter that I submitted shortly after midnight last night.

B. The Noise Portion of the FEIR Is Inadequate Because It Relies on Conclusionary Statements Without Factual or Expert Support and Without Baselines

Mr. Pack, NSC's acoustics expert, responds to the FEIR in his letter, dated March 27, 2023, where he notes that to comply with CEQA the EIR needed to set the baseline to understand the difference between pre- and post-project conditions. (Pack, pp. 1-2, 5.) As explained in Section A of our letter submitted last night, baselines must be established and this comparison analyzed in the EIR. There is no evidence that it was impossible for the EIR preparer to have done so.

Instead, the preparer waited until after the comment period in response to the DEIR had closed and then obtained some noise measurements on March 10, 2022, a month before the Planning Commission hearing. It failed to report the noise measurements along Lincoln Avenue, making it impossible to know the pre- and post- project sound conditions. As a result of this new information, we now know that the "the new data indicate that the previous assumptions of the noise levels at the residences to the south and west were not correct and that there is a significant difference between the DEIR and the new data." As a result, the "basis for the for the CEQA evaluation results in stricter project-generated noise limits." (Pack, p. 2.)

With admittedly using the wrong data for its conclusions, the preparer was required to do more than just make conclusory statements that the project sound impacts will be reduced to less than significant. Those statements are unsupported by evidence and amount to no more than opinions by nonexperts. (Guidelines, § 15126.6, subds. (c), (f)(2)(B)), [unsupported conclusory statements do not suffice], (*Laurel Heights, supra,* 47 Cal.3d at p. 404.) The FEIR's assumptions, premised on ambiguous generalizations rather than analysis and evidence, "failed to serve the purpose of enabling informed decision-making and public discussion." (See *San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 750-751. The EIR needs to be redrafted with the correct data and recirculated for public comment.

The problem of missing data or incorrect data to support the EIR conclusions also applied to the handing around of the acoustics issue amongst three parties, Illingsworth-Rodkin, RGD Acoustics, and the EIR preparer. However, the preparer did not have the expertise to opine about the interpretation of the acoustics data or realize that data was missing. (Pack, p. 3.)There is no evidence that the preparer had any expertise in acoustics, and this was a topic that required an expert's handling. (Evidence Code section 702.) Due to the admittedly missing or incorrect data to support the less than significant conclusion, the EIR is not supported by evidence.

The problem of using the wrong standards for the P.A. system and evaluating traffic noise also requires a revised EIR and recirculation. (Pack, p. 4.) NSC objects to the use of any outdoor amplification of sound on the South Campus. The housing is just too close and the neighbors would become part of the audience for graduations, outdoor events, class presentations, etc.

Mr. Pack brings to the City's attention that the proposed sound wall is not detailed adequately. (Pack, p. 4.) This exact same problem occurred with the sound wall at Ability Now. HRS agreed to construct a sound wall for the field there and then did not provide one. Mr. Pack had to contact the planner and explain that the wall HRS had decided upon was absolutely not a sound wall. Here, there is nothing to show what HRS plans to use for materials and whether the fence will in fact serve as mitigation or just a decorative wall facing the school.

Overall, the work on the DEIR and FEIR fell way below what one would expect of a competent acoustics expert. (Pack, pp. 7-10.) The City Council should require that the noise section be redone in a DEIR by a reputable acoustics company that is provided with sufficient funding to complete the task. The two main issues with any school are traffic and noise. The noise from the South Campus will increase exponentially from the prior use when only, at most, 100 students were allowed on the property during the day and 50 in residence at night. HRS is contemplating greatly increasing the use of this property, including having up to 1,250 students, event guests, graduation ceremonies, and entertainment guests potentially all at the same time. The noise from this much increased activity on the site is going to negatively impact the adjacent housing.

C. Removal of the Mini-Loop and Changing the Use of the Loop Road From Only Peak Hour Use to All Day and Potentially Well into the Night Use Increased the Impacts on the Neighborhood

In neighbor Mr. Rodney Thompson's letter, he fully demonstrates how removal of the mini-loop will increase impacts on adjacent neighbors. Under CEQA, the FEIR should have addressed the increased impacts from removal of the mini-loop and extending the hours of use of the Loop Road.

The NSC opposes the Loop Road because it is one more way, over a long history, that HRS has pushed its negative impacts off its properties or near its boundaries and onto the neighborhood. The City has assumed that HRS has no driveways on its own two sides of Lincoln Avenue for unloading and loading students into cars and busses, which is untrue. It has multiple access driveways on both sides. The main driveway for the North Campus was the original way that parents dropped off and picked up their children onsite, not in the street. The former Lincoln Child Center used its own driveway for the same purpose other than for small busses that parked in front where a group of counselors met the students. Over the years, HRS has steadily pushed its impacts away from its properties and onto the public infrastructure that residential neighbors rely upon. The purpose is obvious – HRS offers little to no parking or transportation facilities for its customers and preserves the central area of each campus for further, future development beyond what it

already plans. It has also bought up housing adjacent to its properties for the same reasons.

The City Council should not allow HRS to continue the practice of supplying both too little onsite parking and unrealistic parking options. If it wishes to expand, it should be required to construct a parking garage as was required of the Greek Church. Instead, it does things to mask the amount of street parking it will need by claiming to have parking spaces elsewhere. For example, HRS says it has 16 parking spaces in the Greek church garage, when it fully well knows that the students will not park there due to auto break-ins and so they insist on parking along Lincoln Avenue. There are about 20 cars parked right below the Greek church on Lincoln Avenue every school day with youngsters getting in or out of them. That row of parked cars takes up a lane that could be used for emergency access.

As stated well by neighbors, the City Council needs to look with a jaundiced eye at the proposed conditions of approval for this project. They are extremely loose, especially given the long history of use permit noncompliance and they do not address the South Campus neighborhood's needs. Instead, the conditions reflect an assumption that the City should treat the South Campus, cheek and jowl adjacent to housing as the North Campus, located at the bottom of a steep canyon with housing located far above it and away from noise and traffic impacts.

D. It Is Unclear What the EIR Proposes for the Drainage That May Negatively Impact the Boe and Claussen Properties

Please see the letter from Clearwater Hydrology. The expert hydrologist and the neighbors have been unable to find a final drainage plan showing the changes referenced in the FEIR. Clearwater needs to know how the drainage near these two properties will be handled under the new drainage plan. Please provide an answer to their question.

Thank you for considering our comments.

Sincerely,

Leila H. Moncharsh

Leila H. Moncharsh, J.D., M.U.P.

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May 1, 2023

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Re: Head Royce School Application for Expansion: PLN 18532-ER01, PUD 18532-F-01, PLN 18532 Appeal

Dear City Council Members:

This appeal is filed on behalf of the Neighborhood Steering Committee (NSC). Formed in 2012, the NSC consists of representatives from each street around Head Royce School (HRS) with permission from their neighbors to represent them in matters involving the school.

We are presenting one appeal letter and attachments for each of two appeals from the Planning Commission Decision (PCD or Decision) on April 19, 2023. One appeal applies to the PCD approval of the Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA) and the other relates to the Decision to grant HRS's application for numerous permit approvals. The NSC seeks an order granting the appeal from the PCD, setting aside all permit approvals including approval of the EIR, and denying the HRS application pending further review and consideration under CEQA.

NSC does not object to HRS receiving a PUD permit to use the former Lincoln Child Center (LCC) property for school purposes and to upgrade the facilities. It objects to the PCD on the following grounds:

I. THE PCD REPRESENTS AN ABUSE OF DISCRETION BY VIOLATING THREE OVERRIDING AND PRIORITY POLICIES OF

THE OAKLAND CITY COUNCIL – WILDFIRE PREVENTION AND EVACUATION, DIVERSITY, EQUITY AND INCLUSION, AND AFFORDABLE HOUSING.

The Oakland City Council has made wildfire prevention and evacuation a priority, as well as promoting diversity, equity and inclusion, and building affordable housing. The proposed project violates all three of these policies. It was an abuse of discretion to adopt the PCD without even considering these policies

Wildfire Prevention and Evacuation: There is no dispute that when Mr. Wong, the EIR preparer's fire expert visited HRS's North Campus, he found that escape routes out of the campus were barred by overgrown vegetation, difficult uphill routes that would be hard for young children to climb, and even a chain and lock on one emergency gate. Mr. Wong wrote a report that was highly critical of HRS's emergency plan which included no evacuation plan.

The FEIR agrees that Mr. Weisgerber, the fire prevention and evacuation expert retained by the NSC has strong credentials and experience to render opinions about the current unsafe conditions at HRS and its failure or refusal to provide an evacuation plan. Mr. Weisgerber's two reports are attached as Exhibit A. They demonstrate in shocking detail why adding 344 more students plus increased staffing will greatly worsen any chance of safely evacuating the school, the neighborhood, and potentially, even neighbors above Highway 13 fleeing down the hill from a wildfire.

It also cannot be disputed that HRS has had a bad history of noncompliance with vegetation management. The fire department photos and inspection citations over the last few years demonstrate that failing. (See Exhibit B.) They collectively show that HRS would wait until just before the students came back to school in August before getting into compliance with the inspections. That way, it then would go out of, and remain out of compliance throughout the spring and summer of the following year until just before the students came back. It appears from the records that in 2018 alone, four inspections were necessary before HRS passed.

The poor fire prevention management was also repetitive in nature. The photos taken by the fire department show that many times the danger was not just overgrown grass but vegetation leaning or growing over the roofs of buildings on the campus. It appears from the photos and fire inspector reports that HRS never learned from one year to the next how to lessen the risk of wildfire spread. It should be noted that in 2018, despite the limited number of available fire inspectors, one did notice and cite HRS for failing to make sure emergency exits were accessible, especially for vulnerable young children. In that inspection, HRS failed fire safety measures beyond vegetation management in numerous categories. (Exh. A – after Weisgerber reports.) Essentially, HRS had created a fire trap on its campus in 2018 that remained in that condition when Mr. Wong recently toured the campus.

Since 2016, the neighbors who attended Neighborhood Liaison meetings with HRS brought up fire prevention at almost every one of the twice yearly meetings with HRS. A major request was that HRS remove the grove of eucalyptus trees that encircle two sides of the campus. HRS removed the trees from the South Campus and a few from the North Campus, but otherwise claimed that they could not financially afford to remove the rest of them. The Oakland hills had already experienced exploding eucalyptus trees in the firestorm of 1991 and yet, the HRS trees did not warrant priority on HRS's budget planning, although HRS is located in a Very High Fire Danger zone.

Besides the Oakland Fire Department efforts to educate and correct HRS's vegetation management practices, the Planning Department also made efforts. Planner Heather Klein, who dealt with HRS repeatedly over the years included a requirement in one of the modified 2016 use permit conditions that HRS adequately address emergency fire preparation. The planning approvals were final in July 2016. Here is specifically what Ms. Klein included in the CUP:

26. Management Plan.
Prior to the start of the next semester after Planning Approvals and Ongoing

The project applicant shall develop an Emergency Management Plan ("EMP"), and submit to Planning and Zoning Division, Transportation Services Division, OPD-

Traffic Safety, and the Fire Marshall, for review and consultation. The Applicant shall implement the final EMP. The EMP shall include at least the following components:

a) Fire Protection Bureau Occupancy Review Ongoing

The School shall cooperate and coordinate with the Fire Services Department to conduct yearly occupancy and fire safety inspections of the school, fire drills and unannounced future site visits. The resulting Fire Department report(s), and any follow-ups, shall be sent to the Planning and Zoning Division for review.

b) Emergency Preparedness Plan

With 6 months and Ongoing

The School shall submit an Emergency Preparedness Plan, within 6 months after this approval. The completed plan shall be submitted to the Planning and Zoning Division and the Fire Protection Bureau for review and consultation. The plan shall discuss emergency evacuation procedures that will facilitate emergency vehicle access to the neighborhood during School pick-up and drop-off operations. The plan shall be implemented.

c) Fire Department Site Visits

The project applicant shall coordinate with the Oakland Fire Marshal's Office to make periodic unannounced visits to the school (the frequency, timing, and types of visits should be at the Fire Marshal's discretion based on need for visits and compliance by the school) to verify that adequate emergency vehicle access is being maintained during peak pick-up and drop-off periods. The Fire Marshal should consult with the School to identify modifications to the circulation rules, if emergency access problems are identified.

The fire department records and Mr. Wong's report demonstrate that HRS apparently complied with none of the items in the condition. (Exhibit C – entire CUP.) Instead, HRS rebuffed requests by neighbors for a copy of its emergency plan and finally, they produced a copy to the City with the date 2019 on the front. Ms. Klein did not have or produce a copy of the emergency plan in her file. It was three years late and only produced after HRS began work on its expansion plan. Significantly, the plan did not include any of the items above, especially an evacuation plan.

Despite the overwhelming evidence of use permit and inspection noncompliance, the EIR, its proposed mitigation measures and the staff report permit conditions all treat HRS as simply needing some suggestions and guidance. They also allow HRS to defer providing an evacuation plan for

at least six years and thereafter, it can ask for more time, possibly until it never has to come up with a plan at all.

The PCD demonstrated abuse of discretion by imposing ineffective mitigation measures and permit conditions. The City Council should deny the application rather than taking on the financial liability for HRS's refusal to adequately address fire safety. Its failure to provide an emergency evacuation plan strongly suggests that HRS knows that there is no safe way to evacuate the school and the neighborhood due to the current size of the school, let alone with even one additional student.

Lack of Diversity, Equity, and Inclusion: HRS has argued at the commission hearings and elsewhere that its enrollment includes an unbelievable 69% minorities. It carefully never defines how it uses the term "minorities" and instead claims that it is entitled to special favors and entitlements from the City due to its alleged diversity. Indeed, no other business or private school would be allowed the leniency around fire safety and use permit compliance that HRS has received from prior Oakland city councils.

The facts show that HRS is a typical private school catering to parents with discretionary after-tax income of over $50,000 per child to cover tuition, books, special trips, etc. Families using HRS are not representative of Oakland and less than half of them even live in Oakland. Within the last two years, HRS has been admitting students from as far away as the San Francisco Peninsula and Silicon Valley. HRS has not provided a current list of the number of students from each named city, but the tuition cost alone rules out that HRS is a diverse school with anything but a small percentage of black and Latino students.

In 2013, the NSC obtained a copy of the school directory and with GIS mapping was able to show where the students' residences were located. (Exh. D - map.) By 2015-2016, the Oakland residents using HRS had dropped below 50%. (Exh. E.) Recently, HRS has admitted their Oakland enrollment has dropped even further but they have not revealed any definitive number or admitted that in fact, they have been enrolling students from wealthy parts of the Peninsula.

A public records request by a member of the NSC for letters submitted to the City Planning Department, in support of the HRS project revealed street addresses of the 213 supporters. An analysis of this data revealed where the letter writers live, what relationship they had to HRS, and the approximate market value of their homes. This data shows that of the 107 supporters living in Oakland, almost all of them live far away from the school. Most of them live in affluent parts of Oakland that are not impacted by the negative conditions produced by the school's activities. The rest of the 213 supporters live primarily in Berkeley and Piedmont. The housing data show that the supporters live in houses with a market value ranging from $1 million to $10 million. The average home value for the supporters was $2,319,303. The average home value in Oakland is $803,985. This demonstrates the disparity in household wealth between many HRS households and the average Oakland household.

The supporters and the parents of HRS students are not representative of Oakland, which is a diverse and inclusionary city. The map from 2013 (Exh. D) shows that HRS avoided accepting students from census tracks where there was a predominance of black residents, and the data more strongly indicates that HRS may be avoiding census tracks where there was a high percentage of Hispanic residents. Exh. D also is consistent with redlining by avoiding accepting students living below Highway 580 or 880.

The data is exactly what we expected it to show – HRS markets to and enrolls white and Asian students whose parents have unusually high incomes that will cover the very high cost of attending HRS. However, that data does not give the City Council an anecdotal picture of HRS's lack of diversity and inclusion. That information comes from HRS students.

In 2020, after the murder of George Floyd, students throughout the country began looking at the schools they attended and asked whether there were indicia of discrimination based on race. HRS students were no exception and they detailed evidence of racism and bias by the HRS administration and board. "Black at HRS" contains their stories of day-to-day racism at HRS. See https://www.instagram.com/blackathrs/?hl=en. The school attempted to respond by half-heartedly admitting that there was a problem, without solving it. (See also https://www.facebook.com/HeadRoyceSchool/posts/update-the-school-

administration-is-reading-the-painful-and-important-stories-sh/2851227151655465/.)

The HRS students did not accept the school's empty promises that it would correct the racism and presented the school with demands for change. Despite the students' efforts, the discrimination at HRS at least against Latinos has continued. On December 8, 2022, an article appeared describing HRS parents making racist comments about Latino students during a game. The students responded with an article that was published by the school's news media: https://hawkseye.headroyce.org/latinos-unidos-decries-recent-racism/. It was written by a student who would graduate in 2023.

Loss of Housing: A policy of great importance in Oakland concerns creating affordable housing. Yet HRS demands that the City approve a project that will tie up 22 acres of prime housing land that is desperately needed by people of less means than HRS parents. The highest, best, and ethically proper use for the land is *affordable housing*. HRS has purchased the 8 acres consisting of the South Campus but has also purchased a number of residential homes over the years and has already demolished at least one of them. Given the board chairperson's statement at the Planning Commission hearing that HRS intends to keep growing here even after its current project application is granted, the purchase of houses adjacent to HRS can only be to accommodate that goal through demolition. The PCD set in motion moving the neighborhood out of homes and into one giant private school serving the wealthiest Bay Area parents.

Over the years, HRS has consistently been purchasing every house that it could buy along the perimeter of the North Campus. Initially, it tore down at least one house on Lincoln Avenue to make a gateway for the school. Since then, it has just kept acquiring houses that abut Whittle Avenue. Its explanation has been that it was buying these houses for teachers to rent, but that is questionable given that HRS could purchase far more houses and less expensively in other parts of the greater neighborhood if it truly wanted to help teachers. In the past, the issue along Whittle has been that HRS had no place to install a parking garage or a parking lot. Demolition of the housing would accommodate further growth on the North side of the school. HRS should divest itself of those houses.

There are also houses or buildings that could be used for housing on the 8 acre former Lincoln Child Center property. There is one house near Linnet Avenue, two houses joined together and built in the 1990s at the west end of the property, and one building bordering Charleston Street that all could be repurposed into housing. All of these buildings are located near the border of the school property and should be preserved for affordable housing. HRS wants to demolish all but the two joined houses, and as to that one, repurpose it for school or office space. Its explanation for the demolition is that it would be hard for people to live so close to school activities, although neighbors also live in close proximity to the same disturbances.

For all of the foregoing reasons, the PCD abused its discretion by putting a wealthy private school's needs ahead of residents in an Oakland neighborhood.

II. THE PROPOSED PROJECT IS INCOMPATIBLE WITH THE NEIGHBORHOOD AND CREATES NEGATIVE IMPACTS THAT THE EIR AND THE STAFF'S PROPOSED USE PERMIT CONDITIONS DO NOT ADEQUATELY ADDRESS

Attached to this letter are letters from two adjacent neighbors describing how they and the neighborhood will be negatively impacted by the proposed project. My letters further describe the problems with the proposed project and follow theirs. All of these letters and those sent by opponents of the project for the April 19, 2023 hearing are incorporated here.

Despite claims to the contrary, HRS deliberately did not consult with the neighborhood about the project, knowing its proposals were likely to be unpopular with neighbors. Instead, it held several meetings with neighbors led by the board chairperson who announced what HRS planned, and then simply described it. The neighbors were allowed to disagree and point out problems but by the time of the meetings, the board chair had already decided the details of the project. In this way, HRS claims it worked with neighbors to address concerns, yet it proceeded to draft an EIR that clearly failed to do so.

This project also was not initially designed by any traffic engineer or expert, other than architects. Instead, in about 2013, Scott Verges who was then the President of the HRS board met with a few neighbors and described

what he and Peter Smith (current board president) wanted to see for the former LLC property. Its main focus would be to "open it to the region" as an entertainment center and place for parents to drop off their students so that monitors would no longer be necessary. There would be a loop road with a small inner loop at the top of the hill for that purpose. Primarily, however, the idea was to maximize return on the property and "contribute" to the greater region by adding an entertainment and conference center. "People will come from all over to use" the HRS facilities when not in use by the school. Scott Verges and Peter Smith were both attorneys who advocate for real estate developers but they had had no expertise in designing what became the project.

There was some basis for Verges and Smith to believe that an entertainment center could prove profitable. For a period of time, they had increased the events at HRS to include conferences and entertainment for the public. The neighbors complained because it meant that HRS was in operation for about 18 hours a day and constantly on weekends with no break for the neighbors. These events ended when the then head of school left employment at HRS.

As a result of not starting by hiring experts to design the parts of the project that did not require building construction, the EIR preparer wound up with the job of defending the traffic design, among other things. As one would expect, this back-of-a-napkin design method has proven to be defective. Most of the problems remain evident as a quick and partial summary shows:

Entertainment Venue: HRS has said that they will not apply for an entertainment or public activity permit at this time. However, they still intend to have -- across the total 22 acres -- *four theaters/auditoriums, two pavilions for guests, two outdoor event areas including an amphitheater on the South Campus, loud speaker capacity on each campus, and food dispensary services on both campuses.* All of that is consistent with the original entertainment center concept that Verges and Smith started with, but it is not consistent with any school. HRS does not indicate anywhere why all of these non-school type facilities would be necessary if it is *not* planning on eventually seeking an entertainment permit.

The NSC submitted an expert letter during the EIR comment period from an entertainment expert (Colleen Kennedy) who explained why the HRS entertainment venue idea would fail financially and operationally. There are

already similar entertainment venues in Oakland that provide the same type of service, and HRS would be competing against them for limited audience numbers and content. The amphitheater next to housing was going to definitely impact the neighbors with unnecessary and very loud noise from daily outdoor classes and many special events and ceremonies. Most importantly, the HRS location is not set up for safely managing public events. (Kennedy letter is on page B4 of the FEIR.)

During a prior Planning Commission hearing, commissioners had extolled the virtues of the Verges-Smith entertainment concept and were eager to see HRS pursue it for the benefit of the entire region. At the April 19, 2023 hearing, one of the commissioners clarified he only meant that small art entertainment groups would use it. He apparently realized what a horrible idea it was to include the "everyone in the region" idea for lots of entertainment events.

Yet, the commission abused its discretion by approving the project with all of the entertainment facilities still in the plans. It should have denied the application to the extent that it included the fourth theater, an amphitheater, the guest pavilion, and the additional food service. HRS would still be able to apply for an entertainment permit but *before* it constructed the facilities for it. Furthermore, the commission violated CEQA's prohibition against piece-mealing the EIR by *not* analyzing the impacts from an entertainment venue until after the facilities were already constructed.

Enrollment: The PCD amounted to an abuse of discretion because the record is replete with evidence and expert opinions that demonstrate HRS cannot safely handle increasing the enrollment by even one student. It is located in the middle of Lincoln Avenue and presents a major evacuation challenge as discussed by the experts. Allowing another 344 students or even one additional student violated Oakland's Fire safety policy.

Also, HRS has historically and erroneously claimed that it would increase enrollment very gradually. Prior to 2016, HRS had been granted a use permit for up to 906 students, but only to be increased slowly and over a period that ended in 2021. Instead, it over-enrolled, and the City "legalized" the over-enrollment of 30 students in the 2016 use permit, where it then allowed HRS to immediately increase enrollment to 906, *five years early*. HRS never stops pushing for more growth in this one residential neighborhood and the offer for very slow growth is meaningless for that reason and harmful

because of the impacts that are inevitable with more students and staff. It was an abuse of discretion to include any further student enrollment growth in the PCD.

Loop Road, Left Turn, and New Traffic Light: HRS is not the only user of Lincoln Avenue. The new Loop Road changes the way it manages drop off and pick up and is not a benefit to the neighborhood. The basic problem is that HRS has pushed all of its impacts out into the neighborhood and off its own properties by pretending that it has no access driveways and parking lots. It has several of them, all not in use by the school for parents to drop off and pick up their children and also to turn around. Instead of pushing the drop off and pick up next to houses, HRS should have been required to use its own driveways, which are not next to houses and substantially reduce the number of cars coming to the campus.

Lincoln Avenue is congested every school day and often because of HRS evening and weekend special events, and the Loop Road will not correct the drop off and pick up traffic congestion. Currently, HRS allows 90 students to drive Single Occupancy Vehicles (SOVs) to the school. The students do not want to park in the Greek Cathedral parking lot so they park on Lincoln Avenue. The school's vague promises that if 'things get bad we might have them stop driving,' is not an adequate mitigation of the impact.

HRS is severely under-parked now and will continue to be under-parked as long as the City only requires that they reduce SOV use by a third of the total. No other city would allow that many cars into its streets for one location. The tandem parking idea will never work as it is extremely inconvenient. It always requires one driver to go find the other one to move cars. On a large campus that is not likely to ever happen, resulting in employees, students and guests parking over a wide area of residential streets.

The stacking idea simply means that HRS needs an underground or above ground garage that can accommodate its traffic. The Greek and Mormon churches are apparently not interested in leasing parking spaces to HRS, or at least in any great numbers.

Put simply, the traffic and parking issues are not resolved. The plan does not even indicate whether HRS will use a tunnel to connect the two campuses or continue the chaos with the walkway from one side of Lincoln Avenue to the other. The PCD is an abuse of discretion because *none of those*

issues have been resolved in a way to allow neighbors and businesses to have access along Lincoln Avenue. The EIR leaves too much guesswork as to what will work or not work.

Removal of the mini-loop increased the impact on neighbors as the mini-loop provided a faster way to get out of and into cars. The increase in the impacts should have been analyzed by the EIR.

Events and Loud Speakers: This item was addressed in earlier correspondence. It remains unresolved. It was an abuse of discretion to allow loud speakers, bounce houses, the summer program, and outdoor events onto the South Campus instead of keeping them on the North Campus. Sound does not travel very far between the bottom of the steep canyon on the North Campus as on the South Campus where the houses are on the same level as the campus. It was an abuse of discretion to treat the two campuses the same and not limit uses of the South Campus.

Use of the Loop from the School Through the Neighborhood: The proposed conditions require HRS to "instruct" parents to stop using this route as a way to get turned around and facing back up the hill along Lincoln Avenue. However, that route has been used by parents at HRS's recommendation for years and an "instruction" is not going to change the habit. HRS should require that its parents stay out of the non-Lincoln Avenue residential streets as a condition of their contract with the school and should enforce the requirement. The residential neighborhood is not simply an extension of HRS. The City and HRS also need to request that AC Transit reroute their buses that HRS rents out of the residential neighborhood.

NSC also objects to the following procedural issues:

1. Unauthorized Appeal Filing Fees: The City's master fee schedule indicates that an appeal fee of $1,275.00 will be charged for: "12. Appeals. b. Report filing fee: Appeal to City Council." There does not appear to be any filing fee listed on the master fee schedule for appeals to the City Council of determinations by PCD related to CEQA EIRs. The appeal fees charged here were $3,960.15:

> An appeal of the PUD, FDP, CUP and Design Review may be consolidated in one appeal. . . . The applicable appeal fee is $2685.15 . . . . A potential appeal of the CEQA decision will

> require a separate application and fee of $1,275,00. . . . (Email from City Planner, dated April 25, 2023.)

At least some of these fees were unauthorized and should be immediately refunded. (*CREED 21 v. City of San Diego* (2015) 234 Cal.App.4th 488, 521.) Furthermore, as a policy matter, the City Council should not permit imposition of fees totaling almost $4,000 or even any amount over $500 before allowing appellants of Planning Commission decisions to gain access to a Council hearing. The clear message of such high fees as were charged here is that City Council review and approval/disapproval is only available for wealthy appellants and not those without funds to pay the fees.

2. Failure to Comply with the Public Records Act (PRA): One of the neighbors impacted by the proposed HRS expansion made a Public Records Act request and requested documents relied upon in the FEIR. The City claimed a ransomware problem prevented compliance with statutory mandates under the California Public Records Act, and has been very late in response. It indicated that it needed more time and would produce or further respond on April 14, 2023. It did not and yet, the City went ahead with the Planning Commission hearing. To date, the City still has not produced the requested records.

3. The Staff Report Supporting the PCD Was Not Released Until the Friday Before the 4/19 hearing: The lengthy staff report listed 40 conditions for the use permit. This was the first time the City had shown the proposed conditions to the neighborhood. The amount of time to respond to those conditions was inadequate. NSC reserves the right to further respond to them.

Thank you for considering our comments.

Sincerely,

Leila H. Moncharsh

Leila H. Moncharsh, J.D., M.U.P.

cc: Client

March 20, 2023

William Weisgerber, President
Weisgerber Consulting
El Macero, CA 95618

Ms. Leila Moncharsh, Attorney at Law
5707 Redwood Rd., # 10
Oakland, CA 94619

Ms. Moncharsh:

At your request, Weisgerber Consulting has reviewed the Final EIR (FEIR) for the proposed expansion of the Head Royce School (HRS) Planned Unit Development (PUD). As President of Weisgerber Consulting, I am specifically responding to FEIR comments on the following areas of my professional expertise on mass evacuation, and contained in my earlier letter, dated December 7, 2021, regarding the Draft EIR (DEIR) for HRS:

- **Chapter 3**—*Master Response to Comments on Evacuation (pages 3-8 to 3-11)*
- **Chapter 4**—*Response to Comment Letter B – Law Offices of Veneruso & Moncharsh, Leila H. Moncharsh, December 20, 2021 (pages 4-17)*
- **Chapter 4**—*Response to Comment Letter B3 - Weisgerber Consulting, December 7, 2021 (pages 4-50 to 4-56)*

Professional Background: To reiterate the December 7, 2021, letter, my career qualifications consist of a professional fire service career spanning over 45 years, rising through the fire service ranks from firefighter and engine company officer to include over 30 years as a chief officer (Battalion Chief, Operations Chief, Fire Marshal, and Fire Chief). My responsibility within the chief officer ranks not only included fire administration and incident command, but also California Fire Code regulatory compliance and enforcement, oversight and direct management of local emergency services, local hazard mitigation planning (including emergency evacuation planning), and emergency/disaster response operations. I also have a proven background in interim chief and fire marshal service (post-retirement), as well as consulting on local hazard mitigation, emergency planning, and fire prevention bureau administration and operations.

FEIR Opinion Background: Among the mission critical life-safety issues insufficiently addressed in the FEIR review of the HRS PUD Project, is the non-existence of a realistic, on-going, and verifiable evacuation plan for the HRS campus site. Which is of primary concern. 4-1

WUI EVACUATION RESEARCH:

To this point, there has been a plethora of research published on the specific topic of WUI evacuation, compiled from a cohort of global experts, by the National Fire Protection Association (NFPA) Research Foundation (2021). This work introduces an evacuation modeling platform called **WUI-NITY: a platform for the simulation for the wildland-urban interface fire evacuation** (specifically concentrating on the WUI commu-NITY). The platform accounts for fire spread, pedestrian movement, and traffic; in consideration of situational awareness by responders and human behavior of residents *in evacuation scenarios under the life-threatening duress of an actual emergency and the dynamic evolution of the* 4-2

situation. Its credibility is furnished through rigorous testing (working closely with stakeholders to ensure the model is valid and valuable), by enhancing outputs to provide insights not ordinarily generated elsewhere (i.e., trigger buffer designs; vulnerability assessments, effects on traffic impact, panic, and life-safety values).
https://www.nfpa.org/News-and-Research/Data-research-and-tools/Wildland-Urban-Interface/WUINITY-a-platform-for-the-simulation-of-wildland-urban-interface-fire-evacuation

Additionally, in the wake of the 2018 Camp Fire disaster in Paradise, CA, there have been numerous high-profile engineering studies prepared specifically on modeling WUI Egress and Evacuation, including the following:

UCLA Engineering Department Study prepared for PG&E (2022);
https://static1.squarespace.com/static/54628adae4b0f587f5d3e03f/t/62543e3b217100425b1aff5f/1649688125299/GIRS-2022-03_Wildfire+Egress+Model.pdf

4-2

Caltrans Division of Research, Innovation and System Information (DRISI) (2021); https://dot.ca.gov/-/media/dot-media/programs/research-innovation-system-information/documents/preliminary-investigations/pi-0278-a11y.pdf

American Society of Civil Engineers (ASCE) (2019). https://ascelibrary.org/doi/10.1061/JTEPBS.0000221

Furthermore, the **Readiness and Emergency Management for Schools (REMS) Technical Assistance (TA) Center** has prepared an 11-page Wildfire [Preparedness] Fact Sheet for K-12 schools and Institutes of Higher Learning (IHLs) (2018). https://rems.ed.gov/docs/WildfireFactSheet_508C.pdf

None of these innovative research products of advanced methodologies have been referenced or incorporated into the planning of this Project, the DEIR, or FEIR.

The preparers of the FEIR have anchored an HRS mass evacuation strategy to the viability of Lincoln Avenue as the primary route for the impact on capacity during a mass evacuation—experiencing a simultaneous convergence of the HRS and surrounding population in an uncontrolled manner. Moreover, there has been no consideration given toward modeling secondary and tertiary routes (essential elements to emergency planning). A strategy of this depth requires a mission critical proof-of-concept for accommodating the additional student and staff population (361) to the existing traffic and pedestrian load on campus; and in full consideration of the existing uphill population (estimated in the FEIR at only 50% of actual population and still totaling 8,945people of myriad ages and abilities). Furthermore, it remains unconvincing that the FEIR suggests K-12 aged students (particularly lower primary grades) will be able to just calmly march down the street amidst the other frantic population trying to escape harm's way on foot, bicycle, or vehicle.

4-3

It is recommended that decision-makers for both the City of Oakland and HRS view the KTVU-2 raw news footage of the 1991 Oakland Hills Fire evacuation attempts, and evaluate the impact of "history repeating itself," on the heels of this decision. The first 2-minutes of this 6-minute clip (link below) provides real-world, Oakland evidence, sufficient to give pause for further thoughtful consideration toward adding 344 school-aged children to the equation of mass evacuation from the VHFSHZ, in which HRS is located.
https://www.youtube.com/watch?v=NseOhUqZAh0.

4-4

The conclusions in this response to the HRS FEIR are anchored in the fact that the caliber of evacuation modeling referenced herein should—in any practical sense—already be in place for existing conditions at HRS. It then should be of paramount importance to update the existing modeling for any proposed expansion such as the HRS South Campus—as part and parcel of the due diligence. 4-5

CHAPTER 3—*MASTER RESPONSE TO COMMENTS ON EVACUATION* *(pages 3-8 to 3-11)*

[FEIR] Chapter 3, page 3-4—Project Impacts (excerpted):
"*…public comments on the* [DEIR] *do not identify any reasons that the Project…would have any reasonable possibility of significantly increasing the risk of fire hazards in the area…the risk of existing wildfire hazards may affect the Project is not a CEQA threshold…*"

OPINION: Regardless of the CEQA thresholds set for exacerbating existing conditions, the introduction and presence of an increased vulnerable population into the VHFSHZ, by definition, exacerbates the severity of the existing condition of the life-safety situation. In the absence of recognizing this level of life-safety impact—performing due diligence in advance of a decision—the only logical conclusion that decision-makers can reach is that this Project is not ready for approval. 4-6

[FEIR] Chapter 3, page 3-5—Existing Wildfire Risks vs. Exacerbation of Wildfire Risks (excerpted):
"… While not an impact of the Project, the Draft EIR certainly does not suggest that the risk of wildfire hazard that is present at the site and in the surrounding area is less than significant, but rather highlights the significance of the risk that is present…No public comments on the Draft EIR suggest that the Draft EIR did not identify this potential impact such that it represents a new impact not discussed in the Draft EIR, or that this impact is substantially greater than as described in the Draft EIR…"

OPINION: The CEQA process, in its current form, is unbending at every level in the face of introducing hundreds of additional vulnerable populations into the VHFSHZ, by excusing it away as not meeting CEQA thresholds for exacerbating existing conditions. 4-7

[FEIR] Chapter 3, page 3-6—Comments on Merits of the Project (excerpted):
"…That CEQA consideration does not preclude City decision-makers from considering, based on substantial evidence, whether the Project is appropriate at the location proposed…However, when considering the relative merits of the Project, the City can consider whether it is prudent to increase the number of people, especially student populations, in an area of high wildfire risk…"

OPINION: Fully concur that this remains a policy-level decision as to whether the Project is appropriate for the location. As there is substantial evidence that the HSR Project has not performed sufficient due diligence with respect to significant life-safety issues associated with the addition of 344 vulnerable population to the VHFSHZ. Moreover, it is not prudent to approve the Project in its current form. 4-8

[FEIR] Chapter 3, page 3-6—Comments on Merits of the Project (excerpted):
"…However, the Project does present a very important concern pertaining to increasing the number of children that would be present within an area of very high fire hazard risk, and the Draft EIR does present sufficient information for City decision-makers to evaluate that risk when weighing the relative merits of the proposed Project…"

OPINION: Fully concur that the Project does present a very important concern pertaining to increasing the number of children that would be present. However, strongly disagree that the Draft EIR does 4-9

present sufficient information for City decision-makers to evaluate that risk when weighing the relative merits of the proposed Project. To the contrary, it is the DEIR *comment letters* that present sufficient information for City decision-makers in this risk evaluation. 4-9

[FEIR] Chapter 3, page 3-8—Project Impacts (excerpted):
"…the CEQA threshold pertaining to emergency evacuation is whether the project would, "impair implementation of, or physically interfere with an adopted emergency response plan or emergency evacuation plan…the City of Oakland does not have a publicly facing evacuation plan for the Oakland Hills and there are no specified public emergency evacuation routes to be followed…As such, the Project does not conflict with or interfere with any such plans…"

OPINION: The City of Oakland not having a publicly facing evacuation plan for the Oakland Hills does not mitigate, nor preclude, HRS from professionally developing their own campus safeguards for mass evacuation planning in a disaster. 4-10

[FEIR] Chapter 3, page 3-8—Exacerbation of Evacuation Congestion (excerpted):
"…*Irrespective of the presence (or lack thereof) of a publicly facing evacuation plan, the hazards of a wildfire could be exacerbated by the Project, if the Project resulted in a condition whereby community residents were unable to evacuate safely due to increased traffic congestion on potential evacuation routes. As noted in a recent California Supreme Court decision (Center for Biological Diversity v. Lake County, Superior Court of the State of California, Case #CV42115, January 2020), "additional people competing for the same limited routes can cause congestion and delay in evacuation, resulting in increased wildfire related deaths. By bringing a significant number of people into the area, [the project] may significantly exacerbate existing environmental hazards, specifically, wildfires and their associated risks. Therefore, this is an issue that is required to be addressed under CEQA." …"*

OPINION: Fully Concur

[FEIR] Chapter 3, page 3-9—Exacerbation of Evacuation Congestion (excerpted):
"…Under such a catastrophic scenario, as many as 8,945 people may be seeking to use Lincoln Avenue as an evacuation route to safe, downhill locations. Under a worst-case scenario that assumes Lincoln Avenue as the only evacuation route from the School, the Project could add as many as 361 more people (or an approximately 4 percent increase in people) using Lincoln during an evacuation. However, the School is not in full session year-round, is open only about 50 hours per week, and has a limited number of special evening events that are to be finished by 10:00 pm. These conditions effectively limit the School's full operations to approximately 20 percent of the total hours of any given year, reducing the chances that full occupancy and operation at the School would occur at the same time as an emergency evacuation..."

OPINION: Disaster and emergency planning, particularly mass evacuation, must operate on the premise of worst-case scenario. To suggest that the chances of an emergency or disaster is reduced because HRS is only at full occupancy and operation 20% of the time is unconscionable. That is not the premise you would want planned for your airline, your elevator, your fire alarm, or sprinkler system. And it should be no less diligent for mass evacuation planning, training, and execution for a vulnerable school population located in the VHFSHZ. 4-11

[FEIR] Chapter 3, page 3-10—Evacuation Planning as Reasonable and feasible Mitigation (excerpted):
"…They also recommend developing a better mechanism to communicate directly with local officials and Incident Commanders; identifying primary and secondary destinations and routes for an evacuation, and effectively communicating these destinations to parent and guardians; and regularly practicing an evacuation in concert with the Oakland Fire Department…"

OPINION: Fully concur.

[FEIR] Chapter 3, page 3-10—Evacuation Planning as Reasonable and Feasible Mitigation (excerpted):
"…*intended as a condition of approval for the Project's PUD permit, requiring a detailed implementation plan as a precondition prior to issuance of a certificate of occupancy for the first building permit that would enable an increase of current student enrollment. It would serve to further increase student safety, rather than significantly exacerbating existing environmental hazards in the event of an extreme wildfire event…"*

OPINION: To ensure full compliance with this crucial requirement of life-safety, disaster, and emergency planning, it would be most precise to require the approval of a complete emergency mass evacuation plan as part of the EIR, and *before granting any building permits* for the PUD. The FEIR language is ambiguous and open to broad (and detrimental) interpretation. 4-12

[FEIR] Chapter 3, page 3-11—Additional Mitigation (excerpted):
"…City decision-makers may believe that these recommendations require further evaluation and detail, or additional coordination with the OFD and the City's Emergency Services Department, or that on-going City monitoring of the School's implementation of these recommendations is warranted…"

OPINION: It is recommended that City decision-makers make this condition mandatory. 4-13

BEST PRACTICES FOR ANALYZING AND MITIGATING WILDFIRE IMPACTS OF DEVELOPMENT PROJECTS UNDER CEQA:

In 2022, the California Attorney General became active in local land use issues concerning rural development and wildfire risk, focusing on the capability of the CEQA documentation for projects in higher fire risk areas. The Attorney General also issued a CEQA "best practices" memorandum in October 2022. This Memorandum provides detailed recommendations for how local governments should be evaluating risk and mitigation in higher fire risk areas.

The California Attorney General's letter is another resource the FEIR preparer should have studied and incorporated into its report. https://oag.ca.gov/system/files/attachments/press-docs/Wildfire%20guidance%20final%20%283%29.pdf) (Attorney General of California, Rob Bonta, October 2022, pp. 10-11, 12).

4-14

Many of the variables that should be considered in analyzing a project's impact on wildfire risk are in the following excerpts from the Attorney General's memorandum, which outlines several key mass evacuation "best practices" for further deliberation under the CEQA review:

"…IV. C. Analyzing the project's impact on evacuation and emergency access

Evacuation modeling and analysis should include the following:

- *Evaluation of the capacity of roadways to accommodate project and community evacuation and simultaneous emergency access.*
- *Assessment of the timing for evacuation.*
- *Identification of alternative plans for evacuation depending upon the location and dynamics of the emergency.*
- *Evaluation of the project's impacts on existing evacuation plans.*
- *Consideration of the adequacy of emergency access, including the project's proximity to existing fire services and the capacity of existing services.*
- *Traffic modeling to quantify travel times under various likely scenarios.*

4-14

In considering these evacuation and emergency access impacts, lead agencies may use existing resources and analyses, but such resources and analyses should be augmented when necessary. For example, agencies should:

- *Utilize information from the EIR's analysis of traffic/transportation impacts, but they should not limit themselves to that information, which may not reflect the impact of emergency conditions on travel times.*
- *Consult with local fire officials and ensure that assumptions and conclusions regarding evacuation risk are substantiated with sound facts. Emergency conditions may not allow for ideal evacuation scenarios—staggered, staged, or targeted evacuation in response to a wildfire may sometimes be possible, but human behavior is difficult to predict and wildfires can be erratic, unpredictable, and fast-moving.*
- *Consider impacts to existing evacuation plans, but recognize that, depending on the scope of an existing evacuation plan, additional analyses or project-specific plans may be needed. Community evacuation plans often identify roles and responsibilities for emergency personnel and evacuation routes, but do not necessarily consider the capacity of roadways, assess the timing for community evacuation, or identify alternative plans for evacuation depending upon the location and dynamics of the emergency.*
- *Avoid overreliance on community evacuation plans identifying shelter-in-place locations. Sheltering in place, particularly when considered at the community planning stage, can serve as a valuable contingency, but it should not be relied upon in lieu of analyzing and mitigating a project's evacuation impacts.*

IV. D. Mitigating wildfire risk, evacuation, and emergency access impacts

- *Enhanced communication to the project population about emergency evacuation plans and evacuation zones.*
- *Parking limitations to ensure access roads are not clogged with parked vehicles…"*

4-15

CHAPTER 4— *RESPONSE TO COMMENT LETTER B – LAW OFFICES OF VENERUSO & MONCHARSH, LEILA H. MONCHARSH, DECEMBER 20, 2021* *(pages 4-17)*

[FEIR] Response to Comment B-9 (excerpted):
"…This comment cites statements made by the Oakland's Fire Chief and Deputy Fire Chief about the dangers of increasing density and blocking evacuation routes in and below the hills. These statements were made during a public hearing on the merits and dangers of continuation of the Accessory Dwelling Unit provision of the City Planning Code within the Oakland Hills. These comments were not made in reference to Head-Royce School. Head-Royce School and the proposed South Campus have very different access conditions by being located adjacent to Lincoln Avenue, and the School would not include a full-time residential population…."

OPINION: This **FEIR Response to Comment B-9** makes a bright-line distinction between the impact of Accessory Dwelling Units and the HSR Project, when they are addressing the same phenomena of adding a significant number vulnerable population to a mass evacuation equation. The FEIR preparer's contention that Lincoln Avenue has sufficient capacity is unfounded, as there has not been any credible modeling study on the impacts of this additional load on Lincoln Avenue's capacity to remain serviceable for such an evacuation. This is a very dangerous assumption to make, absent any practical data from a realistic, on-going, verifiable plan that has been developed through a systematic modeling platform. 4-16

CHAPTER 4—*RESPONSE TO COMMENT LETTER B3 - WEISGERBER CONSULTING, DECEMBER 7, 2021* *(pages 4-50 to 4-56)*

[FEIR] Response to Comment B3-2 (excerpted):
"…By introducing the pedestrian evacuation strategy, faculty and students from Head-Royce (including the additional population attributed to the Project) would not compete for the limited evacuation routes with residents in the surrounding area, and would not add additional vehicle congestion and delay, and this potentially significant impact would be reduced to less than significant levels. The recommended evacuation strategy identified in the Evacuation Planning Recommendations report (an Appendix to the Draft EIR) would serve to further increase student safety, rather than significantly exacerbating existing environmental hazards in the event of an extreme wildfire event. If required as conditions of Project approval, these recommendations would also serve to address cumulative emergency evacuation conditions throughout the Oakland Hills by reducing potentially conflicting evacuation conditions…"

OPINION: The FEIR response statements to **Comment B3-2** are unfounded, as there has been no bona fide modeling of a proposed mass evacuation plan to establish a proof-of-concept. The preparers of the FEIR envision the students calmly *walking* down the sidewalk under intense emergency conditions, when there is no practical or experiential point of reference such as is documented in raw news-video footage of the evacuation efforts during the wind-driven, 1991 Oakland Hills Fire. https://www.youtube.com/watch?v=NseOhUqZAh0.
This footage represents the worst-case scenario, and which should be the benchmark for emergency planning of mass evacuation in the Oakland Hills. The circumstances in 1991 included: traffic stalled to a halt, public panic, residents *running* down the sides and middle of the street, burning material trapped under vehicles, and burning brands of fuel carried by winds at street level, Additionally, there is no data or reasonable conclusion to support the FEIR statements of "…not competing for limited evacuation routes…" "…reduction of significant impact to less than significant…", nor "…increased student safety…" 4-17

[FEIR] Response to Comment B3-5 (excerpted):
"…As indicated in the Master Response to comments on Evacuation Planning, Head-Royce School shall be required to prepare a stand-alone Emergency Evacuation Plan for the School…This Emergency Evacuation Plan for the School shall be subject to review and approval by the Oakland Fire Department, with input from Emergency Services, OPD Traffic Division, and the Public Works' Transportation Planning staff. This Plan shall consider the recommendation to subscribe to the AC Alert program…"

OPINION: Fully concur with the requirement that an approved Emergency Evacuation Plan be a condition of the EIR approval for the Project, and that it be vetted *prior to granting any building permits*. 4-18

[FEIR] Response to Comment B3-8:
"City Planning staff and the EIR consultant team did discuss this project with OFD to obtain comments and source materials regarding existing evacuation plans for the area. OFD also reviewed the administrative Draft EIR prior to publication, but provided no additional comments."

OPINION: The OFD was shown the administrative draft of the DEIR. However, there is no indication that the OFD has been afforded the opportunity to review and opine on the comment letters for the DEIR, and to give OFDs thoughts prior to the FEIR. This appears to be an egregious omission in the process. 4-19

[FEIR] Response to Comment B3-13 (excerpted):
"… Pursuant to this SCA, Head-Royce School would be required to submit a Vegetation Management Plan to the Oakland Fire Department for review and approval prior to approval of any construction-related permit, with ongoing monitoring and inspection by OFD prior to, during, and after construction of the Project…"

OPINION: An HSR Vegetation Management Plan needs to be fully vetted as part of CEQA , the EIR, and *prior to granting any building permits*. Fully concur with the requirement that HSR submit to the Oakland Fire Department for review and approval prior to issuance of any construction-related permits, with ongoing monitoring and inspection by OFD prior to, during, and after construction of the Project. 4-20

[FEIR] Response to Comment B3-15 (excerpted):
"…The DEIR does note that the ABAG Annex for Oakland and the City of Oakland Local Hazard Mitigation Plans are silent on a publicly facing emergency evacuation plan that would include HRS, and that without such a public-facing plan, Head-Royce School may have to be its own decision-maker in a wildfire." However, the School should not be in the position of making its own decisions on this critical matter…"

OPINION: Absent a publicly-facing emergency mass evacuation plan—and while HRS should not have to make its own decisions on this critical matter—as matter of due diligence, HRS should maintain the responsibility to their campus and community to seek professional consultation on the proper elements of a well-designed mass evacuation plan for *their* part in an expanded impact to the influx of evacuees on Lincoln Avenue. As, when the emergency occurs, and HRS is ill-prepared, the question will remain, "*How could you let this happen?"* 4-21

[FEIR] Response to Comment B3-16:
"Staff fully concurs with the recommendation that a bona-fide mass evacuation plan be developed for the School, with training for students, staff, and parents. This Evacuation Plan is to be developed by a professional consultant who specializes in emergency planning and evacuation, subject to approval by

the OFD Fire prevention Bureau, with advice and input from Emergency Services, OPD Traffic Division, and the Public Works' Transportation Planning staff."
OPINION: Fully concur.

[FEIR] Response to Comment B3-22 (excerpted):
"…However, as is also noted in the Evacuation Planning Recommendations report, there is a broader issue (or shortcoming), in that there is no publicly facing emergency mass evacuation plan for the remainder of the Oakland Hills. This includes the surrounding neighborhoods, the LDS Temple, Immersion Preschool, Ascension Cathedral, Ability Now (with multiple wheelchair user clients), and the UCP Plant Exchange Event Center. Head-Royce School is not the responsible party, and this EIR is not the appropriate venue for establishing such a broader plan for the rest of the surrounding neighborhood and other nearby institutional uses…"

OPINION: See opinion on **[FEIR] Response to Comment B3-15 (excerpted),** above. 4-22

Conclusions: The shortcomings of HRS's emergency mass evacuation planning remain glaringly apparent.

Once again, given the location (and large student census) HRS needs to have instilled in their leadership, a sense of urgency with which to have laser-focused attention on coordination with the OFD, OPD and Oakland Emergency Services regarding not only HRS, but also actively coordinating with the adjacent neighbors: LDS Temple, Immersion Preschool, Ascension Cathedral, Ability Now (with multiple wheelchair user clients), and the UCP Plant Exchange Event Center. Each component affects the dynamics for effecting mass evacuation of the campus and neighborhood. 4-23

Moreover—and this point cannot be emphasized strongly enough—there remains the highest degree of need for a bona fide mass evacuation plan to be *vetted* through the public safety community of the OFD (FPB and Emergency Services) in the same manner as a high-rise facility is required to. The OPD Traffic Division should review the plan for impact and conflict with other street evacuation protocols—and to insure it is incorporated and in compliance with existing OPD plans. Also, Oakland Public Works—Transportation Planning Division should review the plan for impacts on the existing Traffic Impact Analysis and established traffic service level rating(s) for the area. Once completed, the HRS Board should thoroughly review the plan before approval and adoption—and mandate that all faculty, staff, students, and parents be trained on the plan, with a minimum of semi-annual exercises (at least one observed by the OFD). Try to visualize 900-1200 students (plus faculty & staff) trying to simultaneously get onto the same streets as evacuating residents and businesses—without training. 4-24

The evacuation plan described in the DEIR has many unsupported conclusions, and a contrived approach to safety procedures without any measure of practical application or execution. The health and safety liability associated with this is not of an acceptable measure. A school organization that is responsible for over 1,000 people, daily, cannot write a mass evacuation plan in the absence of experiential expertise. To take this approach is a recipe for disaster in an emergency, holding increasingly significant potential for people (especially the vulnerable population of primary grade school-aged children, and the ADA at-risk population) to be lost, injured, or killed. And, once again, in the aftermath of such a disaster the public and the media will turn to HRS, the City, and OFD to ask, "*How could you let this happen?*" 4-25

Recommendations:

Given the demonstrative wildfire history evidence from the 1991 Oakland Hills Fire, the likelihood for a wildfire starting in the Oakland Hills and reaching HRS is of an extremely high and dangerous probability; and, as such, HRS should diligently plan accordingly.

To remedy the situation, *it is strenuously re-emphasized herein*, the primary recommendations contained in the December 7, 2021 opinion letter authored by Weisgerber Consulting. HRS should immediately move to execute a concentrated effort toward the following elements for an emergency mass evacuation plan:

A Bona Fide Written Emergency Plan:

- Develop a written *campus mass evacuation plan and procedure*, completed with the expertise of a professional consultant who specializes in evacuation; with some particular emphasis on routes, alternate routes, exit design calculations, pedestrian planning and flow rates, evacuee accountability, ADA compliance considerations, and designs for emergency movement via bus-shuttle systems. The plan should be written in cooperation with the OFD and City of Oakland Local Hazard Mitigation Plan, to include, but not be limited to:
- A decision-making process for initiating evacuation.
- A campus accountability system to ensure all persons are safely evacuated.

4-26

Campus Staff Training

- Training in supervising and managing a mass evacuation of students K-12, with ADA considerations for the campus population with mobility needs. Particularly in managing students walking distances of up to 1-mile to an assembly point.
- Pre-designated assembly points for parents or guardians. It is recommended that a new, thoroughly developed plan be written for adequately communicating emergency evacuation information, and instructions to parents or guardians, to reunify with their students.
    - The plan should contain a methodology for primary, secondary, and tertiary assembly sites—based on the circumstances; and not de facto reporting to one pre-designated location to await further instructions.

4-27

Coordinated Emergency Communications:

- A coordinated emergency communication plan for real time updates with the City of Oakland Emergency Operations Center (EOC) and/or OFD Operations Center (DOC).
- A planned interface relationship between a dedicated HRS representative and the Liaison Officer designated by the City of Oakland Emergency Operations Plan (EOP). This designee could request pre-authorization to report to the EOC, as do public schools.

4-28

Semi-annual Exercises:

- It is recommended that HRS **should absolutely** conduct semi-annual evacuation exercises with at least one being in coordination with OFD, to ensure that the campus is well-indoctrinated toward an emergency reflex response to a disaster.
- The role of exercises cannot be *over-stated* in preparing the campus for a wildfire.

4-29

Other notable assumptions in Appendix 16B that HRS :

These items should address immediately, as integral components to a written emergency plan, include:

- It is noted in DEIR, Appendix 16B, page 8 (Additional Notes and Observations), that the Oakland 2016-2021 Local Hazard. Mitigation Plan and the Oakland Safety Plan do not have a publicly facing evacuation plan or response plan. 4-30
    - **This does not absolve HRS** from working diligently with the City, and HRS's own consultant, toward the best practices objectives of responsibly protecting their students, staff, and the neighborhood from the effects of a mass evacuation during a wildfire.
    - HRS staff should thoroughly review all pertinent documents in preparation for a bona fide plan to protect the population of the campus and the neighborhood.
- ***Shelter-in-place should not be a protective action*** under wildfire conditions, as this has extremely high potential for leading to injury or death. 4-31
    - It is strongly recommended that a dedicated HRS Liaison be designated to coordinate strong, direct lines of communication with City officials (OFD, OPD, Emergency Services) as paramount to an HRS emergency plan and decision-making process for initiating evacuation.
- It is recommended that **HRS make a capital investment in an emergency back-up power generator system** for the campus—to power essential functions during an emergency. 4-32

This concludes the analysis and opinion commentary of the FEIR Responses to the HRS DEIR comment letters, for expansion to a south campus. Do not hesitate to contact me with any questions.

Respectfully,

William Weisgerber

William Weisgerber
Weisgerber Consulting

Cc: file

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March 27, 2023
Project No. 52-004-2

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Subject: Rebuttal to Responses to the Peer Review of the Final Environmental Impact Report, Head-Royce School Expansion, Lincoln Avenue, Oakland

Dear Ms. Monscharsh:

This report will provide you with our rebuttal to the responses to the peer review comments of the Noise Assessment Study prepared by Illingworth-Rodkin and the noise chapter of the Draft Environmental Impact Report (DEIR) for the planned expansion of the Head-Royce School along Lincoln Avenue in Oakland. The responses to our comments were provided by Lamphier-Gregory.

The responses to our comments were provided in two sections. The first section is a narrative of the overall responses to our comments with new analyses and data. The second section contains itemized responses to our comments.

The first part of our rebuttal is our comments on the overall narrative response by the respondent. The second part of our rebuttal is our comments on the itemized responses to our original comments. The narrative section begins on page 3-21 of the FEIR. Our rebuttal appears in order with the respondent's narrative.

I. Rebuttal to Respondent's Narrative

In terms of CEQA policies, the methodology is to determine the change in the noise environment based on the local jurisdictional thresholds. These are contained in the General Plan where the descriptor is in terms of the Day-Night Level. 5-1

The average ambient conditions for the receiver locations down slope and at greater distances from Lincoln Avenue are likely to have significantly lower ambient sound 5-2

levels or noise exposure (DNL). Thus, the limit on noise increases due to the project would be more stringent.

We acknowledge the difficulty with conducting noise measurements during the pandemic when traffic volumes were abnormally low and the school was closed. However, ambient noise conditions are currently close to normal so there is no justification for not obtaining adequate noise data.

We understand new noise measurements were conducted on site on March 10, 2022. This new analysis and new data were presented in the FEIR responses to comments. 5-2

The exact location (distance to centerline) of the new noise measurements along Lincoln Avenue was not reported. We can only assume that the new measurements were made at the 50 ft. distance previously used by Salter. The measurement location should be reported so that the new noise data can be compared to the previous data without having to make assumptions.

The ambient data in the DEIR response is 180 ft. from the centerline of Lincoln Avenue, which is 53 dB DNL. The new LT1 (long term) noise data were made at a distance of approximately 635 ft. from the centerline of Lincoln Avenue and with topographical differences. The new data indicate that the previous assumptions of the noise levels at the residences to the south and west were not correct and that there is a significant difference between the DEIR values and the new data. The ambient at the receiver locations behind Laguna Avenue are lower. Thus, the basis for the CEQA evaluation results in stricter project-generated noise limits.

The threshold of significance is the ambient + 5 dB. Therefore, the ambient + 4 dB would be considered less-than-significant. For example:

Ambient = 49 dB DNL
Acceptable = 49 dB DNL + 4 dB = 53 dB DNL
Project-generated limit = 53 dB DNL – 49 dB DNL = 51 dB DNL. 5-3

The project-generated noise limit would be 51 dB DNL or the ambient + 2 dB.

Salter did not review the Illingworth-Rodkin noise thresholds. RGD Acoustics only opined on the comparison of football game noise versus indoor graduation event noise by Salter. We did not suggest that "permanent" noise thresholds be used instead. Our comment was to use both the standards contained in the City of Oakland Noise Ordinance and in the City of Oakland General Plan for all noise sources individually and combined.

Salter's "report" mentioned in the responses was only two pages of data tables. There were no comments regarding Illingworth-Rodkin's data or methodologies. See the DEIR footnote on page 13-30.

Salter and RGD did not review source noise of other operations. They reviewed only the graduation noise data as shown in Appendix 13 of the DEIR (Illingworth-Rodkin report). We agreed with RGD that the Salter graduation noise data are better for use than the Illingworth-Rodkin football game noise data. 5-4

Our comment regarding nonexistent data, inaccuracies or unqualified parties pertained to conclusions drawn without technical back up or the reporting of combined and cumulative noise levels not provided in the Illingworth-Rodkin report. All noise data, analyses, calculations, recommendations and conclusions should be obtained, prepared and reported by the qualified acoustician of the project. These analyses should be included in the environmental documents in their entirety for public and peer review.

CEQA uses both short term noise level compliance, e.g., the Noise Ordinance limits, and long term noise increases, e.g., the General Plan, to determine noise impacts. Both sets of standards need to be used for evaluation purposes.

Each noise source – drop-offs, loop road traffic, recess, outdoor classrooms, pick-ups, the PAC – need to be analyzed in relation to the Noise Ordinance (short-term noise). Sources that occur simultaneously should also be combined for Noise Ordinance compliance. Then, each source noise exposure (DNL) needs to be determined so that all of the noise source noise exposures can be combined to obtain the project-generated noise exposure. This noise exposure is then added to the ambient to obtain the cumulative noise exposure. The cumulative noise exposure is compared to the ambient to determine if an increase of 5 dB (threshold of significance) or more will occur. 5-5

We do not disagree that noise from the outdoor classroom under normal teacher speech conditions will be within the limits of the Noise Ordinance. However, we do disagree with the calculation methods. Harris, 1991, pg. 16-2 – Speech to Noise Ratio of 5-8 dB for outdoor environments. Voices are raised when the background noise levels reach 50 dBA. There is usually about a 3-6 dB increase in vocal level for every 10 dB increase in the background level above 50 dBA. In classrooms, this increase is typically on the order of 10 dB for every 10 dB increase in the background level. 5-6

We acknowledge the removal of the PAC loading dock from the project. No further comments regarding loading dock noise are necessary.

We concur with the operational adjustments to outdoor gatherings at the PAC.

The graduation noise level study, particularly the P.A. system levels, uses the L_{eq} as the noise descriptor. The City of Oakland Noise Ordinance does not use the L_{eq} for evaluation purposes. The L_{max} and the various L_n values need to be determined and reported. Since a graduation event will typically occur for more than a few minutes, the DNL should also be determined for inclusion into the overall project-generated noise analysis in terms of the DNL and the CEQA evaluation. 5-7

Similarly, the project traffic noise analysis used the L_{eq}, but the standards are not in terms of the L_{eq}. The project loop road noise analysis must include both the various L_n values of the Noise Ordinance and the noise exposure (DNL) for the General Plan/CEQA analysis.

The proposed wall along the loop road is not detailed adequately. The receiver locations are not described. A graphic showing the location of the barrier would be helpful. Will the barrier, if constructed to be acoustically-effective, reduce noise for second floor elevations of the homes or just the first floors? Does the 5-6 dB of noise reduction apply only to certain areas of backyards or at the house setbacks or both? 5-8

The project noise exposure (DNL) is used only for project traffic on Lincoln Avenue. Noise exposure analyses must be included for all noise sources. 5-9

The cumulative noise analysis was done incorrectly. Cumulative does not mean that the sources occur simultaneously. Cumulative infers that the total project noise levels/exposures are combined then added to the existing background or ambient conditions, similar to a traffic study. The total project-generated noise exposure is a sum of all project noise sources that occur over the 24-hour period, i.e., project traffic, the loop road, drop-offs, pick-ups, the PAC, etc.

The CEQA evaluation consists of determining if the project causes a substantial increase in the ambient noise levels. Thus, to determine that increase, the ambient level must be known. For example, 5-10

ΔdB = cumulative – ambient
= (ambient + project) - ambient

If, ambient = 43
project = 50
cumulative = 51
ΔdB = 51-43 = 8; the project adds 8 dB to the ambient

If, ambient = 43
project = 42
cumulative = 46
ΔdB = 46-43 = 3; the project adds 3 dB to the ambient

II. Rebuttal to Specific Responses

B2-1: The definition of "intensity" remains to be incorrect. Intensity is the amount of sound pressure over a given area in a specified direction. It is not merely the amplitude of a sound wave. Intensity should not be used to describe "loudness". 5-11

B2-2: The CEQA thresholds contained in the DEIR are correct. We retract our comment.

B2-3: The comment was meant to identify each potential source of noise and their noise limits in terms of the Noise Ordinance and the General Plan/CEQA. 5-12

B2-4: Our comment was regarding the data used in the TNM not SoundPlan. The TNM model was used to determine the ambient noise levels at an inadequate number of receiver locations without regard to topography or intervening structures. 5-13

B2-5: Noted

B2-6: The Noise Ordinance (Planning Code) uses short term noise standards for various types of noise with limits based on the duration of the noise. The noise study does not identify all of the noise sources and their respective durations per hour for evaluation against the Noise Ordinance limits. Rather, the noise study more often used the L_{eq} to report a source's noise level. In addition, the noise exposure (DNL) for each source must be determined and ultimately combined for the comparison to the ambient, per the CEQA thresholds. 5-14

B2-7: We did not comment on the applicability of vibration criteria. We only noted that the City's policy for vibration uses the FTA's transportation descriptor for construction vibration rather than the FTA's descriptor. Our comment was for the noise study to provide both VdB and PPV to avoid confusion. This is for the sake of clarity. Our comment was not a critique on analytical methodology. Since the City of Oakland references the FTA vibration polices (for construction), the FTA guidelines for vibration limits should be addressed rather than the CalTrans criteria. 5-15

B2-8: Project traffic is not the only <u>permanent</u> noise source associated with the project. All daily school operations are also permanent. Temporary sources are things like construction. However, CEQA does address temporary and permanent increase in the ambient noise environment due to the project. Our comment did not suggest using an incorrect threshold for operational noise. Our comment suggested that <u>all</u> noise source standards be addressed for all noise sources. 5-16

The response to our comment regarding applying the General Plan standards to operational noise remains to be inadequate. The response claims to provide additional analyses for "informational purposes only". Why is this? The intent of the environmental document is for informational purposes.

The descriptions of the DNL and the operational sources "bullet" paragraph explanations on page 4-35 are well appreciated and this type of presentation should be the focus of the noise study. The ensuing tables of operational noise data for receiver locations R-3 and R-7 are exactly what the original noise study should have presented. Although we disagree with some of the data used in the analysis (the recess noise data, for instance, seems low compared to similar operational data in our database), the tables clearly show the effect of the project on two residential receiver locations in terms of the General Plan/CEQA. Now, this type of analysis and presentation should be prepared for the Noise Ordinance standards.

B2-9: Noted. Same rebuttal.

B2-10: Noted.

B2-11: Please provide some calculations showing the expected interior noise levels in the PAC, the sound transmission loss provided by the building shell with windows open and closed (if applicable) and the noise levels extrapolated to the residential receiver locations. 5-17

Unknown noise sources should be identified as "potentially significant" and the mitigation measure requiring subsequent analyses to prove compliance with the standards should be included.

B2-12: Table 13-11 of the DEIR (pg. 13-31) clearly shows that the graduation ceremony will exceed the L_{33} limit of the Noise Ordinance. However, the Noise Ordinance also contains limits for the L_{max}, L_2 and L_{17}. Since the graduation ceremony will have varying noise sources and vary sound levels, all of the Noise Ordinance standards should be addressed. 5-18

B2-13: Because the specifications for the outdoor mechanical equipment at the PAC are not yet available, this is a "potentially significant impact". The mitigation measure must require a detailed noise analysis of the outdoor mechanical equipment under a conditional use permit. 5-19

B2-14: What are the daytime noise levels at the residences shown in Table 5 and on Figure 7 of the Noise Study? 5-20

B2-15: The "Harris" book speech sound levels are based on a "quiet" background environment, such as inside a classroom. Speaking in an outdoor environment with amplification will require speech sound levels to be in the range of 75-78 dBA at 3 ft. 5-21

B2-16: A recess noise level of 59 dBA at 50 ft. from the center of a play area is on the low side. In addition, 50 ft. from the center of the play area indicates that the play area was small or that the measurements were taken too close to the children playing. The analysis does not segregate student age groups. Some age groups will generate different levels of noise than others. Younger children running around screaming will generate the highest levels of noise while older children will occasionally shout, typical of an order during an athletic event or game or to gather another student's attention. The types of recess activities should be discussed, such as ball usage on a hard court or asphalt surface compared to a turf surface. The use of more conservative noise data would result in exceedances of the Noise Ordinance standards. 5-22

B2-17: The new analysis is appreciated. This analysis needs to be included in a revised DEIR. 5-23

B2-18: Actually, parking lot activity, pick-ups, drop-offs, etc. will create varying noise levels of various durations. The various sources' noise levels should be calculated for the L_{max}, L_2, L_{17} and L_{33}.

The respondent has a grave misunderstanding of the L exceedance values. A 17 minute duration is not the L_{17}. The L_{17} is the level of noise exceeded for 17% or time or 10 minutes out of an hour. The hourly average noise level ($L_{eq(h)}$) is not used by the Noise Ordinance. It is used to calculate the DNL's for General Plan/CEQA purposes. The L_{17} is also not the maximum sound level. The L_{max} is the maximum sound level. The respondent continues to mix up standards and values. This goes back to our previous comment regarding the qualifications of the responding party. 5-24

B2-19: The noise level created by the loop road traffic, drop-offs, pick-ups, etc., should be calculated based on both the Noise Ordinance and General Plan standards. The respondent is using "dBA" when describing noise exposure. The proper terminology is dB DNL (or L_{dn}). The General Plan and the Noise Ordinance are two entirely different documents and both need to be addressed, but separately. 5-25

B2-20: The response for B2-18 is technically incorrect. The respondent has a lack of understanding of basic acoustic principles. 5-26

B2-21: The noise exposures at the residence shall be reported in terms of the DNL (or L_{dn}) and not noted merely as "dBA". Combined noise exposures are not "cumulative". This term is reserved for background or ambient conditions plus the project's contribution. All sources of noise must be combined for both short-term (simultaneous occurrences) and long term (dB DNL re: General Plan/CEQA). 5-27

B2-22: No rebuttal.

B2-23: The removal of the loading dock is appreciated. No further comment on this issue.

B2-24: The requirement of the construction noise and vibration management plan must be included as a mitigation measure. 5-28

B2-25: Both the City of Oakland and CEQA reference the guidelines of the Federal Transit Administration for construction noise and vibration. The FTA indicates a vibration limit of 0.2 in./sec. PPV for typical wood framed houses such as those surrounding the project. Nowhere are the less stringent CalTrans guidelines referenced. The FTA guidelines should be used throughout the noise study and environmental documents. 5-29

B2-26: No further comment.

B2-27: The City of Oakland General Plan Land Use Compatibility table indicates the use of either the CNEL or the DNL. Since the remainder of the City's standards, goals and policies use the DNL, the DNL is the applicable descriptor. 5-30

B2-28: The loading dock has been removed. One part of the noise study indicates that PAC noise will be contained to the interior and will be inaudible. There is no quantification to this claim. Other parts of the noise study indicate that noise from attendees outdoors could generate noise in excess of the Noise Ordinance standards. As the FEIR indicates a change in the operations to preclude noise excesses, these changes should be incorporated into a revised DEIR. 5-31

B2-29: Noise sources to do not have to occur simultaneously in order to be additive. DNL's from various sources that do not occur at the same time can be combined. 5-32

B2-30: As stated earlier, particularly regarding the misuse of the L exceedance values, we question the competence of the person preparing some of the information presented in these documents. All analytical work subsequent to the original noise study must be prepared by a qualified acoustician, with the analytical details provided in a technical document and included in a revised DEIR for recirculation for public comment and peer review. New data and analyses provided only in a response document are unacceptable.

B2-31: On the contrary. The comments were made to provide the reader with a list of shortcomings of the noise study and DEIR. See the title of this particular section of the comment letter.

B2-32: The list of issues presented in the comment letter should be addressed in their entirety. Many aspects of these requirements have not been adequately fulfilled. The EIR remains to be inadequate. 5-33

III. Conclusions

The Final Environmental Impact Report remains to be inadequate even though new data, analyses and the project description have changed. A revised Draft Environmental Impact Report should be prepared so that the public and other professionals have a chance to review and comment on the revised Draft prior to the Final version. There are still shortcomings in the noise section as certain noise standards are used improperly, some responses contain false information and much of the analysis in not complete.

This concludes our rebuttal to the responses to the comments on the *Noise Assessment Study* prepared by Illingworth-Rodkin and Chapter 13 of the Draft Environmental Impact Report for the planned Head-Royce School expansion along Lincoln Avenue in Oakland. If you have any questions or would like an elaboration on this report, please call me.

Sincerely,

EDWARD L. PACK ASSOC., INC.

Jeffrey K. Pack
President

JEFFREY K. PACK

ACOUSTICAL CONSULTANT

Curriculum Vitae

EDUCATION

Berklee College of Music, Boston, Massachusetts, 1984
Bachelor of Music; Professional Music

University of Southern California, Los Angeles, 1981
Bachelor of Science; Geological Sciences

West Valley College, Saratoga, California, 1979
Associate in Science; Science and Mathematics

EXPERIENCE

7/81 to Present — President and Principal Consultant

Edward L. Pack Associates, Inc.
San Jose, California

Mr. Pack has experience in architectural, environmental, and industrial acoustics, including interior design of office buildings, hospitals, medical buildings, hotels, recording studios, auditoriums and residences, HVAC noise control, mechanical equipment enclosures, roadway and railroad noise barriers, transportation noise assessments and industrial facility noise control. Transportation noise assessments involve the analysis of automobile, truck, railroad and aircraft noise as they impact residential, commercial and industrial land uses. His responsibilities are involved with both the administrative and technical aspects of Edward L. Pack Associates and his duties also include presentations at public hearings, expert witness testimony, conducting seminars in acoustics, directing and monitoring construction corrective work in residential and commercial buildings and the design and construction direction of noise enclosures for mechanical equipment. Measurements, analyses, and evaluations are made to develop the specific recommendations required for the correction of noise and vibration problems.

He has extensive experience in the field of interior acoustics associated with auditoriums, multi-purpose rooms, gymnasiums, classrooms, churches, public meeting halls, TV and audio/visual recording studios, hospitals, and other acoustically critical spaces. Mr. Pack is an expert in architectural acoustics designing noise isolating walls, windows and floor/ceilings, particularly in multi-family housing for compliance with State and local building codes.

5/86 to 5/94 — President

The Techtonics Company
Sunnyvale, California

Mr. Pack designed, developed, and manufactured acoustic and electronic drum triggering devices, acoustic stringed instrument transducers, including piezoelectric pick-ups for guitars, violins, violas, cellos and basses from inception through final shipping. As President, duties included management of production personnel, purchasing, sales, marketing, and advertising. Retail stores and distributors carrying The Techtonics Company products are located worldwide.

2/93 to 3/94 — Adjunct Professor

Cogswell Polytechnical College
Cupertino, California

Adjunct professor of acoustics, which included teaching noise control engineering, audio engineering, architectural acoustics, and sound reinforcement system design.

7/84 to 12/87 — Owner

Mirage Music Technologies
San Jose and Hermosa Beach, California

Mr. Pack designed and constructed speaker cabinets, taught music, designed sound reinforcement systems, worked as a DJ for private and public events, worked as a performing musician.

His prior experience includes teaching assistant for Oceanography 210 at USC, 4 years as private drum and percussion instructor, conducting seminars in acoustics and noise control, and in music education as the South Bay Area Alumni Representative for the Berklee College of Music. Other engineering experience included geologic structure mapping, mineralogy, and geologic engineering.

AFFILIATIONS

Acoustical Society of America
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Audio Engineering Society
National Council of Acoustical Consultants
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April 15, 2023

To: Pam Claussen, Carl Boe, Anne Purcell.

From: William Vandivere, M.S., P.E., Principal

RE: Technical memorandum on hydrologic and engineering assessment and EIR documentation review- Head Royce School Planned Unit Development Permit Project, Oakland CA

Thank you for inviting Clearwater Hydrology (CH) to comment on the referenced project's FEIR and the Responses to Comments, in particular the responses to the technical memorandum I prepared in Dec. 2021 on the DEIR Hydrology and Water Quality section. This letter is identified as Letter B5 in the Responses. The five responses provided, B5-1 through B5-4, address the comments offered under my heading "Assessment of Proposed Stormwater Control Plan and Related Hydrologic Design for Head Royce PUD".

In addition to reviewing the responses to comments B5-1 through B5-4, I reviewed Figure 5.25 of a publically-distributed pamphlet on the project (c. 2022) and updated Erosion Control and Stormwater Control Plans (SOM/Sherwood Design Engineers Jan 2022), Plan Sheets CO. 11-12, 21-23 and C7 00-04. Figure 5.25 of the pamphlet implies that no changes have been made to the Project stormwater plan. The currently presented Stormwater Control Plan prepared by Sherwood Design Engineers shows bioretention/biotreatment areas, all to the north of the loop access road. There is no indication in any of the provided documentation that the previous plan for earthen bottom stormwater retention basins linked by open swale segments has been amended. The response to comment B5-4 restates a mitigation measure related to geology, yet does not spell out in detail what the mitigation entails, in contrast to the detail laid out in their responses to the other comments. 6-1

If the CEQA process results in the lining of the retention basins south of the loop road and piped linkages, or their omission, in recognition of the recommendations of the Project geotechnical engineering consultant (Rockridge Geotechnical), I feel that the remainder of the stormwater handling measures indicated on the current (2022) plans addresses all of our previously stated concerns. If this is not the case, let this letter reinforce my professional opinion that the Project will likely have a detrimental hydrologic impact (decreased slope stability due to increased soil porewater pressures) on the properties bordering the Project to the south, including those of Claussen and Boe.

Yours truly,

William Vandivere, M.S., P.E.
Principal