



Office of the City Manager

LETTER B7

June 18, 2004

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Re: Comments on UCB 2020 LRDP and Draft EIR

Dear Ms. Lawrence:

This letter is the City of Berkeley's response to the Draft Environmental Impact Report (DEIR) for the University of California Berkeley 2020 Long Range Development Plan and Tien Center for East Asian Studies. It also constitutes our comments on the proposed 2020 LRDP, which has not been subject to a separate review process.

Last October, we provided you with extensive comments in response to the Notice of Preparation of the DEIR. That letter included observations and specific recommendations intended to help the University design and carry out an environmental review process under the California Environmental Quality Act (CEQA). To meet the law's requirements, this process must provide for identification of all relevant significant impacts, identification and evaluation of a full range of mitigation measures and a reasonable range of appropriate alternatives, and assurances that the mitigations selected would be implemented and carefully monitored over the life of the LRDP. Because the adequacy of any EIR depends on the use of valid information about existing conditions and trends, we offered to assist UC by providing information concerning permitted and projected land uses (other than University projects), infrastructure, and numerous other matters. We also encouraged the University to craft a process that would allow the City to participate in a full discussion of impacts and mitigations while UC Staff and consultants were formulating the LRDP and analyzing its impacts—rather than commenting after the fact, and after key decisions had already been made.

We appreciate that, in contrast to past years, UC Staff provided opportunities for a somewhat more open exchange of information. This resulted in relatively early agreement on baseline information regarding population and employment projections and other data regarding the City setting. UC also provided the City with information on enrollment, campus employment, and the status of development projects under the current LRDP. City Staff

were able to convey a number of the City's concerns and identify issues the City wanted considered in the LRDP EIR at meetings with their UC counterparts. Unfortunately, the outcome of these exchanges was not completely satisfactory and the result is apparent in the proposed LRDP and Draft EIR document.

In public presentations to the community and City Council, UC has characterized the LRDP as the "General Plan" for UCB. However, in contrast to the City of Berkeley's General Plan and the plans adopted by all other cities and counties in California, UC has prepared the LRDP with relatively little input from the City of Berkeley, its citizens, or any of the other agencies that will be affected by its implementation. Aside from the two scoping meetings held after issuing the NOP and the two hearings on the DEIR, UC has not provided any opportunity for the community to provide feedback on the LRDP. Given that the proposed LRDP could generate up to 43 percent of the new jobs, more than 75 percent of the new housing, as well as additional development in the area surrounding the campus, and additional traffic in the City, the opportunities for the City to participate in the planning process have been inadequate. A typical process would have allowed for an opportunity for review and comment on the LRDP and for the University to modify its Plan based on those comments. The current process does not allow for any such give and take with the community.

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We had also proposed in our response to the NOP that the planning process provide for the City and the University to discuss and, if possible, reach agreement on specific alternatives and measures to be included in the draft EIR before it was released for review and comment. The reason for this proposal was that once a draft EIR is released for public review, it is much more difficult, both legally and practically, to add significant analyses to it, because of the risk that such analyses will trigger recirculation. The City's response to the Notice of Preparation included proposed alternatives and mitigation measures that we believed should be included in the draft EIR.

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Impacts, Mitigation Measures and Alternatives

In general, the impact assessment lacks sufficient analytical detail and background to be considered adequate. The lack of site-specific assessment leads to often groundless assumptions regarding impacts.

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The City also believes that many of mitigation measures that the DEIR proposes fail to meet CEQA requirements because they would not, in fact, reduce significant impacts to less than significant levels. In some cases the mitigation measures rely on so-called "Continuing Best Practices" that are neither adequately described, nor proven successful in mitigating the impacts they are intended to correct. These measures include some that should have been the subject of ongoing monitoring, as CEQA requires. Other mitigation measures simply propose advisory review at some time in the future in conflict with CEQA requirements.

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Finally, the City believes that the presentation and analysis of alternatives fails to meet CEQA's requirement that an EIR describe a range of alternatives that would avoid or substantially lessen one or more of the project's significant effects. The DEIR's treatment of alternatives is defective not only because some of the alternatives are inherently inadequate but also because the analysis does not show that they would avoid or substantially lessen the significant impacts of the LRDP. Even when an alternative is identified as clearly reducing one or more impacts, the alternative is dismissed without sufficient analysis or explanation.

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We have attached a study entitled "Draft Interim Report - UC Berkeley Fiscal Impact Analysis" (Attachment A) from the City's consultant, Economic & Planning Systems (EPS), which focuses on fiscal impacts resulting from LRDP growth.

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PROJECT DESCRIPTION/LRDP

General Comments

The proposed Long Range Development Plan (LRDP) is incorporated in the EIR as the project description. Because the University has chosen to combine the LRDP into its EIR as the project description, it is required to serve two distinct purposes: it is a "policy" document upon which the University intends to rely to guide its development; and it is the "project description" for the Environmental Impact Report. Similarly, the City is obligated to respond to both of those purposes. Our comments in this section are therefore of two types: comments on the policy direction established in the LRDP; and comments on the adequacy of the LRDP as a project description. In our view, the LRDP has failed on both counts.

One of the LRDP's key objectives is that the University will "plan every new project to respect and enhance the character, livability, and cultural vitality of our city environs." While the City appreciates the sentiment, the process of developing the LRDP failed the most basic test of giving the people who inhabit the "city environs" an opportunity to participate in its development. Essentially, it was presented whole cloth to the community and the University has given no indication that it will address *in the LRDP*, the concerns of the community. Given the impacts this plan will have on the community, this lack of community engagement in its preparation is unfortunate and reduces the plan's legitimacy in the eyes of the community. And, as will be discussed in much detail below, the City believes the LRDP is equally flawed as a project description.

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In our comments in response to the Notice of Preparation, the City requested that the DEIR specify how the Long Range Development Plan will be used to guide future capital investment. We questioned whether the LRDP would be used as general guidelines from which UC might vary more or less at will, or as binding regulations. We still do not know because the DEIR has not adequately addressed these points. The DEIR states that the LRDP does not commit the university to any specific project, but provides "a strategic framework

for decisions on those projects.” (DEIR, p. 3.1-3). As noted above, the University has characterized the LRDP as similar to a city’s General Plan where specific projects are typically not evaluated, but where overall land use policy is set and used as the basis for evaluating specific development projects. The DEIR further states that the LRDP’s capital investment program establishes “a maximum amount of net new growth ... which the campus may not substantially exceed without amending the 2020 LRDP.” Under the heading Project Review, the Project Description (i.e. LRDP) goes on to say that the LRDP and its EIR will provide “a framework for the subsequent review of individual projects as they occur.... Each project with potential to affect the physical environment will be assessed within this framework to determine the appropriate level of CEQA review.” The City requests that the LRDP better describe the relationship between the “strategic framework” and projects to be undertaken under it. For example, State law requires that zoning ordinances and development approvals must comply with a local agency’s general plan. The LRDP establishes no comparable requirement that development decisions conform to the LRDP. This is particularly troubling because the DEIR references LRDP policies as a basis for determining that the project’s potentially significant impacts will be mitigated. Moreover, time and again, as will be described in this response, the University qualifies its commitment to mitigations with weak language and limitations so that it is obligates itself to very little, and leaves little assurance that mitigation will be achieved.

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The City is concerned that the LRDP lacks thresholds to be used to determine whether specific projects will have the potential to affect the physical environment. As discussed below, the City takes issue with a number of the criteria the DEIR cites as a basis for determining whether project impacts will be significant.

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The City also requests that UC set forth what measure it will use to determine whether a proposal will “substantially exceed” the maximum amount of net new growth. The LRDP proposes 2.2 million square feet of additional floor area, including 1 million square feet in the neighborhoods surrounding the UC campus. While UC might not consider 100,000 square feet of new building to be “substantial” relative to the net new growth that the LRDP proposes, a development of this size would be “substantial” relative to the amount of development that most areas of Berkeley have experienced in recent years.

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3.1.2 Scope of the 2020 LRDP

As a threshold matter, the City believes that, whatever the merits of deciding to prepare a separate LRDP for the Lawrence Berkeley National Laboratory (LBNL), both LRDPs should have been analyzed in the same environmental document. The two LRDPs are complementary: the LBNL LRDP essentially addresses development in a 200 acre “donut hole” in the area covered by the UC LRDP, and both LRDPs will be approved by the same lead agency (the Board of Regents).

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The DEIR provides no explanation for failing to include the 200-acre portion of the roughly 1,000-acre Hill Campus. It states only in the “Project Description” (i.e., LRDP) that this

portion of the Hill Campus is managed by LBNL "under separate jurisdiction," is "not within the scope of the UC Berkeley 2020 LRDP" and "operates under its own LRDP and EIR, approved separately by the UC Regents." (DEIR, p. 3.1-5.) This may be an accurate description of the existing situation, but it is not a legally sufficient justification.

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As the State agency governing both the Lab and the Berkeley campus, it is the Board of Regents, not the UC Berkeley Campus or the Berkeley Lab, that is responsible for adopting both Long Range Development Plans and undertaking environmental review of those LRDPs. The fact that the Regents manage the Berkeley Lab for another agency is also not dispositive with respect to whether both LRDPs, which are essentially concurrent discretionary projects subject to CEQA, must be analyzed together.

The DEIR's consideration of the LBNL LRDP in its discussion of cumulative impacts does not cure this defect, because it ignores the critical difference between development under the LBNL LRDP and development of other reasonably foreseeable non-University¹ projects: the University has the ability to mitigate the impacts of projects that will be presented to it for approval, but not the impacts of other projects.

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The remaining non-UC projects are simply not within the University's jurisdiction (e.g. the Berkeley and Oakland General Plans, AC Transit Major Investment Study). The LBNL LRDP stands out as the only "project" that is a plan that is being developed for the same purpose, is subject to approval by the same Lead Agency, and is located on a portion of the same property. Moreover, the research missions of the Berkeley Lab and at least some departments of the UCB campus are closely intertwined.

The significance of treating project impacts as merely cumulative impacts is made clear by Section 15130(b) of the CEQA Guidelines, which states that "[t]he discussion of cumulative impacts shall reflect the severity of the impacts and their likelihood of occurrence, but the discussion need not provide as great detail as is provided for the effects attributable to the project alone." The discussion following this section explains that the reason for permitting a less informative analysis is that "...cumulative effects can rarely be mitigated in the same way as the primary effects of an individual project." While this is true if the other project is being undertaken by another agency or even by the same agency, but in a different location or at a different time, it is not true here, where the same lead agency is preparing two LRDPs on parallel tracks, which apply to the same general area, and which will be approved by the exact same decision making body.

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By considering the impacts of the LBNL LRDP only to the extent that they contribute to the cumulative impacts of the UCB LRDP, the DEIR fails to satisfy the requirement that it consider the full extent of the impacts of its proposals for growth and development on the

¹ The other UCB projects that are considered in the cumulative impact analysis were either planned and evaluated under the previous UCB LRDP and its DEIR (e.g. Northeast Quadrant Projects, Seismic Replacement Building, and Underhill Area) or are located at some distance from the UCB Campus (e.g. University Village).

Hill Campus. That is, by incorrectly deducting the incremental impacts of the LBNL LRDP from "the project" under analysis (the numerator) and allocating them to "cumulative impacts" over which the lead agency presumably has no control (the denominator) the DEIR improperly minimizes the impacts of the projects over which the University and the Regents have authority, and which they therefore have the ability to mitigate.

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In addition, UC's decision to bifurcate what is clearly a single project for purposes of CEQA is inconsistent with Laurel Heights Homeowners Association v. Regents of the University of California (1988) 47 Cal3d 376, where the Supreme Court stated:

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There is no doubt...that in this case there will be future use.... The Regents' contention is only that they have not formally decided precisely how they will use the remainder of the building. That argument is beside the point.... In short, there is telling evidence that the University, by the time it prepared the EIR, had either made decisions or formulated reasonably definite proposals as to future uses of the building. At a minimum, it is clear that the future expansion and the general types of future activity at the facility are reasonably foreseeable.... We also find the future action will be significant in that it will likely change the scope or nature of the proposed initial project and its environmental effects.

Accordingly, the City believes that the DEIR's failure to include LBNL development under its LRDP as part of the instant project for purposes of environmental review violates both the letter and the spirit of CEQA.

3.1.5 Campus Population

The project description (DEIR, § 3.1.5) states that the California Master Plan for Higher Education calls for UC Berkeley to evaluate the ability to grow by 4,000 full time equivalent students over base year 1998, by 2010. The additional 10 years encompassed in the 2020 LRDP (2011-2020) are not considered in this EIR – except for one sentence that states, "once our current target is reached, and an estimated two-semester average of 33,450, enrollment at UC Berkeley *should* stabilize" (emphasis added). The University of California, Berkeley does not necessarily control the level of growth it must absorb. As has been amply demonstrated in this LRDP, the Legislature and/or Regents can direct it to absorb considerably more growth than it may wish. Moreover, the LRDP provides little context for determining how realistic the growth cap they propose may be. What analysis has been done to show how the expected growth in student population will be accommodated statewide in the UC system over the next 15 years? How does UC Berkeley fit into that long range plan? At what point must the Long Range Plan and its EIR be updated and revised to address unexpected growth? What triggers will apply? Because UC Berkeley is not necessarily in control of its own student population numbers and, in the view of the community, has done a poor job of managing its growth in the past, the answers to these questions are quite important.

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The first note of Table 3.1-1 describes the advantages of using two-semester average headcount rather than full time equivalents. The text should explain how the State's 4,000 FTE translates into the figures presented in Table 3.1-1.

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The increase in student headcount shown in Table 3.1-1 is 1,650 in Regular Terms, and 5,700 in Summer Terms. The LRDP should explain more clearly how these headcount growths were allocated. The Summer headcount increases do not appear to be evaluated in the DEIR's travel analysis, yet the Summer Total Additional Headcount is 9,370, which is 1.76 times more than the Regular Term Additional Headcount of 5,320. During the regular term, the project campus headcount appears to rise by 12%, from 45,940 to 51,260. However, in the Summer Term, the campus headcount is projected to increase by 37%, from 25,540 to 34,910. While parking and roadway capacity presumably exists for the lower Summer Term, the EIR should include explicit analysis of the proposed Summer Term growth.

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Clarification is also needed regarding the existing and proposed Off-Campus Headcount, which presently accounts for about 2.4 percent of the total headcount. Does this figure include both students and employees? Where are they located? Is it expected that the same proportion of the headcount will be off-campus in 2020?

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3.1.6 Campus Space and Infrastructure

It is clear in the discussion on page 3.1-15 that research and development (R&D) is a major driver of the need for new space. The plan notes that the student population is expected to increase by 12 percent over the next 15 years, but that spending on R&D will increase by 54 percent (15 X 3.6%). Although the amount of space solely oriented to R&D relative to the amount of space needed solely for academic needs is not clear, it seems obvious that well over half of the 2.2 million square feet of new development will be oriented toward new R&D facilities. Although research and development is clearly one of the important roles of the University, the balance between R&D and its academic function seems to be shifting.

It is not clear why what seems increasingly to the City to look like a 1 – 1.5 million square foot R&D business park should be located on or immediately adjacent to the campus in a built-out congested area with significant impacts on the community. What is the academic justification behind this requirement? What specific research activities must be located within walking distance? One of the premier R&D facilities in the country in many scientific areas is located just up the hill at LBNL. Faculty have ridden the shuttle up to LBNL for many years, and yet there is no discussion of how R&D functions could be co-located or used jointly.

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Student housing may be located within a 20-minute radius by transit from campus, and yet the University has failed to consider the alternative of locating its R&D space in a roughly equal radius from campus. The City believes that at least as much effort should be placed into considering an alternative strategy for the location of R&D development as was placed

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into the consideration of the location for housing.

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3.1.7 Campus Land Use

The LRDP indicates that the maximum amount of parking to be provided over the course of the planning period is 2,300 spaces. Table 3.1.3 (page 3.1-22) shows a total of 2,500 new spaces. The notes to that table state that the totals exceed the "not to exceed" totals to allow for locational flexibility. The table note goes on to indicate that the university may not "substantially exceed" the "not to exceed" amount without further environmental review. Who defines "substantially exceed" and on what basis? In the context of a built-out city with significant congestion, it does not take many more parking spaces (which translates directly into more cars at peak times on city streets) to generate a significant impact. This kind of weak commitment to "not to exceed" amounts is typical of the University's approach to its growth projections, its policies and its mitigations: there always seems to be a caveat that allows it substantial discretion. At the same time, this kind of qualifying language provides the City with no certainty regarding expected impacts and mitigations.

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The LRDP discusses land acquisition on page 3.1-23. One of the City's greatest concerns is the University's continuing encroachment into the City and the accompanying removal of property from the tax rolls. Not only does the City gain little fiscal benefit, but the City must still provide police, fire and other services. This concern is analyzed in detail in the accompanying Draft Interim Report - UC Berkeley Fiscal Impact Analysis (Attachment A).

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The City appreciates the University's stated commitment to providing mixed-use projects where appropriate, thereby encouraging better integration of University projects into the City environs. However, design amenities do not compensate for the loss of revenue from the removal of additional property from the tax rolls. On page 3.1-17, the University notes that it has roughly 450,000 GSF of leased space in and outside Berkeley (but mostly inside Berkeley). This leased space, like all University facilities, is not subject to local or property taxes. The University states that some of this space is deficient, thereby partially justifying the construction of its 2.2 M square feet of new development. However, despite this stated need to replace existing leased space, the University makes no commitment to vacating this privately leased space and returning it to the tax rolls. Not only does the University fail to commit to reducing its leased holdings, it makes no commitment regarding potential expansion.

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In its discussion of housing, the University suggests that it will explore a range of delivery options, including private partnerships. Many public universities, including some UC campuses, rely in part on private sector partnerships to provide housing for students, including dorm-style housing for undergraduates. If privately held, the property remains on the tax rolls and can pay its fair share of the costs of the City services provided to that housing. The City appreciates the University's comments regarding minimizing the impact on the tax rolls on page 3.1-23, but notes that there are no stated policies in the LRDP, nor

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any mitigations in the DEIR, that address this critical issue. As is typical of this document: good sentiment, no commitment.

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3.1.8 Campus Housing

As noted above, the City would prefer that, in general, University housing be provided through private partnerships and arrangements that allow property to remain on the tax rolls. The LRDP identifies a housing zone that is 20 minutes from the Doe Library, based on AC Transit routes as of July 2003. This implies a level of service that may not be sustained through the life of the LRDP. The 20-minute travel time criterion from the transit stop to Doe Library does not specify how long a walk is assumed. The definition of the Housing Zone implies that a 20-minute travel time to Doe Library is necessary to successfully attract transit riders but the DEIR does not report the average travel time for all UC commuters. According to the 2000 Census, the current mean travel time to work for Berkeley commuters is 27.8 minutes. The average travel time for UC commuters may be even longer. The Housing Zone should be adjusted to reflect a travel time that is at least roughly equivalent to that of commuters who drive alone. This could be accomplished in several different ways:

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- Include the proposed Bus Rapid Transit (BRT) alignment into the Housing Zone, which would extend the Housing Zone much farther into Oakland along Telegraph Avenue;
- Revise the Housing Zone boundaries to reflect current AC Transit routes including the significant service deployment plan changes of December 2003 and include a policy of regularly reviewing and adjusting the boundaries in the future to reflect subsequent changes; and
- Expand the Housing Zone to include designation of suitable housing nodes near 'some BART stations,' as mentioned in the Figure notes. The EIR should clearly identify which BART stations would qualify as nodes within the Housing Zone definitions (20-minute transit). The EIR should further evaluate and comment on housing development opportunities in each BART station, including review of relevant BART Station Area Plans, current or proposed Transit-Oriented Developments (TOD), as well an evaluation of existing or proposed programs to encourage development of University housing near these stations.

Figure 3.1-5 includes the Clark Kerr campus in the housing zone, implying its availability for additional housing before 2020, while the Land Use section recognizes that agreements with the City and surrounding property owners limit further development on the site until 2032. In addition, the Elmwood commercial district is shown as potential housing in error, and areas of the Southside Plan have proposed densities of less than the 40-unit per acre density range the University indicates is necessary for inclusion in the housing zone.

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UC could conceivably acquire property and develop additional university housing on any site within the Housing Zone that meets the density and transit access criteria. In fact, the area of this circle, not including the radial extensions along University, Shattuck, Adeline, College and Telegraph Avenues, is about 3.14 square miles. Given that the City's entire land area is only about 12 square miles, the area within which UC may consider purchasing existing units or building new housing comprises about a quarter of the City's area excluding Campus Park and other off-campus properties already owned by UC. While the City's General Plan encourages the University to construct new housing to serve its student body, staff and faculty, it also proposes that the private partners should retain ownership of the land and building. Given the magnitude of the UC's housing development program such real estate decisions can significantly affect the City's ability to maintain public facilities and services for all of the City's residents and businesses including residents of UC housing.

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The city appreciates the University's commitment to provide faculty housing. Attracting junior staff is challenging in a high housing cost area such as the Bay Area. While the City believes the goal is laudable, the proposal in the housing section (page 3.1.27) to locate 100 units on two sites (H1 and H2) in the Hill Campus area is unfortunate... As will be discussed in more detail in later sections, the City believes this location is inappropriate for this use. The sites are not sufficiently analyzed and locating housing on them would be completely at odds with the predominantly single-family development in surrounding neighborhoods and the Berkeley and Oakland General Plan designations for this area as discussed in the Land Use section.

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3.1.9 Campus Access

The University has indicated its intent to meet some of the "demand" for parking by providing 2,300 new parking spaces in or adjacent to campus. This is a fundamental issue for a city where virtually every new parking space translates into an additional commuter, with the accompanying impacts on an already congested and over-burdened roadway network (including noise, air quality and the other impacts of autos on the environment).

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The University treats parking demand as if it were some inflexible fixed amount, rather than as a function of supply and cost and the availability of substitutes. Fundamental economic theory tells us that if cost rises, demand is reduced; if reasonable substitutes at lower cost are available, demand is reduced. The comment that is necessary to "maintain reasonable fees for those who *must drive to campus*" is typical of the inappropriate assumptions made by the University in its LRDP. Who are these people who must drive to campus? Has the University surveyed its population to determine who truly has no transportation choices? What is the relationship between providing additional financial and other incentives for people to use carpools or transit and providing more parking? Has it fully considered alternatives to providing parking near campus, such as satellite parking lots closer to the freeways? The University's access analysis seems largely fixated on providing more parking for its drive-alone commuters.

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As noted earlier, the note to Table 3.1-3 repeats the statement that "The university may not substantially exceed the NTE total without amending the 2020 LRDP." The 2,500 parking spaces identified in that table is 200 additional parking spaces, which would amount to 8.7 percent more parking. Is this an example of a less than substantial overage that would not be subject to further review under CEQA? As has been previously noted, it would seem that the University gets to define for itself what is "substantial," and no standards or guidelines are mentioned or provided for such a determination.

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Because of the potential land use and traffic impacts of providing up to 2,300 spaces as proposed, the LRDP needs to clearly explain how it has determined parking demand. Analysis by City Staff shows that some of the assumptions that UC has used to support its projections appear to conflict with LRDP policies that propose to reduce the demand for parking. It also appears that the parking demand calculations may be double-counting some spaces that were proposed in the 1990-2005 LRDP.

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The LRDP states that the 2,300 (or 2,500) net additional parking spaces include 1,000 spaces proposed in the 1990-2005 LRDP and 300 spaces displaced by construction since 1990 (DEIR, p. 3.1-28). Do the 1,000 spaces in the current LRDP include the 790 parking spaces (690+100) listed in the Actual + Approved column of Table 3.1-2 (p. 3.1-14)? If so, then only 210 more spaces should be included in the 2020 LRDP and the number of net additional spaces listed in Table 3.1-2 should be reduced from 2,300 to 1,610.

On the other hand, if the 1,000 spaces are in addition to the 790 Approved Spaces, which appears to be the University's intention, the DEIR should include relevant excerpts from the 1990-2005 LRDP, restating the key findings from the 1990-2005 EIR regarding the need for this parking. The DEIR should also explain why UC has not developed the 1000 spaces during the years since approval of the 1990-2005 LRDP. Parking expansion should not be 'banked' or carried forward from subsequent LRDPs without comment. Rather, this EIR should properly reconsider the need for the 1,000 spaces proposed in the 1990-2005 LRDP in light of current conditions. The addition of 300 parking spaces "displaced by new construction since 1990" also needs further explanation. Did the 1990-2005 LRDP include these spaces? Which development projects resulted in the removal of these spaces? Was the impact of eliminating these spaces considered as part of the environmental review for the projects that required their displacement?

The EIR states the proposed net parking increase of 2,300 spaces represents a 30 percent increase in Current and Approved supplies. It further states that this figure is made up of 1,000 net new spaces proposed in the 1990-2005 LRDP, replacement of 300 spaces displaced by new construction since 1990, and accommodation of future parking demand at a rate of one space per two new campus workers and one space per ten new students. The LRDP, by the University's admission, proposes 555 more parking spaces than would be required by the projected growth, given current travel behavior of faculty, staff, and students. This fact, and the accompanying text, is particularly troublesome to the City.

UC should also recognize the value of providing a parking management system that can provide drivers with dynamic information on direct routes to facilities that have available parking spaces. With a high demand for parking, vehicles often are required to search all floors in order to find the last available spaces. In some cases, vehicles search a facility only to find that it is completely full and then must travel to another facility. A parking wayfinding system with dynamic signing leading to and around garages can improve utilization of garages and minimize traffic impacts adjacent to garages.

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There are additional comments on the LRDP policies for parking development and the parking demand projections in subsequent sections of this letter.

Because the DEIR concludes that the LRDP would increase vehicle trips and traffic congestion, creating significant and unavoidable impacts, the Board of Regents must find that there are overriding considerations that warrant retaining the policies and proposals to increase parking. The DEIR fails to provide a legally defensible basis to meet this requirement.

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The LRDP states (page 3.1-28) that the UC Berkeley has an exemplary record of promoting alternatives to the automobile "by California standards." California, as a whole, does not have a good track record on its support of land use by alternative transportation modes. That is not true for Berkeley. The Berkeley campus has excellent transit service provided by various transit agencies, good pedestrian and bicycle access, a dense housing supply near campus, and also has a policy of constrained parking supply. And if someone wished to compare UC to other communities, it would perhaps be worthwhile comparing it to other universities where there has been a strong commitment to alternative modes and constraining access by the auto, for example the well-known exemplary university programs at the University of Washington or the University of Colorado, Boulder.

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3.1.11 Sustainable Campus

The City strongly supports the University's commitment to LEED certification, and supports the statement on page 3.1.34 that LEED certification is a minimum standard and that it should consistently strive for LEED silver (or better) whenever possible.

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3.1.14 City Environs Framework

The City Environs Framework (DEIR, p. 3.1-47) proposes "downtown Berkeley should be the primary focus of future university investment in new research, cultural and service functions that require locations near, but not on, the Campus Park..." (DEIR, p. 3.1-47.) The LRDP goes on to state, "However, these future investments should be planned not merely to accommodate the programs of the university, but also to invigorate the downtown and create an inviting, exciting 'front door' to the UC Berkeley campus. They should also be planned to enable university land and capital to be leveraged through creative partnerships with other public and private sector organizations." Once again, the City appreciates the sentiment and

hopes that the University's supports it with deeds. The proposed art museums to be located in downtown (it should be emphasized: on existing University property), could be significant contributors to the City's downtown and its Arts District.

But the City's long history of working with the University does not give us confidence about its intent. To the degree that University investments remove property from the tax rolls, it reduces the City's ability to meet its obligations to its citizens, while costing the City. As noted earlier, these costs are set forth in detail in the attached UC Berkeley Fiscal Impacts Analysis.

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A major concern of the City is the potential of the University to fundamentally alter the balance in the City's downtown. The City's downtown is the heart of the City of Berkeley: an eclectic and dynamic area with a wide mix of residents and businesses serving the whole community. Telegraph Avenue has traditionally been the heart of the student community and it has a very different flavor and mix of businesses relative to the City's downtown. The University is already proposing to build 800,000 square feet of additional academic and support space (more than a third of the total additional development) on the adjacent blocks west of the Campus Park – i.e., in the City's downtown. This alone could have a substantial impact on the character of downtown Berkeley. However, in addition, the University's "housing zone" includes this same area. There is nothing in the LRDP that would necessarily prevent all thousand new housing units from locating in or immediately adjacent to the City's downtown. Even if the numbers were considerably below 1,000 new units, the combination of new University academic/support space and more University housing units could tip the City's downtown from its current eclectic and diverse character, into a student district, increasingly more like Telegraph Avenue. This would clearly be a significant adverse impact on the city of Berkeley, fundamentally changing the character of this city.

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While the City recognizes that it was not the intent of the drafters of the LRDP to imply that the University would transform downtown into another Telegraph Avenue, there is nothing in this plan that would necessarily prevent this from happening. And under the City's own policies, the downtown allows for the highest intensity of use in the City. Given the University's policy of its buildings not exceeding (generally) the building envelopes allowed by the City, the downtown would be an attractive location for new University housing. Without strong policies that would prevent such an impact, the LRDP's statement that University investments would create an "inviting, exciting 'front door' to the UC Berkeley Campus," takes on an unintended meaning.

The LRDP recognizes that parking encourages vehicle traffic and is a poor use of land within the Campus Park. (DEIR, p. 3.1-46.) Unfortunately, UC doesn't extend the same consideration to the City blocks around the campus. Instead, the LRDP proposes to shift the burden of meeting its projected parking demand stating, "In general, campus parking...should be consolidated in structures at the perimeter or outside of the Campus Park, accessed directly from city streets." The LRDP seems to dismiss the cumulative impact of locating this much parking in the blocks surrounding the Campus without

B7-42

comment. Nowhere in the section on City Environs does it describe the potential land use impacts of this much parking. One possible result of this policy could also be the location of the maximum 600 spaces allocated to the Campus Park being placed on the periphery of campus, close to the sites where a large portion of the other 1,900 UC parking spaces would be developed. For instance, if some or all 600 Campus spaces were to be placed on the western periphery of the Campus Park, the traffic impacts would interact in significant and adverse ways with the impacts of the proposed 1,300 new parking spaces in the West Adjacent Blocks, otherwise known as Downtown Berkeley.

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In the City's view, it is unacceptable to condemn any edge of the Campus Park to a "parking ghetto." Consideration of traffic flow, urban vitality and public safety also suggest that at some level of concentration, parking facilities are detrimental to traffic conditions and the urban fabric. Although the City is opposed to the expansion of parking proposed in the LRDP, to the degree it is provided, the University should seek to avoid an unacceptable concentration of new parking facilities and the associated impacts on traffic congestion, air quality, and land use by adopting a parking facility siting formula designed to ensure that the combination of Campus Park and Adjacent Block parking space density does not exceed a specified number of spaces within a given area. In addition, stronger design guidelines for parking facilities are also necessary, but are largely absent from the LRDP.

B7-43

The DEIR needs to clearly define the boundaries of the Adjacent Blocks in the text of the document. From the Figures, the area appears to consist of the area east of Shattuck and west of Oxford, between Durant and Virginia. Given the University's ownership of several parcels in this area, the EIR should comment on the expected location of major new parking facilities. For example, are the new parking facilities presumed to be placed on lands currently owned by the University, or through acquisition of new parcels? The 600 parking spaces that UC envisions adding in the South Adjacent Blocks would be in addition to the 690-space Underhill Facility, which is presumably included in the 7,690 actual and approved spaces listed in the Actual + Approved column of Table 3.1-2. (DEIR, p. 3.1-14.) (The Underhill Facility is located south of the Adjacent Blocks South area, which Figure 3.1-5 delineates as the area between Bancroft and Durant, west of Ellsworth and south of Stadium.)

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City Interface Policy 1 (DEIR, p. 3.1-46) is a welcome suggestion for partnership; but the proposal for UC Berkeley and LBNL and the City to "jointly seeks funds" to improve the Campus Park Edge should be expanded to propose a true partnership including joint allocation of funds as well as joint efforts to secure outside funding for capital investments and joint authority over the projects that are undertaken.

B7-46

The Project Design section on page 3.1-49 states that the University will "[u]se municipal plans and policies to inform the design of future capital projects." In the following paragraph it is noted that "Major capital projects would be reviewed at each stage of design by the UC Berkeley Design Review Committee, based on project specific design guidelines informed by the provisions of city general plans and other relevant city plans and policies." Once again,

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the City appreciates the sentiment, but notes that it is not backed by specific policies, programs, or commitments.

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The design review process outlined on pages 3.1-71 through 74 has no place for input from the City. Despite this, the DEIR states on page 4.1.17 that under a "Continuing Best Practice" the University would make presentations to the Planning Commission and, when appropriate, the Landmarks Preservation Commission. (It should be noted that the list of commissions should be expanded to include the Zoning Adjustments Board, which generally is responsible for site-specific site analysis; and also the City's Design Review Committee.) However, these presentations will not occur until schematic design, relatively late in the project development process and too late to influence the underlying assumptions about where growth and new buildings should be located and how they should be developed.

B7-48

In any case, such review is advisory only. There is no indication that the University Design Review Committee will actually respond to, much less implement the City's plans or policies. The history of University development outside of the core campus is poor. While some recent projects are improved over some past projects, overall University developments have fit poorly into the City's fabric: overly large, inward facing, poorly connected with little regard for impacts on neighbors. University building plans are driven by the needs of its faculty and staff, and increasingly by the demands of donors. There is no reason to expect that the City's concerns will rise to the level of these other stakeholders, and based on the process proposed to date, there is no reason why anyone should expect them to.

The City's concern with the University's intentions are further heightened by the statement that follows its stated intention to respect city policies: "However, in order to meet the demands for program space created by enrollment growth and by ongoing growth in research, sites on the Adjacent Blocks must provide adequate capacity to accommodate these demands..." This kind of language makes clear that UC will proceed with projects regardless of "significant incompatibilities due to their physical characteristics." (DEIR, p. 4.8-15 and 16.)

B7-49

The City appreciates the University's statement that it will "as a general rule use the Southside plan as its guide for the location and design of future projects in the Southside." Typically however, the LRDP has its set of caveats: that it will use it as a "general rule" and as a "guide." Once a plan is adopted by the City, private and city projects in the Southside will be required to abide by it. Given the University's close involvement in the preparation of the plan, the City believes the University should adopt no less strong a commitment. One of the key agreements that was reached between the University and the City in the preparation of the Southside plan was for the University to focus its academic/support space growth in the block adjacent to campus. As noted elsewhere in this document, the City believes this growth should be accompanied by the University's withdrawal from leased space elsewhere in the Southside, such as the American Baptist Seminary of the West site and many others.

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In regard to "other Berkeley sites," the City continues to request that the University make a firm commitment in the LRDP to not expanding its holdings and development beyond the areas identified in the LRDP and to reducing its presence in leased space elsewhere in Berkeley. The City believes that if the University intends to continue to expand its holdings in the City, that the only adequate mitigation is to provide full fiscal compensation to the City for the removal of that property from the tax rolls. The Project Description also needs a map showing the other Berkeley Sites as they exist in 2004, to provide a level of information comparable to that provided for the other categories.

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B7-54

In regard to the Housing Zone, the City once again appreciates the University's stated intention of respecting City policies. The LRDP notes that housing projects "should also be designed to respect and enhance the character and livability of the cities in which they are located." It goes on to note "to the extent feasible university housing projects in the Housing Zone should not have a greater number of stories, nor have setback dimensions less than could be permitted for a project under the relevant city zoning ordinance as of July 2003." Again, this is a good sentiment, but the qualifiers and caveats such as "*to the extent feasible*" and "*should*" cause us great concern.

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3.1.15 Hill Campus Framework

The Hill Campus Framework includes several policies to protect the open space character of this prominent and special area. It includes policies to "manage the hill campus landscape to reduce fire and flood risk and restore native vegetation and hydrology patterns," and "maintain the visual primacy of the natural landscape ..." And then it identifies two housing sites in the Hill Area (DEIR, p. 3.1-55) that seem contrary not only to these two policies, but also contrary to the General Plans of the cities where they are located, as well as many other policies in the LRDP.

B7-56

The boundaries of housing sites H1 and H2 are almost impossible to determine in the poor aerial map provided in Figure 3.1-52. This is a significant flaw in this "project description." The size of the sites (13 acres) is not found until the Biology section (DEIR, pp. 4.3-17 and 4.3-18). One of the sites, although obviously disturbed at some point in the past, is now tree covered and semi-natural in character. The other site is a parking lot for the Lawrence Hall of Science. It is not clear how the University intends to address the loss of parking for the Hall. Both sites are some of the most visually prominent sites in the East Bay, with commanding views of the City of Berkeley and the Bay Area. While parking lots are relatively flat and not intrusive as seen from the rest of the Berkeley and the Bay Area, buildings would be quite intrusive and have a significant visual impact. Denuding the existing tree covered hill area of H-1 (as would be required for new residential development) and replacing them with housing would cause significant aesthetic impacts and is contrary to the above policy on maintaining the visual primacy of the natural landscape.

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In addition, each of these hill sites is isolated from campus up a long, very steep road. Although there is bus transit nearby, it is infrequent and does not run very late. Therefore,

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the people in this housing will be forced to use their automobiles for almost all daily needs, including driving their children to childcare, purchase of groceries and commuting to work (if they work during hours inconsistent with the bus schedule). The only stated reason for using these sites for housing is that they are served by existing infrastructure, a description that fits virtually the whole developed Bay Area. Reaching further, the LRDP offers a further justification for housing in this location: "an after-hours presence in the Hill Campus that could improve safety and security." Who, exactly, will feel more secure with this housing in this location? Certainly not the future residents; they will be isolated from most emergency and police services. The City is unaware of any security problem in this area that the presence of more residents will be able to address. The cost of providing 24/7 residential security to this isolated is likely be a significant expense in itself and at least some of that security and much of the fire protection will need to be provided by the City. Far from reducing the fire and seismic risk, the University is proposing to expose a large number of people to the risk of wild-land fire and the near-field effects of a Hayward fault event, risks that, as most people in the Oakland and Berkeley hills know too well, are not theoretical.

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On page 3.1-54, there seems to be an inconsistency between the text and figure in regard to the expansion of the Botanical Garden. The text indicates that the 2020 LRDP incorporates this expansion as shown in Figure 3.1-10 but there seems to be only a boundary for the existing Botanical Garden shown. The boundary of the expansion area is not indicated. An area called the "Faunal Refuge Area" is also indicated in the figure, but the text does not indicate what it is, distinct from the rest of the Ecological Study Area. Without further information, it is impossible to evaluate potential environmental impacts on its ecological function.

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On page 3.1-50 concerning "Other Berkeley Sites," the LRDP should identify future need to lay or install any enhanced communications connections to link the far-flung University facilities, which could be anywhere in the City, as indicated in "Other Berkeley Sites." Some communications installations have significant impacts on upon the public's ability to use streets, the physical structure of the roads, aesthetics, City costs for upkeep, and future City constraints due to added infrastructure systems.

B7-62

3.1.16 Location Guidelines

The LRDP proposes that, "For each new capital project the policy review undertaken at phase 1 and phase 2 of the Campus Project Approval process... shall include a finding that the project conforms to the Location Guidelines, or state why an exception is warranted." It should first be recognized that, as described in earlier sections, the City has no meaningful role in the campus approval process sufficient to ensure that its interests will be heard or addressed. In addition there are no criteria for determining whether an exception is warranted. Without criteria for evaluation of when an exception is warranted, it is clearly feasible for projects to be proposed and approved that comply with none of the guidelines. As has been pointed out numerous times, the LRDP invariably includes qualifiers and caveats that make reliance on its representations very difficult.

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3.1.17 Campus Park Design Guidelines

Section 3.1.17 includes relatively detailed design guidelines for the Campus Park. In its comments on the NOP, the City requested that the University propose some clear guidelines for projects that would be located within the City. There is mention in various sections of the need for ground floor retail uses in areas where it may be appropriate, and for following City height and bulk standards, but no guidelines for how University development on city streets should interface with the City. There is not even reference to working with the City to develop such guidelines. Because the City has virtually no role in the design review and approval process with the University, and because the City has no guidelines to review, it is very difficult to predict what the aesthetic and land use impacts of the University will be on the community.

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There is one incorrect reference within the Campus Park Design Guidelines on page 3.1-67, where inadvertently the text seems to refer to potential sites not within the Campus Park. LRDP page 3.1-67, under the heading "City Interface," states, "in the city General Plan, several sections of blocks adjacent to campus are designated "commercial: ground floor level spaces in university buildings within those areas should include retail and/or store front services at ground level. Other university buildings... on adjacent blocks should house functions with a high frequency of human presence and activity at ground level." The reader is not sure, then, if the title of the section is inaccurate by being too narrow (does the University intend to have the guidelines apply to more land use zones than the campus park?) or is the inclusion of a reference outside the campus park the error? It is impossible to determine what is intended from the text of the 2020 LRDP. But what is clear is that, even if the intent were to provide some limited guidance for buildings outside the Campus Park, there is not much guidance.

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On page 3.1-64, Figure 3.1-12, the City interface is shown in the key as a line of dots. On the map in the figure, two lines of dots run parallel to each other. The key ought to indicate if the City interface is intended to refer to the area between the two lines. If so, the key should show the two parallel lines of dots, not a single line. Without this clarification, the key is ambiguous.

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3.1.18 Campus Project Approval Process

It has been noted in other sections that this section contains no opportunity for City input to the process. The DEIR states on page 4.1.17 that under a "Continuing Best Practice" the University would make presentations to the Planning Commission and, when appropriate, the Landmarks Preservation Commission. It should be noted that the list of commissions should be expanded to include the Zoning Adjustments Board, which generally is responsible for site-specific site analysis; and also the City's Design Review Committee (DRC). However, these presentations will not occur until schematic design, relatively late in the project

B7-67

development process and too late to influence the underlying assumptions about where growth and new buildings should be located and how they should be developed.

B7-67

There is no indication that the University Design Review Committee will actually respond to, much less implement the City's plans or policies. The City is not represented on the University's Design Review Committee and it is therefore not clear how the City's interests will be expressed to the DRC in an effective manner.

At best, the University may tell the City what it plans to do before it does it ("informational presentations"). The LRDP proposes significant encroachment into the City on all sides, but there are no specific guidelines about how that should occur, and therefore no assurance that the City's interests will be even effectively considered, much less addressed.

Finally, the Campus Project Approval Process ignores a very significant, and frequently determinative aspect of the project development process: fundraising. As we have seen in the past even "nonbinding" representations made during the fundraising process, especially to large donors, can essentially determine the major characteristics of a project. If the LRDP's guidelines or implementation measures are to be even potentially meaningful, the project review and approval process must address – and change – this current reality.

B7-68

ENVIRONMENTAL EVALUATION

4.0.1 – 4.0.4: Scope, Format, Impacts, Mitigation Measures and Cumulative Impacts

The University has approached environmental review of the LRDP by eschewing specifics, on the ground that this is a "first tier program-level EIR" (DEIR, p. 3.1-4.) The City has no quarrel with the University's decision to prepare a program-level EIR on its new 15-year LRDP.

However even a program EIR must meet the fundamental CEQA requirements of a meaningful project description and impact analysis. In addition, as we pointed out in our Response to the Notice of Preparation (RNOP), it is especially important that a program EIR analyze impacts and identify mitigation measures in a manner that can be reliably translated and extended from project to project over the course of the program (here, 15 years or more).

Unfortunately, it appears that the University has allowed the tail to wag to the dog – it has eviscerated the LRDP as a useful or meaningful planning document² in order to accommodate its overly general "program-level" environmental review strategy. While projects should be informed by environmental review, they should not be hollowed out so as

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² The DEIR states that the LRDP does not commit the University to any specific project but provides "a strategic framework for decisions on those projects" (DEIR, p. 3.1-3). It further states that the LRDP's capital investment program establishes "a maximum amount of net new growth ... which the campus may not substantially exceed without amending the 2020 LRDP." (*Id.*) In other words, the "project" as described in the DEIR (the LRDP itself, in its entirety) is little more than a set of general policies that will "guide" up to a specified amount of future development in a project area that is only partly defined.

to be little more than vehicles for program EIRs that can then be tiered off for the subsequent decade or two.

B7-69

This is especially the case in a built-out urban environment, where a great deal of planning related to specific parcels and facilities has already taken place, and a great deal is already known about remaining development opportunities. Indeed, on May 25, 2004, Assistant Vice Chancellor for Facilities Services, Tom Lollini, stated to the Berkeley City Council that the University already owns or controls all or virtually all of the off-campus parcels needed to accommodate the growth that is the subject of the DEIR. Indeed, the DEIR identifies numerous specific parcels. (DEIR, pp. 3.1-20 to 3.1.24.)³

Since, according to the DEIR and LRDP, the LRDP provides guidance with respect to the development of those parcels, the DEIR could have, and therefore should have, illuminated both the real meaning of the LRDP and its effects, by showing how it would be implemented on the identified parcels.

Tiering and Mitigation

As we discussed in the RNOP and discuss in this letter, the City has significant concerns about the use of this EIR, as currently constituted, as a "first tier" EIR. The DEIR states that environmental documents on specific projects included in the LRDP will rely on it for "general growth-related and cumulative impacts." (DEIR p. 1-2.) However, based on the number of specific types of impacts that the DEIR concludes will be mitigated to a level of insignificance on the basis of "Continuing Best Practices" or similar programmatic measures, we believe that the practical consequence of the EIR will be to virtually eliminate future EIRs on projects that can be construed as being consistent with the LRDP.⁴

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We are further troubled by the fact that the project approval process described in the LRDP (DEIR pp. 3.1-71 through 3.1-74) does not seem to contemplate any environmental review other than an initial study (step 2.8).⁵

Thus the City and its residents are faced with: a "project description" that calls for an 11.5% increase in campus headcount, 2,300 new parking spaces, 2.2 million new square feet of buildings and 2,600 new beds— none of it located anywhere in particular; an EIR that

B7-71

³ The notable exception is the "Housing Zone," which is undefined geographically, and is not even illustrated on any map in the DEIR. Rather, it is defined in terms of specified performance criteria relating to campus access.

⁴ Since the LRDP itself is quite generous in sanctioning departures from its guidelines, it is difficult to imagine any likely future project that the University would not consider consistent with it. To the extent this is simply another manifestation of the vacuity of the LRDP itself, it is not a matter addressed by CEQA. The problem, however, is that this vacuity, which appears to be an artifact of the University's approach to environmental review, renders the DEIR excessively general, and therefore inadequate.

⁵ Oddly, "environmental approval" by the Regents (step 4.6) occurs well after preparation of the initial study, and after Regents' approval of "budget/capital improvement program amendment," which apparently does not involve "environmental approval" at all (step 3.13).

concludes in the most general manner possible, that with very few exceptions none of this will have any significant impact on the environment; and the likelihood that this EIR is the only one that will be prepared during the life of the LRDP. This is unacceptable, as the University would surely agree if it were responding to a like environmental review document.

B7-71

Under these circumstances, the DEIR must clearly demonstrate that the mitigation measures it identifies as reducing impacts to less than significant level actually will do so. As we stated in our RNOP, actual experience is to the contrary. The mere assertion, repeated in the DEIR, that these measures have been effective and that they and new measures will continue to be even more effective, does not withstand scrutiny. If the Campus has been monitoring the implementation of these mitigation measures as CEQA requires (Pub. Resources Code §21081.6) it should have specific information to show whether the measures were in fact implemented whether and to what extent they proved successful. That information should have been included in the DEIR in sufficient detail to allow readers to reach their own informed conclusions as to whether these purported mitigation measures have really been effective or are likely to be in the future. Unfortunately, the DEIR includes no such information at all; it contains only unsupported assertions. Worse yet, the LRDP, as set forth in the DEIR, fails to enumerate and make commitments to all of the "Continuing Best Practices" for the lifetime of the LRDP. The LRDP set forth in the Project Description (Section 3.1) does not include details of the Best Practices or any documentation to show they constitute a reliable depiction of the University's future practice.

In its RNOP, the City expressed its willingness to work closely with the University, through the environmental review process or otherwise, to devise an implementation plan and schedule for each proposed mitigation measure involving the City. It also urged the University to consider an approach the City recently used with Alta Bates Summit Medical Center. Instead of proposing specific measures to mitigate predicted impacts we recommended that the DEIR recommend measurable performance standards that UC would commit to achieving over the long term. Under both approaches, the EIR analyzes the likelihood and severity of specific impacts. But instead of relying on specific mitigation measures of uncertain feasibility and efficacy, the City's approach would require the University to (1) state clearly the level of impacts it expects to result from the LRDP, (2) commit to ongoing monitoring, and (3) employ whatever mitigation measures are necessary at the time the acceptable impact level is exceeded, to reduce the impact to the level specified in the EIR. The benefits of this approach are that it does not rely on (necessarily inaccurate) predictions about impacts and mitigations 10 or 15 years hence.⁶ The City recognizes that this approach may not be appropriate for all types of impacts, but it is appropriate for operational impacts such as traffic, parking, noise, sewage collection, etc.

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⁶ This approach might require that enrollment increases be phased with implementation of mitigation measures. Doing so might itself be considered a mitigation measure.

Instead of using this approach, the DEIR, for the most part, relies on “Continuing Best Practices” to mitigate project impacts, some, if not all, of which, are mitigation measures originally proposed in the 1990 LRDP EIR, or in EIRs from subsequent projects. The reliance on these Best Practices represents a critical flaw in the DEIR that can only be cured by comprehensively revising the LRDP itself and the DEIR by:

B7-73

1. Incorporating detailed measures in the LRDP as policies and standards;
2. Adding substantive information to the DEIR to demonstrate that the “Continuing Best Practices” that UC proposes to continue have been effective in reducing the environmental impacts they are intended to mitigate, and that the additional programmatic mitigations will be effective.
3. Adopting measurable performance standards as mitigation measures (whenever appropriate) that must be met and commit to monitoring and regularly reporting on the effectiveness of the performance measures.

In addition, the DEIR improperly relies on a number of mitigation strategies that will not, in fact, result in reduction of impacts. The strategy of presenting specific development proposals to City boards and commissions for purely advisory review will not necessarily have any result whatsoever (e.g., DEIR p. 4.8-17, mitigation measure LU-2-b.). The University cannot assert its immunity from local regulation and at the same time rely on local advisory review as a mitigation.⁷ The DEIR is also incorrect in concluding that a purported commitment to pay the University’s “fair share” (ranging from 7%-19%) of the cost of various intersection improvements will necessarily result in any reduction of the identified impact, since there is no assurance that the City will be able to bear the remaining 81%-93% of the cost of each of these improvements (e.g., DEIR, pp. 4.12-50 through 4.12.52, mitigation measure TRA-6-a-g.). Thus these impacts must be considered as significant and unavoidable.

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Please also note earlier comments on the scope in relation to the LRDP for LBNL.

B7-76

4.1 Aesthetics

Section 4.1.5 (page 4.1-12) describes the “standards of significance” for aesthetic impacts. The City believes this list is incomplete and inadequate. Given the stated LRDP objective that the University shall “Plan every new project to respect and enhance the character, livability and cultural vitality of our city environs,” the University should adopt this objective

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⁷ Similarly, the DEIR’s assertion that land use impacts will necessarily be less than significant is illogical and insupportable in light of its admission that development under the LRDP may well depart from City land use regulations to the extent of creating a “significant incompatibility with adjacent land uses.” (DEIR, pp. 4.8-10 & 4.8-15 through 4.8-15.) The purported mitigation measure of further environmental review in such cases (DEIR, p. 4.8-17, mitigation measure LU-2-c) will not prevent such projects from having significant impacts.

as one of its standards of significance for aesthetic (as well as land use) impacts. Clearly, a project that would compromise or detract from the City's "character, livability and cultural vitality" should be considered a significant adverse environmental impact, given this objective. If, as the University has stated, it considers the LRDP to be a "general plan" level document, conformance with the plan's stated objectives would normally be considered an important measure of environmental impact (for further discussion, see comments on page 4.8.11). This is an important point because the City believes the University has not adopted sufficiently strong or specific mitigations to ensure that the aesthetic impacts can be mitigated to a less than significant level.

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The DEIR states on page 4.1.13 that "[a]t UC Berkeley, independent design review of projects is conducted by the UC Berkeley Design Review Committee, with staff support from Facilities Services." On page 4.1.14, the DEIR states that "the design objectives of UC Berkeley should be informed by the design policies of neighboring cities". In the next paragraph, the DEIR states that "Major capital projects would be reviewed at each stage of design by the UC Berkeley Design Review Committee, based on project specific design guidelines informed by the provisions of city general plans and other relevant city plans and policies." While these statements seem to indicate some level of consideration of City concerns, they are not backed by specific policies, programs or commitments. The design review process outlined on pages 3.1-71-74 has no place for input from the city. This is true despite the "Continuing Best Practice" described on page 4.1-17 that the University will present all major projects to the City's Planning Commission and Landmarks Preservation Commission.⁸

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However, a presentation does not constitute mitigation of potential aesthetic impacts. There is no indication that the University Design Review Committee will even respond to, much less modify a project in response to the City's design concerns. And because the City is not part of the University's Design Review Committee, it is unclear how the City's interests will be expressed to the UC Design Review Committee in an effective manner. At best, the University may tell the City what it plans to do before it does it ("informational presentations"). In other words, there is clearly no basis for assuming that the impacts on the City's aesthetic character will be protected, or that the University will even carefully consider these issues before it develops its sites. According to the plan, it proposes significant encroachment into the City on all sides, but as has already been discussed in regard to the LRDP, the plan lacks guidelines for development in the City environs, and makes no commitments to developing such guidelines with the City. The mitigations for aesthetic impacts are simply too weak to provide any assurance that the aesthetic impacts of projects on the City's character will be adequately addressed.

⁸ The appropriate body for project design review is usually the Zoning Adjustments Board; and that, in addition, the appropriate body for reviewing and commenting solely on building design is the City's Design Review Committee. These bodies should be added to the list of City commissions that should be consulted.

The history of University development proposals responding to the City's design or aesthetic concerns is poor. While some recent projects are improved over past projects, overall the University's review process has led to projects that fit poorly into the City's fabric: they tend to be overly large, bulky, inward facing, poorly connected with little regard for impacts on neighbors. The University's design mission is driven by the specific needs of its users and, increasingly, by the demands of donors and project sponsors. The City sees no basis in the weak and inadequate mitigations in this EIR to assume that the aesthetic impacts of University development on the City will be mitigated to a less than significant level.

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The City suggested in its October 9, 2003 Response to the NOP (page 14) that detailed design guidelines could potentially mitigate the impacts of University development on the City. In contrast, the University's approach is to apply guidelines on a case-by-case basis. Such piecemeal evaluation completely misses the point. The purpose of having a unifying, overall set of design guidelines is to ensure that each project conforms to the same rule, in this case, a rule that calls for projects to be integrated into the existing urban fabric. Project-specific design guidelines accomplish just the opposite result. Design guidelines should be developed that take into account the streets, the community context, and how the addition of University projects changes the functional as well as physical environment of the community in the City environs.

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The Housing Zone defined by the University in the LRDP and further discussed on page 4.1.17 is too large to allow for reviewers to effectively comment on its potential aesthetic impacts. Based on the language in the LRDP, all of the proposed student housing could be located within a mile of campus, or all of it could be located spread out along major transit corridors. These would lead to very different impacts from the point of view of the aesthetic character of the City. Even using the very narrow definition of significance (substantially degrade the existing visual character or quality of the site and its surrounding) proposed in the DEIR, housing could have a significant impact. For example, a thousand new housing units west of campus, in or immediately adjacent to the City's downtown, could tip the City's downtown from its current eclectic and diverse aesthetic character, into a student district, similar to what has already occurred along Telegraph Avenue, with a potential for substantial visual impacts and ultimately, visual degradation. This would clearly be a significant adverse impact on the city of Berkeley, fundamentally changing the physical character of this city. And yet, there is nothing in this plan that would necessarily prevent the University from developing in this manner.

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B7-81

In regard to the Hill Campus (DEIR, p. 4.1.16) Mitigation Measure AES-1-c is so full of caveats and qualifiers as to be virtually meaningless in terms of its potential to ensure mitigation of impacts. Specifically, the alleged "Continuing Best Practice" is that "as a general rule" projects would conform to the design principles in the Hill Campus Framework. However, these "principles" would not "preclude alternate design concepts." The one Design Principle that applies to development (DEIR, p. 3.1-56) in the Hill Campus includes no mandatory components. The language of the design guidelines is vague and states what "should" be done, but never what "shall" be done. Again, given the history of hill area

B7-82

development by the University, not only in the Hill Campus area, but also at LBNL, there is little evidence that the University will necessarily mitigate the visual and aesthetic impacts of its projects. Moreover, as previously discussed, the Hill Campus sites are visible from throughout Berkeley and much of the Bay Area. There has been no effort to model or consider the impacts of a significant amount of residential development on these two sites. Because so many of the projects in the Hill Area violate the design principles that they now claim should be followed, because the design guidelines are weak, and because the mitigation of potential impacts is equally weak, there is no basis for assuming potentially significant aesthetic and visual impacts will be mitigated.

B7-82

The comments described for AES-1-c (DEIR, p. 4.1-16) apply also to Cumulative Impact AES-1 and AES-2. It is especially difficult to understand how the DEIR comes to any conclusions regarding potential cumulative visual impacts when there is no information regarding the proposals of LBNL (the problem with bifurcation of the two LRDP's has previously been discussed). Based on the Notice of Preparation for the Lawrence Berkeley National Laboratory (LBNL) it is also expected to grow by about 800,000 square feet in the same hill area. On what basis does the University conclude that there would be no significant cumulative adverse impact from what is proposed by LBNL, in combination with the proposal for 100 new housing units on two highly visible sites, and the proposed 100,000 square feet of new development at some undefined location in the Hill Area? As already noted, the University's guidelines are inadequate and do not require that projects conform to them anyway. A conservative analysis would have concluded that there are clearly potential cumulative impacts and specific mitigations, besides weak guidelines, that should have been proposed.

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B7-84

It is also unclear why the DEIR has chosen a new measure for considering cumulative impacts and now speaks of "cumulatively considerable" rather than the usual standard: cumulatively *significant*.

B7-85

In regard to the Hill Area, the DEIR states that "New buildings should conform to contours of land, and grading should be minimized," and "Buildings should be clustered to minimize site disturbance." These two criteria are frequently contradictory, as the goal of minimizing site disturbance may require dispersed sites, rather than the greater amounts of grading often needed to provide grade relationships for pedestrian, handicap, and vehicular access to clustered structures. This is not a basis on which to assume any level of mitigation, without detailed design guidelines.

B7-86

It should be noted that Best Practice AES-1-d (DEIR, p. 4.1.17) concerning management for fuel reduction, will have aesthetic effects (possibly temporary) due to loss of visual screening of buildings provided by existing plant material. The DEIR has failed to identify, discuss, and mitigate this impact.

B7-87

The discussion under LRDP Impact AES-3 (page 4.1-19) states, "New development under the 2020 LRDP which could include locations near the perimeter of the Campus Park, as well

B7-88

as areas that are currently undeveloped, could create new sources of light from... lighted recreation/athletic facilities..." and is followed by Mitigation AES-3-a which states that lighting for new development projects would be designed to include shields and cut-offs that minimize light spillage onto unintended surfaces and minimize atmospheric light pollution."

B7-88

The discussion of Aesthetics refers to "lighted recreation/athletic facilities" in general terms without mention of the specific problems associated with light and glare from stadium lighting. The DEIR should distinguish between playing fields used for physical education activities and Memorial Stadium. Failure to recognize this distinction leads to dismissal of potential impacts without further discussion. The DEIR does not mention the University's intention to install 282 TV broadcast quality lights at Memorial Stadium. In fact, the DEIR fails to say anything about future use of the Stadium, which is included in the Campus Park although its location abutting the Hill Campus and the Panoramic Hill neighborhood creates a variety of potentially significant impacts.

The proposal to mitigate light and glare with cutoffs and shielding (Mitigation AES-3-a) will not effectively avoid disruption of surrounding neighborhoods unless the mitigation specifies a numerical standard to be achieved by such measures. Also, the very intense light levels associated with athletic and recreation uses create a disruptive glow of light besides the direct light. No facts or reasoning are presented as to why shielding and cut-offs would be expected to mitigate atmospheric light pollution from such sources. This section goes on to say that the cutoffs or shielding will not be done if there are historic resource issues. In that case, the mitigation should consider elimination, reduction, or modification of nighttime illumination. "Portable" lights are an alternative to permanent installation of the massive light arrays that ESPN has already used for late afternoon and evening broadcasts of UCB games.

B7-89

4.2 Air Quality

Page 4.2.1 discusses the lack of information on the impacts of nano-technology. Nano-technology refers to man-made structures at the atomic and molecular level. Clearly, such tiny artificial structures, should they escape into the air, could have an impact on air quality and health. While the University is correct in noting that there do not yet exist specific guidelines for handling such particles, that should not mean that that some precautions and mitigations for potential impacts are not required. Unless proven otherwise, the City believes that such particles should be considered potentially hazardous air pollutants. At minimum, UC should adopt safe practices already established for ultra-fine particles and commit to developing further safe practices as such practices are adopted by the appropriate federal and/or state agencies. The National Institute of Occupational Safety and Health (NIOSH) is developing such practices at this time.

B7-90

Table 4.2-6 (DEIR, p. 4.2-17) of the EIR should provide additional information on the calculation of Existing Student and Employee Vehicle Emissions. Please indicate where the assumptions regarding daily trips and VMT are found in the Technical Appendix or elsewhere.

B7-91

Continuing Best Practice AIR-1 (DEIR, p. 4.2-21) does not reference a specific program with specific implementation measures. Given the reliance the University places on this program to not further exacerbate existing conditions, it must be presented in detail as a mitigation (and if located in the Transportation section, it must be referenced here). Even assuming that there is a program that the University intends to continue to implement, this mitigation presents a difficult, if not impossible proposition: to provide only *the same or equivalent* transit programs, yet hope to *improve* the mode split and *reduce* the use of single occupant vehicles. It is not practical to maintain the status quo in program and expect better results, especially in light of an expanded parking supply being built to meet 'unmet demand.' The Campus New Directions Program consists of good programs that must be *expanded* in order to improve the mode split and reduce trips as the University intends.

B7-92

With respect to Impact AIR-2 (DEIR, p. 4.2-21), we recommend that UC change its practice regarding response to odor complaints. Because BAAQMD Public Nuisance Regulation 1, Section 301 may be too difficult to implement we suggest that as an alternative UC rigorously enforce a standard that requires no more than 10 complaints in a 90-day period.

B7-93

Because of the proposed volume and duration of construction activity proposed by the University and its location in the heart of a built-out city, we recommend that construction mitigation measures go beyond the minimum standard project-level measures recommended by BAAQMD. Mitigation AIR 4 should be modified to require that construction surfaces be watered more than twice a day. In addition, if the project involves more than a minimal amount of demolition, sites should be tested for asbestos and lead. Soils should be tested more than once during construction to identify other contaminants in soils before they are moved. These procedures should be incorporated into all bids for earth moving and demolition.

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B7-95

The City recommends that on page 4.2-25, Mitigation Measure AIR-4-b, the first bullet be edited to read, "To the extent the equipment and fuel is available and cost effective, UC Berkeley shall require contractors to use alternatives to conventional diesel fuel (including B100 biodiesel), retrofit existing engines..." This mitigation is welcome and the City notes that this mitigation is written as a rare "shall require." Fortunately, it is a relatively easy mitigation to implement because alternative fuels such as B100 and, to a lesser extent, Ultra Low Sulfur Diesel fuel can reduce both particulates and carcinogens. The mitigation could be more specific in describing how the University would implement this mitigation. Would construction bids be favored based on the composition of the bidder's fleet or on the willingness to run trucks on biodiesel?

B7-96

The City of Berkeley is recognized as a national leader in the use of biodiesel in our heavy vehicle fleet. The Berkeley Unified School District is a partner in several alternative fuel programs for large vehicles. The City may be able to partner with the University and private construction contractors to create a model of low-emission construction through biodiesel and alternative fuel use.

B7-97

In regard to operational vehicular emissions on page 4.2-27, the City believes that the University should mitigate this impact of the increasing number of parcel delivery trucks by adopting specific purchasing policies to directly encourage or require the use of lower emission delivery and other service vehicles.

B7-98

The Table on page 4.2-9 should include all emissions, including construction, which does not seem to be included. The text references BAAQMD thresholds, but fails to say what they are and does not show them in the table. It should be possible to tell from this table exactly what the relationship is between the University's contribution to air quality impacts, and adopted thresholds of significance.

B7-99

Continuing Best Practice AIR-5 again references some "transportation control measures," but fails to list them and fails to reference a document or section where they are listed. Nor does the document assess the potential effectiveness of this program. Without a list and a strong commitment to those measures, this is a hollow mitigation and is clearly unacceptable under CEQA. As has been noted previously, in theory, if these are Best Practices in accordance with mitigations from previous EIR's, their effectiveness should have been assessed through monitoring, and the results of this assessment disclosed in the DEIR. Moreover, this document as a whole fails to assess the potential benefits of adopting additional measures which could further mitigate impacts. Since the operational and cumulative impacts are considered significant and unavoidable, the University must assess a range of reasonable and feasible alternatives to reduce impacts, or show why such alternatives are infeasible. This DEIR utterly fails to do so and is deficient as a result.

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B7-102

In regard to cumulative Air Quality impacts, the LRDP notes in AIR-1 that the impact is significant, but fails to come to any conclusion as to whether it is unavoidable. But coming to some conclusion is required by CEQA. Based on the text that follows, it must be assumed that the impact is indeed considered significant and unavoidable. As has already been previously noted, reliance on AIR-5 is not sufficient, as it does not identify a program or attempt to assess the effectiveness of the non-identified program. Given that this impact is considered significant and unavoidable, the University is obligated to assess the effectiveness of its current control measures and determine whether additional measures are infeasible. To, in essence, "throw in the towel" without even trying is not permitted under CEQA.

B7-103

B7-104

The same comments apply to Cumulative Air Impact Air-4. The lack of analysis of the feasibility of alternatives to minimize this impact is not permitted under CEQA.

Finally, the City is surprised by the University's decision to separate out some impacts from others. Why is construction activity not combined with other activities to assess a true cumulative impact? Regardless of whether the BAAQMD CEQA Guidelines require lead agencies to estimate emissions from construction, this DEIR has chosen to do so and those impacts can be cumulatively considered along with others. The DEIR should present a table that identifies the impacts of all its activities – operations, vehicles and construction activity

B7-105

—so that this document can perform its function of informing the public and decision makers as to the impacts of the project.

B7-105

The DEIR assumes that the California Air Resources Board's rulings are expected to improve TAC emissions from diesel engines over time, and that therefore the cumulative impact of the LRDP's share of TAC emission increase is less than significant. The DEIR fails to indicate whether BAAQMD models (recently updated to reflect a gradual reduction in diesel emissions) have been used to confirm that the University's impacts are negligible. The University could better ensure that this impact is less than significant by adopting an accelerated vehicle retirement program and low emission procurement program, combined with an engine replacement and particulate filter. The BAAQMD and the State's Carl Moyer Program can provide additional technical information.

B7-106

Page 4.2-29 identifies thresholds of significance for the Tien Center, but does not reference BAAQMD thresholds for individual projects, "As and when individual development projects are proposed on the campus under the 2020 LRDP, a project-level evaluation of operational emissions would be conducted and the estimated emissions of the project would be compared to BAAQMD Thresholds (80 lbs. per day of NO_x, ROG, and PM₁₀ and 550 lbs./day of CO)." (DEIR, p. 4.2-18). This misstates the BAAQMD Thresholds. It should indicate the thresholds of significance in BAAQMD CEQA Guidelines – See BAAQMD CEQA guidelines, December 1999. For example, carbon monoxide threshold is any of three factors: 1) CO emissions > 550 lbs. /day; 2) Project traffic would impact intersections or roadway links operating at LOS D<E, or F or would cause LOS to decline to D, E or F, or 3) project traffic would increase traffic volumes on nearby roadways by 10% or more (unless the increase in traffic volume is less than 100 vehicles per hour). The DEIR fails to provide a rationale for choosing only one threshold, and ignoring the other two.

B7-107

The DEIR states: "In addition [to fugitive dust], exhaust pollutants are emitted from construction equipment use. This equipment is typically diesel-fueled. Recently, the CARB recognized the particulate matter emissions in diesel exhaust as a carcinogen, so there is additional concern about this pollutant." Given the scope of the UC LRDP, the emissions from construction equipment, fugitive dust and increased vehicular traffic adds to an already significant air quality problem.

B7-108

The American Lung Association's (ALA) annual air-quality report titled *The State of the Air 2004 Report*, released in April, found that high levels of pollutants have been detected in many Bay Area counties. The tests measured both short- and long-term exposure to ozone, also known as smog, as well as microscopic particle pollution. The worst air quality in the Bay Area was reported found in Alameda County, which once again scored an "F" in both high-ozone days and 24-hour particle pollution readings. Particle pollution can be dangerous when it reaches unhealthful levels over a few hours or a few days even at relatively low concentrations, and is danger to health with constant daily exposure over a long period of time. Studies link particle pollution to increased risk of asthma attacks, heart attacks and strokes, lung cancer, and premature death.

Given the findings of the ALA report, increases in sources of pollution resulting from the LRDP may have a significant impact on air quality. An increase in vehicular traffic and pollutants associated with proposed UC construction, commuting and research will affect all residents, particularly those living with chronic respiratory distress. The ALA report cites a link between exposure to air particle pollution and cardiovascular and lung diseases including asthma, chronic bronchitis, heart disease and emphysema. In the Bay Area, there are 338,024 adults and 135,420 children with asthma, 230,830 people with chronic bronchitis, 76,999 with emphysema, and 1,457,692 residents who suffer from cardiovascular disease. Metals, lead and other carcinogens can also damage unborn babies by traveling from a mother's lungs into her bloodstream and placenta.

B7-109

People with cardiovascular diseases, children and the elderly are most vulnerable to the health risks associated with particle pollution, as are those who suffer from chronic lung disease such as asthma and chronic obstructive pulmonary disease. The report found that even short-term exposure to unhealthy particle pollution levels (i.e. several hours to several days) has been linked to premature death, heart attacks and stroke for people with cardiovascular disease in California.

U.C. mitigation plans should include: 1) reduction of equipment run on diesel fuel and significant mitigations when diesel fuel equipment is used; 2) reduction of employee and student parking and increased incentives for alternative modes; 3) provision of responsive UC shuttles that run on low emission or alternative fuels such as electric, natural gas, and hybrid electric which emit fewer pollutants than conventional gasoline and diesel powered vehicles; 4) funding for local asthma prevention and treatment efforts.

B7-110

4.3 Biological Resources

Figure 4.3-2 (DEIR, p. 4.3-12) provides inadequate information in regard to the Hill Campus vegetation. Portions of the Hill Campus are seemingly left out without explanation.

B7-111

The Strawberry Creek Management Plan is being updated, as is the 2020 Hill Area fire Fuel Management Plan. These need to be completed before any projects are approved. (See, DEIR, p. 4.3-21.)

B7-112

LRDP mitigation B10-1-a: The University will, to the full feasible extent, avoid the disturbance or removal of raptor nests. Mitigation has to be feasible, but it also has to mitigate. It is impossible to tell what this measure will actually accomplish. (DEIR, p. 4.3-25.)

B7-113

4.4 Cultural Resources

The impact and mitigation discussion regarding cultural resources beginning on page 4.5-54 demonstrates the difficulty of both assessing impacts without site-specific analysis, and of

B7-114

arriving at firm conclusions without such analysis. Despite the lack of any site-specific review, the DEIR somehow comes to the conclusion in CUL-3 (DEIR, p. 4.4-55) that cultural and historic resources may be demolished or severely compromised and that, furthermore, such destruction is “warranted by public benefits in furtherance of the University’s educational mission.” The DEIR provides no analytical basis for coming to the conclusion that there will necessarily be potentially significant impacts on cultural resources. There is no stated basis for it asserting *in advance* that the impacts on those resources are unavoidable. There is simply no analysis whatsoever. Which resources might be affected, and how significant are they? How much would they be affected?

B7-114

While it may be conservative to assume that there may be such impacts and that they may be potentially significant, the DEIR should provide additional analysis to indicate how it comes to this conclusion. The DEIR should provide criteria for how UC will determine when such impacts may be warranted. The DEIR should indicate that when there are likely to be significant adverse impacts on an historic resource it will always be necessary for the University to prepare an EIR on the proposed project. When an EIR is prepared, the necessary site/building-specific assessment will occur if the project proposes to demolish or significantly modify the building, and alternatives will be considered for avoiding those impacts. The wording in impact CUL 3 is unusual in this DEIR in that it tries to justify an impact while describing it. This kind of wording is similar to the type of wording found in findings of overriding considerations, seemingly pre-justifying a determination that the educational mission will necessarily and unavoidably allow for significant adverse impacts to historic resources. If the intent of this statement is to avoid future environmental impact reports on historic resources, it is clearly inappropriate and not permitted under CEQA. The DEIR should clarify that this is not its intent.

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Continuing Best Practice CUL-2-b indicates that an “informational” presentation would be made to the City of Berkeley Planning Commission and, if relevant, the Berkeley Landmarks Commission. Because this mitigation is in relation to cultural and historic resources, and because the designated body in the City of Berkeley for review of these impacts is the City’s Landmarks Preservation Commission (please note the correct title for the Commission), the City would appreciate the EIR removing the qualifier “if relevant” in this instance.

B7-118

The Continuing Best Practice CUL-2-a indicates that a Historic Structures Assessment (HSA) would be prepared when there may be impacts on a historic structure. The preparation of such a study is not called out in the Campus Project Approval Process (DEIR, p. 3.1-71 – 74). Identifying where such a study fits into the review process will help the DEIR reader to assess whether it is likely to achieve its intended mitigation. If the HSA is prepared too late, decisions may already have been made that would limit its effectiveness.

B7-119

The comments regarding CUL 3 apply equally and for the same reasons to impact CUL-5.

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The DEIR states on page 4.4-5 that the City’s Landmarks Preservation Ordinance (LPO) “afford[s] three levels for historic buildings, including properties of exceptional significance

B7-121

(landmarks); structures of merit; and properties that do not meet landmark criteria but are worthy of preservation as part of a neighborhood, block, or street front.” It should be noted that the LPO also has a fourth category: Historic Districts. The LPO is also quite broad in regard to what can be designated, including structures, sites and areas including single structures or sites, portions of structures, groups of structures, manmade or natural landscape elements, works of art, or integrated combinations thereof, having a special character, or special historical, architectural, or aesthetic interest or value, with Landmarks generally occupying one site, and Historic Districts occupying multiple sites in a specific designated section of the city. Structures of Merit are structures which do not currently meet the criteria as set forth for a landmark, but are worthy of preservation as part of a neighborhood, a block or a street frontage, or as part of a group of buildings which includes landmarks.

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B7-122

4.5 Geology, Seismicity and Soils

The DEIR acknowledges that implementation of the LRDP could expose additional people and structures to potential adverse impacts associated with the presence of the Hayward Fault. Although the University has established good programs and appropriate design standards, best practices alone will not avoid serious damage and many injuries in the case of a significant seismic event on the Hayward fault. The first responding organization in the case of such a disaster will be the Berkeley Fire Department. As discussed in the Draft Interim UC Berkeley Fiscal Impact Analysis, the City receives no compensation for maintaining the necessary capacity to respond to a major emergency, such as an earthquake on the Hayward fault. The University comprises a significant portion of the daytime and nighttime population, and yet pays no taxes, and provides very little support for this service.

B7-123

Berkeley has the greatest seismic and wildland fire hazard of all the UC-system locations given the high likelihood of Bay Area earthquakes and the potential for near field effects. The Berkeley campus is likely the most vulnerable given the number of older buildings on the campus and it certainly ranks high in housing potentially hazardous materials because of the comprehensive nature of the UCB research program.

B7-124

Risk exposure, that is the sheer amount of building space and number of students, staff and faculty, is likely the highest in the UC system given the matrix of natural hazards in the local area—earthquake, wildland/urban fire, landslide and urban creek flooding. The City of Berkeley's Disaster Mitigation Plan cites all these natural hazards as significant in the local environs.

All told, the combination of these three factors (hazard, vulnerability and exposure) and Berkeley easily warrants the highest risk probability in the UC system.

Berkeley also is seriously threatened by wildfire. Though not every building is exposed given the type of construction and amount of open space, but the campus must address how to safely evacuate its population of upwards 45,000 people if a fire suddenly threatens the campus. Berkeley has serious risk of technological hazards and terrorist threats. Given the

B7-125

size and extent of research in physical and biological sciences, there seems to be significant technological exposure.

B7-125

Berkeley is unique in that it has a memorial stadium that adds an increasing number of outside visitors to the stadium six or seven Saturdays a year. The City must recognize and address this population influx as a service cost. Other sports events, like basketball games poses a similar emergency response challenge. These gatherings call for increased policing and emergency response capacity, necessary in this era of increased potential for natural or human-generated disasters. We do not believe that any other UC system campus is in as natural hazard- or risk-laden an environs. As will be discussed in more detail under Public Services, it is essential for the safety of the campus population that adequate fire services be maintained; the increased load proposed under this LRDP will cause an increased load on the City's Fire Department that cannot absorb it. Therefore the assumption under Impact GEO-1 that best construction or emergency preparation practices will somehow mitigate the lack of emergency response services is wrong. More people will be exposed and they will be at increased risk of loss, injury or death. This is a significant and unmitigated impact under CEQA.

B7-126

B7-127

This section also fails to mention the specific risk associated with the proposal for developing housing on two Hill sites. In addition to the measures identified, the DEIR should describe how UC proposes to work with the City to develop plans for providing and paying for the services and infrastructure needed to reduce hazard exposure to a less-than-significant level and how UC will coordinate with the City's evacuation and emergency response systems at the time of a seismic event.

B7-128

The DEIR fails to mention that large portions of the Hill Campus are not only within the Alquist-Priolo Fault Rupture Hazard Zone for the Hayward Fault, but are also within areas that the State has designated as a Seismic Hazard Zone for earthquake-induced landslides as shown on maps issued in February 2003 under the State Seismic Hazards Act. The LBNL Building 49 Project EIR stated that fault investigations had identified two active traces of the Hayward Fault in the area of that project. (Building 49 DEIR, p. IV.E-15)

B7-129

This DEIR minimizes the potential risk from landslides stating that most new construction would not take place in hill areas. (DEIR, p. 4.5-19.) As noted above, the discussion fails to mention the proposed construction of housing on two Hill sites in connection with this potential impact. Eliminating these housing sites from consideration would at least avoid increasing this risk.

B7-130

The Local Plans and Policies (§ 4.5.3) should be modified to add reference to the City of Berkeley's soon-to-be adopted Disaster Mitigation Plan, which the City has prepared to meet the requirements of the Federal Disaster Mitigation Act of 2000, and to implement the General Plan's Disaster Preparedness and Safety Element. The Plan, which is pending Council action, proposes the coordination of mitigation efforts with UC and LBNL for reducing the risk from hazardous materials and natural hazards. These efforts include

B7-131

initiating a joint planning effort for the Panoramic Hill area with the UC and the City of Oakland.

B7-131

4.6 Hazardous Materials

Under the heading of Transgenic Materials (DEIR, p. 4.6-12, the "Use, Types and Volumes" portion of that discussion fails to provide information on the volume of transgenic materials.

B7-132

As discussed earlier under air quality, the University should treat nanoparticles as hazardous as a precautionary measure, until proven otherwise. The University should invest in developing safe practices, technically comparable with as those that already exist for ultra-fine particles.

B7-133

4.7 Hydrology and Water Quality

The Analytical Method described on page 4.7-1 states that both the description of existing conditions and the impact analysis are based on a review of generally available background reports, including the City of Berkeley and City of Oakland general plans, the UC Berkeley 1990 LRDP EIR, and some online resources. These largely non-technical documents do not adequately describe the existing conditions of facilities that may be affected by development under the LRDP and do not provide the level of technical analysis that is needed to adequately evaluate the LRDP impacts on those facilities.

B7-134

The discussion of the Regulatory Framework on page 4.7-1 includes some information that is inaccurate and provides insufficient detail to determine the extent to which regulatory compliance will control UC Berkeley's existing impacts and the baseline conditions under the LRDP. The Campus has applied for a Phase II municipal separate storm sewer system permit, but is not yet regulated under NPDES Phase II requirements. In order to be able to determine the extent to which this prospective regulation will affect project impacts, the DEIR needs to describe the requirements to which the Campus will be required to adhere. (See, comments below regarding NPDES requirements, DEIR, p.4.7-4.) Moreover, to the extent the anticipated NPDES permit does not apply to off-campus University development, which will be served in any case by the City's storm sewer system, the DEIR should explain how the impacts on the City's system will be mitigated.

B7-135

The DEIR's references to the Spill Prevention Control and Countermeasure Plan and National Pollutant Discharge Elimination System requirements are similarly defective. Because the DEIR does not describe the procedures, methods, equipment and other measures that the Spill Prevention Control and Countermeasure Plan specifies, it is not possible to determine the extent to which the Plan will prevent petroleum discharges to creeks and to the City of Berkeley's stormwater system.

B7-136

The section on the National Pollutant Discharge Elimination System includes a lengthy generic description of the NPDES program, but no information regarding the contents of the

B7-137

Stormwater Management Plan (SWMP) requirements that UCB will impose to prevent or minimize pollutants in stormwater and non-stormwater discharges. This is particularly critical in light of the substantial development that the LRDP proposes. In particular, the pending NPDES Phase II permit should include a Hydromodification Plan with Post-construction Stormwater Management in New Development and Redevelopment.

B7-137

The discussion of local plans on page 4.7-5 omits mention of several applicable local policies that must be used as a basis for determining the extent to which LRDP implementation would exceed threshold standards. The Berkeley General Plan includes two particularly relevant policies regarding funding for programs to maintain or improve water quality. General Plan Policies EM-24D and EM-24E propose the identification of alternative funding sources for essential infrastructure improvements and measures to ensure that new development pays its fair share of such improvements. As discussed in the comments regarding public facilities and infrastructure, and as documented in the accompanying Draft Interim UC Berkeley Fiscal Impact Analysis (Attachment A) and City of Berkeley Sewer Services Charges and Connection Fees, and Clean Stormwater Fees Study for the Evaluation of "Fair Share" Contributions from the UC Regents (Attachment B), UC is not paying its fair share of the cost of maintaining sanitary and stormwater sewer systems, which has a direct effect on whether the impacts on hydrology and water quality can be mitigated.

B7-138

The DEIR also fails to list the Joint Watershed Goals Statement to which the University is a party along with the cities of Berkeley, Albany, El Cerrito, Richmond, and the East Bay Regional Park District. The agreement, which the Berkeley City Council approved in 1995, commits the parties to restoring the watershed of the participating jurisdictions to healthy conditions including creek restoration through removal of culverts and other construction and restoring a healthy freshwater supply to creeks and the Bay by eliminating conditions that reduce water quality.

B7-139

The DEIR provides no source or other information to substantiate the statement on page 4.7-7 that runoff quantities tend to be relatively low (between 4.5 and 5.5 inches per year or about 20 percent of the precipitation) in undeveloped natural conditions despite the existence of some steep local topography. A source for this assumption should be provided.

B7-140

The DEIR acknowledges that the capacity of the City's Strawberry Creek culvert at Oxford "would be exceeded by 25 percent during a 25-year design storm event under existing conditions. Therefore, any new development on the Campus Park or Hill Campus that might increase stormwater runoff may cause flooding problems within the City's drain system and along lower Campus Park Elevation near the channel." This section goes on to state that less than 60 percent of (the existing) Campus Park is impervious, but the DEIR fails to indicate the extent to which implementation of the LRDP would increase impervious surfaces. We discuss this significant defect in the DEIR in greater detail in the section on Hydrology impacts and mitigation measures.

B7-141

Flooding: The DEIR on page 4.7-11 only addresses the 100-year event without any explanation for this limitation. Given the acknowledged existing capacity problems for Strawberry Creek for a 25-year event, information must be included about flooding during lesser events including 50-year, 30-year, 25-year and possibly even 15-year events. As noted earlier, UC acts as if water flowing off its campus that causes flooding on City streets is not an issue for it. This is not permitted under CEQA.

B7-142

Wastewater Discharge: The description of the campus wastewater system on page 4.7-17 omits the fact that wastewater flows from the campus to the EBMUD Oakland treatment plant through the City's sanitary sewer collection system in order to reach the treatment plant. As has been discussed earlier, the University does not contribute its fair share to the maintenance and upkeep of this system, despite this impact. The extensive development of the central and hill campus areas has significantly increased runoff and may be a causative factor in the deterioration of the City's increasingly undersized wastewater drainage system. The discussion of Stormwater and Wastewater Best Management Practices on pages 4.7-21 through 4.7-23 mentions pollution prevention activities for construction sites, streets, human activities, and active sites but doesn't describe post-construction (generally passive items) that should be considered. Current best management practices for new development require that projects be designed to include features such as vegetated swales, hydrograph modification, oil/water separators, swirl separators, etc. Because the DEIR includes virtually no information about the content of its SWMP, it is impossible to determine whether its current "Best Practices" conform to the current Best Management Practices for stormwater runoff. As is the case with other existing programs and policies, the DEIR does not include sufficient detail about the specific measures now in place and their effectiveness in preventing pollution.

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Despite the fact that Strawberry Creek discharges into the City system, the City has not been asked to participate in the update of the Strawberry Creek Management Plan. The City supports a strategic approach to watershed management planning that deals with the entire Strawberry Creek watershed and involves UC, the City, the private property owners in the watershed, etc. The DEIR does not provide sufficient information about the SWMP's provisions to determine whether implementation of this Continuing Best Practice, or any of the others that are identified, will ensure that implementation of the LRDP would not create violations of existing water quality standards or wastewater discharge requirements, as claimed by HYD-1. (DEIR, p. 4.7-24.) As mentioned above, the DEIR should include information reporting on the results of monitoring these measures, which UC adopted to implement the 1990 LRDP. It should also be noted that compliance with existing regulations, such as the terms of the Stormwater Management Plan prepared to meet NPDES permit requirements, cannot be treated as a mitigation under CEQA because compliance is required regardless of whether or not included in the DEIR or the project is approved.

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Because the EIR provides no estimates of the increase in impervious surface resulting from implementation of the plan, and does not spell out what "post construction design measures" are included in the SWMP, the assertion on page 4.7-27 that the project would not deplete

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groundwater supplies or substantially interfere with groundwater recharge is simply not supported by the record.

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We disagree with the DEIR's conclusion on page 4.7-29 (Significant Impacts and Mitigation Measures) that the proposed mitigation measures would reduce the impacts of LRDP implementation on hydrology and water quality to less than significant levels. There is no information in the record to support a determination that the proposed mitigation measures will be sufficient. To the contrary, the DEIR itself includes information suggesting that any increase in development in Hill Campus would have a significant adverse impact that may not be possible to mitigate. As mentioned above, the discussion of existing conditions acknowledges that the storm drain at Oxford Street is already deficient, which means that whatever measures are now in place have been insufficient to prevent flooding and associated impacts during storm conditions. Nevertheless, the DEIR says that potential impact on drainage systems will be mitigated by continuing best practices and requiring a hydrologic modification analysis and plan for projects that might alter drainage patterns.

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The Continuing Best Practices that the DEIR proposes to mitigate the impacts of implementing the 2020 LRDP were specified in the January 1990 DEIR for the 1990 LRDP or in amendments to that LRDP. If UCB has been monitoring the implementation of these mitigation measures as CEQA requires (Pub. Resources Code §21081.6) it would have specific information to show whether the measures were implemented and should also know whether the measures proved successful. The DEIR includes no such information, yet proposes to continue relying on these measures without any information to show whether they have been effective. The additional requirement for a hydrologic analysis plan does not meet CEQA's specifications for mitigation measures because it improperly relies on the results of an after-the-fact study. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1397.) A more appropriate measure would be to impose a standard specifying that there be no increase in runoff into drainage systems at peak times from future development.

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The statements regarding potential impacts of the Tien Center development (HYD-1 through HYD-4) are conclusory and not supported by analysis. Especially in light of the substantial additional development that UC proposes for the LBNL Hill Campus site, the 2020 LRDP would clearly contribute to a cumulative increase in surface runoff and wastewater discharges. (DEIR, p. 4.7-33, -4.7-35, Cumulative Impact HYD-1 through HYD-5.) The DEIR provides no analysis or other substantive information to support any other conclusion. The statements regarding the absence of cumulative impacts are particularly puzzling given that the DEIR acknowledges that projects in the Hill Campus could alter drainage patterns and increase impervious surfaces.

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4.8 Land Use

Near the bottom of page 4.8-6, the DEIR says that within areas designated "Institutional" in the Berkeley General Plan, a building intensity ranging from FAR 1 to FAR 4 is allowed. In fact, the General Plan indicates an FAR of less than 1 up to an FAR of 4.

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There is an inconsistency on page 4.8-7 between the Hill Campus Housing sites and both the Berkeley and the Oakland General Plans. The DEIR describes the Berkeley General Plan's Open Space designation with a partial quotation that "Open space...allows recreational facilities, schoolyards... etc." In fact, the Open Space description states, "These areas of the City are appropriate for parks, open space, pathways, recreational facilities, natural habitat and woodlands. Appropriate uses include parks, recreational facilities, schoolyards, community services, and facilities for the maintenance of the areas." The Oakland General Plan designates almost all of the Hill Campus as Resource Conservation Area.

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On pages 4.8-7 to 4.8-10, the DEIR characterizes the existing setting, but provides very little information about the adjacent blocks. For example, for adjacent blocks north, the LRDP EIR only describes sites already occupied by University buildings. It fails to describe the current setting of parcels that may become future UC development sites, despite the fact that UC already owns or controls most of the sites it needs to accommodate the growth planned under the LRDP. Because the DEIR does not address actual sites, but provides that UC development could occur anywhere within the designated sectors, the DEIR must provide a description of existing conditions throughout the sector.

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Section 4.8.6 (DEIR, p. 4.8-11), Policies and Procedures Guiding Future Projects, includes an objective: "Plan every new project to represent the optimal investment of land and capital in the future of the campus." Because more than half of the future growth of the University will occur outside the "Campus Park," the University's guidelines should optimize investment in land and capital from a broader community perspective, and should not define "optimal" in a narrow way that may optimize for the University at the expense of the community.

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In regard to the Hill Campus discussion on page 4.8-11, as has been previously discussed under earlier sections, the proposal for housing in this area is contrary to several other policies and objectives of the LRDP, and is inconsistent with both the Oakland and Berkeley General Plans.

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The impact assessment that begins on page 4.8-15 (§4.8.7) is inadequate in many respects. Its measures of significance should include conformance with the stated objective that the University shall "Plan every new project to respect and enhance the character, livability and cultural vitality of our city environs." A project that would compromise or detract from the City's "character, livability and cultural vitality" should be considered to have a significant adverse environmental impact. The University did not include one of the usual measures of land use impact on the standard Initial Study Checklist: will the project "Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?" Presumably the DEIR dispensed with this impact on the ground that local land use regulations are not "applicable." This elevates form over substance. This standard of

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significance constitutes a recognition that projects that are inconsistent with existing land use plans, can have environmental impacts *for that reason*. (Moreover, the standard of significance itself assumes the possibility that projects can be developed that are inconsistent with local land use plans. Thus the University's implicit argument that there can be no impact on the ground because projects in furtherance of its educational mission are not subject to the City's land use regulations misses the point.) While the University may not be subject to local land use regulation, it should be subject to conformance with its own "General Plan" and should include an assessment of the conformance of its "project" in regards to its own proposed objectives.

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The City notes this issue because while it appreciates the University's proposed adoption of the objective "Plan every new project to respect and enhance the character, livability and cultural vitality of our city environs," the LRDP utterly fails to ensure that this objective will be accomplished. Moreover, the proposed LRDP has the potential to have significant adverse impacts on the City's land use and character, and the plan fails to note those impacts or adopt appropriate mitigations to address them. The basis for our concerns is described specifically in regard to impacts and mitigations below.

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On page 4.8.12, the EIR states that "the objectives of UC Berkeley should be informed by the plans and policies of Berkeley and Oakland, to ensure their character and livability are respected and enhanced through new University investment." While the City certainly appreciates the sentiment, the actual proposals fail to achieve it. As noted earlier, the design review process outlined on pages 3.1-71-74 does not identify a place for input from the city (despite the assurances on page 4.1.17 regarding the "Continuing Best Practice"). There is no indication that the University Design Review Committee will actually respond to, much less implement the City's design guidelines and there are virtually no design guidelines incorporated in the LRDP for projects in the City Environs. Because the City is not part of the University's Design Review Committee, it is unclear how the City's interests will be expressed to the UCB DRC in an effective manner. In other words, there is clearly no basis for assuming that the impacts on the City's character will be protected, nor that the University will even carefully consider these issues before it develops its sites. According to the plan, it proposes significant encroachment into the City on all sides, but the guidelines in the LRDP are simply too weak to provide any assurance that the City's interests will be considered, much less addressed. Contrary to the findings on page 4.8-15, there is no basis for concluding that the LRDP will not have a significant adverse land use impact.

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According to the DEIR on page 4.8-15, the Initial Study essentially dismissed the impact: "would the project physically divide an established community?" It goes on to state that the University and city communities are so profoundly interwoven, that division of an established community is not possible. This is true only in the most trivial sense. But experience shows that it is false as a guide to actual environmental impacts. Construction of buildings in the Adjacent Blocks that are limited to University uses, open only to University faculty/staff/students, oriented towards the Campus and insensitive to their environs, will in fact (and have in fact) physically divided the established community. Because the City did

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not have a copy of the LRDP at the time that the Initial Study dismissed this issue, we did not specifically comment on it, although we consistently commented that the information presented in the NOP was too vague to make virtually any determinations. Now that the City has reviewed the LRDP, it does not believe that this issue can be so easily dismissed.

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Indeed, portions of the City of Berkeley are tightly interwoven with the University. This is especially true in the Southside around Telegraph Avenue, which has in many respects become a "student district." Many old-time residents are disturbed by the loss of the neighborhood serving uses along Telegraph that existed into the 1960's and 70's, supplanted by fast food, entertainment and other uses primarily attractive to students and the other young people drawn to the University community. The Southside is unique in Berkeley and, in some respects, separate from the rest of the community.

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But while the Southside and a portion of Northside are highly student oriented, much of the City of Berkeley is not. This is especially true of the City's Downtown, which, although it certainly has its share of University students passing through, has retained its eclectic and historic character. The City's downtown is still the heart of the City of Berkeley.

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The University has indicated in the LRDP that a significant portion of its future growth will be on the westside of campus, adjacent to and in the City's downtown core. In the past, the University has aggressively purchased property adjacent to campus on the west side and has leased property throughout the downtown. The LRDP's proposed housing zone includes the downtown area. There is no policy that would prevent all one thousand new housing units proposed by the University locating west of campus, in or immediately adjacent to the City's downtown. As the highest intensity district in the City, it is certainly an attractive option, given the University's stated intention generally to not exceed zoning envelopes. The University has already developed a significant amount of housing on Shattuck in the heart of downtown. Even a few hundred more student housing units, in combination with the University's other development could tip the balance in the City's downtown from its current eclectic and diverse character into becoming part of a student and University district. This would clearly be a significant adverse impact on the City of Berkeley, fundamentally changing the physical character of this city and dividing the community. There is nothing in this plan that would necessarily prevent the University from developing in this manner. Mitigations and firm policies are necessary to ensure that this does not happen.

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The DEIR also comes to the conclusion on page 4.8-15 that in the City environs, "the LRDP would require future projects to be informed by city plans and policies, to ensure the character and livability of neighboring cities are respected and enhanced through University investment." As stated several times elsewhere in this draft, this is a noble sentiment that is not backed by virtually any evidence. Please note the comments above regarding the potential impact of the University on downtown as one potentially significant impact on the character and livability of the community that is not identified, much less addressed.

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On page 4.8-16, the DEIR states "the LRDP Housing Zone by definition excludes areas designated as low density residential in a municipal general plan as of 2003." Page 3.1-50 of the LRDP states "... this Housing Zone is defined to exclude those areas with residential designations of under 40 units per acre in a municipal general plan as of July 2003." In fact, according to page 3.1-50, the areas to be excluded are both low and moderate density. The terminology should be consistent between different parts of the DEIR. In addition, although the Elmwood Commercial district may technically allow for higher density uses, this is a very special area whose zoning restricts buildings to two stories. The City would recommend that the Housing Zone exclude areas where the zoning prescribes a two-story limit. The Housing Zone should also exclude the west side of Hillside Avenue which is shown on the General Plan as low-medium density residential.

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One of the mitigations for potential land impacts as the University develops further into the City is "Continuing Best Practice (LU 2-b) which requires "informational presentations." This would happen at the schematic stage, too late in the process to affect major decisions about location of different types of development within the City. There is no proposal to include a City member on the UCB DRC who can more effectively present the City's concerns and work with the UC DRC to address them. The City's development standards are quite liberal and depend on the City's extensive process of public review to ensure that projects fit into the community. Because a project meets minimum standards of the zoning ordinance, does not ensure compatibility. The City believes the existing "best practice" is inadequate and does not address the potentially significant adverse land use impacts on the City.

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The alleged Continuing Best Practice LU-2-c states that if a project would have the potential to have a significant land use impact on the community, it would be subject to further environmental review and that such review would be required if it is not a permitted use under the General Plan, or does not follow the setbacks allowed by the zoning ordinance. There is not much mitigation in this Practice, because the University has not indicated how the City will be involved in this process (as noted earlier, the University's commitment to the City in other sections amounts to informational presentations).

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Continuing Best Practice LU-2-d is equally weak, indicating that "as a general rule" it will use the design guidelines and standards prescribed in the Southside Plan "as its guide." The number of qualifiers in this statement makes it essentially meaningless as a land use mitigation.

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Finally, the alleged Continuing Best Practice LU-2-e states that "to the extent feasible" its buildings in the Housing Zone would not exceed the envelopes allowed under the zoning ordinance. Again, the qualifying statement makes this mitigation essentially meaningless, especially given the financial demands the University places on its housing projects.

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Given the lack of commitment to an inclusive process, to appropriate mitigations, or even to specific design and development guidelines, the potential land use impacts on the City in

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regard to incompatibility and character are clearly not mitigated to a less than significant level.

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A land use impact that has not been described is the impact of laying or installing enhanced communications connections to link the far-flung University facilities, which could be anywhere in the City, as indicated in "Other Berkeley Sites." Some communications installations have significant impacts on upon the public's ability to use streets, the physical structure of the roads, aesthetics, City costs for upkeep, and future City constraints due to added infrastructure systems. The DEIR should take these costs into account as a consequence of the LRDP.

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The City cannot argue with the statements on page 4.8-15 that UC is constitutionally exempt from local land use regulations when *using its property in furtherance of its educational mission*. However, as the University's funding and mission become increasingly research and development driven, the relationship between its "educational mission" and its growing character as an R&D business park may well diverge. Given the disproportionate share of the University's growth under this LRDP that will be for R&D space, the campus must justify its assertion of a direct relationship between that growth and its educational mission.

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4.9 Noise

The LRDP establishes no standards for noise by land use category, but relies on the minimum standards of the Building Code. Most jurisdictions establish noise standards by type of land use for what constitutes acceptable levels of noise.

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LRDP Mitigation Measure NOI-3 indicates that noise impacts in student housing will remain significant and unavoidable. The analysis provided to come to this conclusion is unsupported. Appropriate construction and design techniques accompanied by appropriate materials and design (double paned windows and mechanical air circulation, for example) can reduce almost any interior noise impacts to less than significant levels. Homes are built adjacent to freeways and railroads meeting these standards. Exterior noise levels can also be met, assuming appropriate design of the spaces planned to be used for outside activities. The University should set forth a specific standard and the design guidelines mitigations to ensure that noise impacts are adequately mitigated.

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Similarly, noise impacts from construction are also considered significant and unavoidable. It is exceedingly difficult to mitigate some types of construction noise impacts, and the City appreciates the University's intent to undertake both the "Continuing Best Practices" found in NOI-4-a as well as the additional mitigation proposed under Measure NOI-4. However NOI-4 is a plan for mitigation, not mitigation. While it may not be possible to fully mitigate construction noise impacts to a less than significant level, the EIR should set forth objectives for what is to be achieved through the NOI-4 and also provide information on the effectiveness of the techniques it is already using under NOI-4-a.

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4.10 Population and Housing

We are gratified to see that UC has incorporated information that City staff provided regarding baseline population, housing and employment data. These critical assumptions include revisions to ABAG's Projections 2003 employment data. Population and employment changes are not in and of themselves environmental impacts, but are part of the chain of causation with which CEQA is concerned. Unfortunately, the DEIR has not used this information to determine the significance of the LRDP's impacts on population growth and housing.

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The maps and text describing the location of Primary Employee Housing (DEIR, pp. 4.10 and 11) indicate that this is where 50% of UCB employees currently reside. In order to have a contiguous map focusing as it does, it is apparent some other criterion must have been applied. For example, does the map also factor in employee trip to work length, or require that the tracts be more or less contiguous? The additional criteria should be set forth.

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It is not clear why Figure 4.10-2 (DEIR, p. 4.10-16) showing census tracts where 80 percent of UCB employees reside, excludes two tracts southeast of Lafayette. An explanation would be appropriate.

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Table 4.10-7 (DEIR, p. 4.10-13) summarizes projected changes in student housing and indicates that as a result of providing additional student housing under the proposed LRDP, there will be an increase in the number of market rate units available to the general population. This may be true, but the table is misleading in describing the units as being "vacated" by 2020. It would be more accurate to describe the units as becoming "available" because those units will not be leased to UC students. These units will be scattered throughout Berkeley and UC Berkeley's primary and secondary student and employee housing areas.

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In its review of the DEIR, the City's Labor Commission observed that the number of city jobs could increase by up to 2,870 according to the 2020 LRDP and recommended that the LRDP emphasize the hiring of Berkeley residents including specific targets. Such a policy would obviously have far-reaching benefits, including potential reduction of traffic, increased use of public transportation, and less use of local parking. Construction projects should also have targets for the hiring of Berkeley residents. The City's First Source program can be the first point of contact in conducting outreach to the Berkeley community to search for qualified candidates for newly created positions.

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The LRDP does not mention the potential for creating jobs for local youth, but creation of new departments on campus should also result in increased opportunities for a summer youth employment program. Since each department is responsible for funding its own positions, a policy establishing yearly set-aside funds for summer youth would allow for UC departments and city staff to plan accordingly.

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4.11 Public Services

The University provides many benefits to the City of Berkeley, but it also presents significant costs. The University is exempt from all local property taxes, and assessments imposed to date. As has been documented in the enclosed Draft Interim UC Berkeley Fiscal Impact Analysis, at least in regard to fiscal impacts, the University costs the city a great deal more than it receives. The University has no Fire Department and relies on the City of Berkeley for almost all of its fire protection and emergency response. UC's police department addresses some of the burden it places on the City, but not all. UC relies on the City to maintain a storm water and sewer collection system that serves the University, but provides comparatively minimal reimbursement for the costs of maintaining that system. These costs amount to millions of dollars in excess of the revenue the City receives. While public service costs are not necessarily considered an environmental impact under CEQA, they are environmental impacts if the lack of the availability of these services places people at risk, or causes impacts on the environment (e.g., flooding as a result of a deteriorated or inadequate storm water system; pollution entering the bay due to an overloaded storm sewer system). As will be discussed below – and further under “Utilities and Service Systems” – the proposed growth of the University under the LRDP will cause significant and unmitigated environmental impacts that the University must address with appropriate mitigations.

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B7-193

Police

The DEIR describes current staffing levels of the UC Police Department (UCPD) and then erroneously assumes that the department will achieve the higher staffing levels reflected in the UC budget. (§ 4.11.1.4.) At present, only 65 of the 77 sworn positions shown in the budget are filled. In fact, the 77 sworn positions are already a reduction below UCPD's previous budgeted strength and historical staffing level of about 84 officers. Unless UC commits to full funding of the UCPD, it is unreasonable to assume that the department will be able to maintain its goal of 1.5 sworn officers per 1,000 campus population. (§4.11.1.7.) The obvious result will increased reliance on the services of the Berkeley Police Department (BPD).

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The plan (§4.11.1.4, “Existing Setting”) discusses the joint BPD and UCPD patrols on Telegraph Avenue, and that the UCPD has two officers assigned to Southside patrol. For the past several years, the UCPD has had one officer assigned to Southside patrols, not two, and has had only one officer assigned to joint Telegraph patrols on an intermittent basis.

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The UCPD has not been able to maintain its current budgeted sworn staffing and, at least in the short term, there is no expectation that it will be able to do so. The UC system does not pay a salary and benefit package that is competitive within the Bay Area police labor market. The result is UCPD is not able attract and retain qualified officers. The State budget will continue to impact its pay rates, as will the UC policy of paying the same pay rate for all the UC campuses statewide. UC's pay may be competitive for other campuses, but not

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Berkeley. Unless the University is willing to address this issue the staffing levels it shows on paper will have no meaning in reality.

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The LRDP does not even address the UCPD non-sworn staffing levels. Most police agencies, including the UCPD, provide service through a combination of sworn and non-sworn staff. UCPD's non-sworn staff includes clerical employees, dispatchers, security patrol officers and community service officers. With the current budget constraints, the UCPD has eliminated some of these non-sworn positions. The staffing levels for these public safety employees needs to be addressed in any discussion regarding policing the UC campus.

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Second, the plan assumes that the UCPD staffing goal of 1.5 sworn per 1,000 campus population is the correct staffing level to provide service to this population. The University should analyze the police workload to determine if this is the correct ratio. The plan also assumes that with the campus expansion the police workload will remain relatively stable.

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Currently, many of those who are counted as part of the "campus population" live outside the UCPD jurisdiction and do not generate police calls for service during most of the day. The campus is currently expanding the number of student housing units on UC property in the Southside area. This includes new housing at existing dormitory complexes and new housing being built in the 2500 block of Channing Way. The UCPD will have responsibility for these new housing units as they come on line over the next year. UC is also expanding the student housing at Albany village. As this new housing comes on line, there will be increased demands for policing that may call into question the assumption that 1.5 officers is an adequate ratio.

As the campus housing continues to expand until 2020 there will be greater pressure on the UCPD to police this population. If the University does not provide adequate staffing, the BPD will probably end up having to take a greater role by providing emergency response to the campus.

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Another factor that the plan has not considered into this ratio is that the UCPD is not currently providing services to some properties that should be counted within their jurisdiction. These properties are now being policed by the BPD. These properties and their populations are:

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- 2600 Ridge Road, Cloyne Court residence for 151 UC student, owned by UC and operated by the University Students Cooperative Association (USCA)
- 2424 Haste, Rochdale Apartments, residence for 259 UC students, owned by UC and operated by the USCA
- 2415 Dwight, Fenwick Weavers Village, residence for 102 UC students, owned by UC and operated by the USCA

- 1601 Allston Way, The Convent, residence for 25 UC students, owned by UC and operated by the USCA
- 1601 Allston Way, a condominium apartment complex bounded by California Street, Allston Way, Addison Street and Jefferson Street, owned by UC and occupied by an unknown number of UC affiliated students/faculty/staff

B7-200

Under the previous jurisdictional agreement between the BPD and the UCPD, these properties were under the jurisdiction of the BPD. At the time the agreement was negotiated, however, the BPD was not aware that these properties were owned by the University. They should be shifted to the jurisdiction of the UCPD. This additional responsibility will increase the UCPD service population as well as the Department's workload. Student residential complexes, particularly those operated by the USCA, generate more calls for service than average residences. This workload may tax the ability of the UCPD to handle its responsibilities even if staffing is increased from the current level with 65 sworn officers to the hoped-for staffing with 77 sworn officers.

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It should be noted that the traffic associated with campus construction can also have a significant construction period impact on the demand for police services. This was illustrated during work on the Underhill project, which resulted in some significant traffic disruptions that required both traffic control and increased enforcement in the area. Both the UCPD and campus administrators asked the Berkeley Police to provide these services but the City declined and suggested that UCPD handle any construction-related traffic mitigations.

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Another area in which UC shifts a burden to the tax-payers and property owners is in regard to enforcement of the City's Residential Permit Parking (RPP) program. It is clearly the case that no matter how much parking UC provides, if parking were available in the neighborhoods, all neighborhoods within at least a half-mile of UC would be inundated with employee and student parking. It was this imposition on the neighborhoods that led to the City's RPP program. Not only do residents have to pay for the privilege of parking in their neighborhoods, but the City must enforce the program. Although some costs are recovered from citations, additional enforcement would assist in ensuring that neighborhood parking impacts related to the University are minimized. The University can mitigate its impact on Police services and neighborhoods by assisting in enforcement of the RPP.

B7-203

The LRDP contemplates a significant amount of construction both on the main campus and in the nearby blocks within the City that could create continuous construction-related traffic problems for years to come. State law gives the UCPD jurisdiction within one mile of the campus. While the UCPD is qualified to handle traffic problems, the staffing problems discussed in the discussion of Police Services may impede their ability to adequately mitigate this problem. The DEIR needs to acknowledge UC's responsibility to formulate and implement appropriate measures rather than shifting this workload and the associated costs to the City and its taxpayers.

B7-204

UCPD has not maintained its service level objectives (as described above) in the past. In the face of the significant budgetary constraints of the City, the impacts of UC developing a substantial amount of housing and other space in the City could lead to a significant impact on public safety. The Continuing Best Practice PUB-1.1 suggests that the "partnership" to "review service levels in the City Environs" will mitigate the potential impact. A "review of service levels" is not a mitigation. A mitigation must set forth a program of what will occur if service levels are found to be inadequate to address public safety in the area. As is noted above, the University has failed to maintain adequate service levels in the past, and provides no financial support to the City for its police force. Absent a commitment to adequate service levels, the EIR must find that the impacts on Police Services to be significant and unmitigated.

B7-205

Fire

The Berkeley Fire Department (BFD) has complete responsibility for fire, rescue and emergency medical response to all areas of the campus within the Berkeley city limits. The City has a reciprocal Automatic Aid Agreement with the Lawrence Berkeley National Laboratory. In exchange for BFD back-up and augmented response at LBNL, LBNL augments BFD services by dispatching its fire engine, when available, to certain designated areas of Berkeley, including the east side of the campus as well as a small area north of the campus in the Hearst/La Loma area. If the LBNL engine is not available, the City dispatches the BFD resources needed to respond to the emergency. In other words, the LBNL engine functions, in the words of a Berkeley Fire Department official, as "an eighth Berkeley engine." The agreement is reciprocal in that it is mutually beneficial; in fact, the benefit the City receives from having an LBNL engine as *part* of the initial response to Campus calls (and a limited number of off-campus calls on the north side) is outweighed by the fire resources that the City provides to LBNL. In contrast, while the City has responsibility for all UC properties within the City limits (and mutual aid for some that is outside), the City receives no taxes to support this service, and very little support to the Fire Department in general.

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The discussion on Hill Campus development seems purposely vague. While the plan describes building up to 100 housing units in the Hill campus it only hints at additional projects for the botanical garden area or in the area of Strawberry Canyon. The additional housing will have a significant impact on emergency access and egress should a wildland fire occur. Similarly, more development in Strawberry Canyon will add to the fire load in the Canyon and contribute to increased traffic congestion in an already congested area for emergency access. The university should improve and pave the undeveloped fire roads (Upper and Lower Jordan trails) to allow for all weather emergency access and egress into Strawberry Canyon and Panoramic Hill. As mentioned above, the City's draft Disaster Mitigation Plan proposes a joint planning effort for the Panoramic Hill area with the UC and the City of Oakland.

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B7-208

As the Berkeley Disaster Council pointed out in its comments to the City Council, the DEIR needs to acknowledge the significant impact of developing 100 housing units at Centennial Drive near Grizzly Peak Boulevard on emergency evacuation from the hills in the event of fire. (DEIR, pp. 4.11-11 through 4.11-15.) Due in part to parking by UC staff, many of the narrow streets in this area function essentially as one-lane roads. Centennial Drive will be a major egress route in an emergency. The DEIR's conclusion on page 4.11-11 that vegetation management and firebreaks (DEIR, p. 4.11-12) will be sufficient to reduce to less than significant levels the increased risk to public safety as a result of the proposed Hill Campus development is unsupportable. This proposal will not only put the new residents at risk, but will also increase the threat that wildland fires pose to existing hill residents and UC employees for whom Centennial would be the best evacuation route during a hills fire. It should be emphasized that the University contributes very little to supporting the City's fire response.

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The DEIR concludes on page 4.11-14 (PUB 2-4) that during the construction phase, the housing could result in temporary road closure or restriction to a single lane, but that this will be mitigated by coordination with the emergency service departments to plan alternate routes, and by signage to the public. It is silent as to the impact on hills residents if a hills fire occurred during construction and construction had temporarily closed Centennial Drive or reduced it to a one-lane road.

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Contrary to what the EIR states, 2,200,000 sq. ft. of additional building space and 4000 more students will significantly add to the burden on the Berkeley Fire Department. BFD has primary responsibility for fire and emergency services to the UC owned or leased property within Berkeley city limits and Mutual Area Response agreements to the Hill Campus area outside our city limits. No new facilities or stations are being planned as a specific result of the LRDP, but the new Hill Fire Station was planned in part to facilitate improved response capability into the Hill Campus area. The additional construction, type of construction, and increased density of campus population would require additional Fire Department staffing -- particularly for emergency medical response. The increased student, faculty, staff and associated daytime population likely will necessitate placing an additional paramedic ambulance unit in service. The additional paramedic ambulance staffed with two paramedics will require some new positions.

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B7-212

The access issue for emergency vehicles onto and around the Campus Park cannot be understated. All new campus buildings must be designed in full partnership with BFD to insure appropriate emergency access. The design shall include the total campus access pathway to any new campus building and the adequacy of access from city streets to the campus for emergency responders.

B7-213

Continuing Best Practice PUB-2-3 indicates that through "partnership" the University will "ensure adequate fire and emergency service levels to the campus and UC facilities." As has already been noted, a "partnership" is not mitigation. What, exactly, will UC do to maintain adequate service levels? In the face of severe budgetary constraints, the City is considering

B7-214

significant cutbacks in fire and emergency services at the same time that the University is proposing significant expansion. Because it provides virtually no support for the Fire Department – and without any offer to do so – it is unclear how the DEIR can make the claim that UC will maintain adequate coverage. It should go without saying that in an earthquake and wildfire hazard zone, adequate emergency response and fire services are essential to protect the public health and safety. Without additional mitigation, the DEIR must acknowledge that the impacts to Fire Protection and Emergency Services is significant and unmitigated and that this constitutes a significant and unmitigated impact on the environment. While there are clearly feasible mitigations to address this impact, they have not been suggested.

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B7-215

Recreational Services

According to the LRDP (DEIR, p. 3.1-32), "... while the campus population continues to grow, recreational facilities have remained constant or, in the case of playfields, considerably declined." The University does not document a similar decline in student use of or need for such facilities. This implies that, over time, the University is shifting the demand for such facilities to those operated by the surrounding cities. While the 2020 LRDP discusses restoring fields lost since 1990, it lacks a plan for how to restore that space, and the shrinking amount of open space on and off-campus would indicate significant difficulty in restoring the space that has been lost. The LRDP does not have a policy to increase the space in proportion to student growth over the course of the LRDP. As documented in the Draft Interim UC Berkeley Fiscal Impact Analysis, the impacts on the City's park resources from the University are considerable. A finding that the LRDP will not result in the need for new or altered parks cannot be made.

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B7-217

The Draft EIR states that the project would increase population growth by 0.1 percent and spread the potential impact *throughout the 9-county Bay Region* (emphasis added). This does not reflect the impact on the City of Berkeley itself, which will bear most of the impact of population increase. The DEIR further states that the only city in which the increment of growth due to the 2020 LRDP is likely to be greater than one percent above year 2020 projections is Berkeley.

B7-218

The DEIR concludes that increased student enrollment will not substantially increase *student* use of non-University facilities. As noted earlier, this assumption is not well supported in the LRDP. In fact, the rate of employment growth is expected to far exceed that of students, and that could result in an increase in recreational demands due to an increase in local employee population. The DEIR states that any impact of the 2020 LRDP on City of Berkeley recreational facilities would be mitigated by the fact UC Berkeley personnel would be eligible to use campus facilities, which are expected to absorb a substantial amount of the new recreational demand due to proximity and convenience. Based on current usage patterns, we believe that the proposed mitigation will not relieve the impact on City facilities. Families of UCB personnel and new students would likely use City recreation facilities instead of or in addition to UC Berkeley facilities. UCB should provide additional

B7-219

recreational facilities commensurate with the projected population increase. Renovating or restoring former facilities that have been removed from service over the years may not provide adequate service levels.

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The DEIR acknowledges that LRDP implementation could result in loss and/or deterioration of University-owned recreational facilities. (LRDP Impact PUB-4.4) The DEIR concludes that although the unanticipated loss of some University owned recreational facilities could result in increased use of remaining UC and City facilities leading to their physical deterioration, this impact can be mitigated. The proposed mitigation (PUB-4.4) proposes that before implementing any change to the use of any existing recreational facility, UCB will conduct a study to ensure that the loss of recreational use would not result in increased use at other facilities to the extent it would result in the physical deterioration of those facilities. If such deterioration is found to have the potential to occur, the University will build replacement recreation facilities or take other measures to minimize overuse and deterioration of existing facilities in connection with removal of or reduction in use at the recreation facility in question. (Emphasis added.)

B7-220

As noted above, mitigation measures based on after-the-fact studies do not meet CEQA's requirements unless the measure also specifies effective measures that will be taken in the event the study identifies significant impacts. (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1397). The DEIR does not specify what "other measures" UC might use to minimize overuse and deterioration of recreation facilities that would not, in and of themselves, have adverse impacts. For example, restricting the use of UCB recreation facilities by limiting use hours for some activities may result in greater use of City facilities – the very impact that will supposedly be insignificant because UC facilities will be used instead of City facilities.

Public Health

While the DEIR for UC's LRDP addresses public services such as police and fire, it does not adequately address the impact on public health services in Berkeley, particularly communicable disease control. Public Health faces new challenges from infectious disease. More than twenty new infectious organisms have been identified since 1975, ranging from HIV and Hepatitis C to SARS, West Nile Virus and "avian flu." Some of these are undoubtedly "old" organisms that have been newly identified (such as Hepatitis C). Others appear to be new entities, arising from genetic changes to organisms that were formerly confined to infecting animals (e.g. HIV, SARS). Other challenges arise from "old diseases," formerly under control, regaining new currency (e.g. tuberculosis, measles). Additional challenges arise from the threat of bio-terrorism. The increased speed and frequency of global travel, as well as international political changes, offer new opportunities for well-known diseases to increase in frequency in new populations. The ability of some micro-organisms to continually alter their genetic make-up through mutation means that new, more infectious forms of "old" diseases are always possible. For example, influenza remains potentially capable of causing world-wide pandemics.

Berkeley is not immune from these forces. As a center of educational and intellectual activity, UC Berkeley draws students and faculty from around the world. A mobile, high density, multicultural population with frequent connections to countries worldwide make Berkeley particularly vulnerable to both endemic and epidemic infectious disease. UC is particularly vulnerable to imported infectious disease. The University has a wide diversity of ethnic populations and many members of these communities return regularly to their countries of origin for family, religious and holiday reasons. While abroad, they are at risk of contracting infection, as are those traveling for business and pleasure. The proposed increase in density only increases the probability of transport and spread of communicable disease because once a contagious traveler returns, transmission of infection to others is heightened by the increased population density.

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Because UC attracts students and faculty from all over the world, including countries with various travel alerts and advisories such as countries affected by SARS, and because the public health resources of the City of Berkeley are finite, the University must develop the capacity to assist Berkeley Public Health in monitoring and controlling the spread of disease within the UC population. As a case in point, UC did not have the capacity to do the screening for a recent tuberculosis case. Given that approximately 40 percent of the City's population is affiliated with the University and that the LRDP proposes increasing those numbers, UC should increase the capacity to monitor and respond to communicable disease at the Tang Center.

B7-222

Although not strictly a health program, it should be noted that the City's Health and Human Services Department also provides various employment services. Any increased numbers in workforce also results in increased turnover in workforce, which places an increased burden on local employment programs. Our adult employment programs already provide One Stop Career Center services to displaced UC employees (usually not credentialed) and students. This is difficult to quantify, as statistics specific to UC staff or students are not tracked. The Labor Commission, at their May 2004 meeting, made the following additional comments:

B7-223

- Due to inadequate estimation of workplace growth projections, it is difficult to estimate accurate impacts
- UC should reimburse the City for providing employment services related to displacement of UC employees

The LRDP does not mention the potential for creating jobs for local youth, but creation of new departments on campus should also result in increased opportunities for the summer youth employment program. Since each UC department is responsible for funding its own positions, a policy establishing yearly set-aside funds for summer youth would allow for UC departments and city staff to plan accordingly.

B7-224

4.12 Transportation and Traffic

The following is a summary of traffic issues that have been identified in the review of the University's 2020 LRDP DEIR. A full technical review of the LRDP EIR Transportation and Traffic section is provided in the attached June 11 memo entitled "Comments on Transportation Sections of the UC LRDP EIR" (hereby incorporated as a part of these comments as Attachment C) by Peter Hillier, Assistant City Manager for Transportation.

B7-225

- Differences exist between Traffic Levels of Significance for the General Plan and the LRDP EIR.
- Impact assessments based on generalized locations of facilities are too inaccurate to replace the need for detailed project-level analysis.
- The University needs to consistently assess significant impacts for all University-related development in Berkeley.
- Including LBNL growth in both the baseline and cumulative scenarios makes it impossible to assess the incremental impacts of University LRDP growth.
- The LRDP DEIR should examine both individual and cumulative impacts of the University's LRDP.
- The LRDP proposes creating more parking than is justified by existing travel behavior. The LRDP fails to balance the competing policies of trip reduction strategies and parking supply strategies and its parking expansion cannot be justified.
- The LRDP needs to develop campus-wide parking supply and demand estimates rather than an analysis based only on increases in students and staff.
- The University should consider as new parking all parking facilities included in the previous plan that have not as yet been constructed.
- The LRDP needs to consider impacts on residential, on-street parking.
- The University needs to contribute to the mitigation of significant impacts even if feasible alternatives have not been developed at this time by the City of Berkeley in its General Plan.
- Realistic alternative plans need to be developed and evaluated to a level of detail that enables a comparison to be made with the proposed project.
- The University needs to define in conceptual terms what it means by "fair share" participation in the funding of mitigation measures in order to provide guidelines for cost-sharing negotiations between the University and the City.
- The University and the City need to jointly develop monitoring programs based on performance measures for both facilities and trip reduction strategies.

The following sections provide some additional summary comments in regard to each of the above issues.

Levels of Significance. Although the DEIR indicates that it has used the City's General Plan as a guide for determining what would be considered a significant impact, in fact it has modified that measure in a small but important way that may have missed certain impacts. While the University has some leeway to establish its own measures of significance, it should not have indicated it was using one measure, and used another.

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Detailed Project Assessment Required: A programmatic/General Plan level approach to environmental assessment means, by definition, that site specific assessment is not completed. Because location is critical to traffic impact assessment, the broad level of assessment conducted for this DEIR is clearly insufficient and additional site specific traffic assessment will be necessary at the time projects are proposed. Should those detailed assessment discover impacts that are not addressed in the DEIR, new mitigations may be needed or, if there are unexpected unavoidable significant impacts, an EIR may be required for future projects undertaken during the timeframe of the LRDP. Similarly, it cannot be assumed that the underlying traffic analysis conducted for the LRDP will be applicable over the 15-year time frame of the LRDP. Transportation conditions may change such that a revised transportation impact assessment is required prior to undertaking future projects.

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Individual and cumulative impacts: An EIR must assess both the project impacts and cumulative impacts. Cumulative impacts are those that are not yet certain, but are generally foreseeable. In assessing impacts, it is standard practice to establish a "baseline" for analysis; generally the baseline consists of existing traffic conditions adjusted for expected employment and housing in the target year.

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Of particular concern to the City is how the combination of both growth at LBNL (under its LRDP which is under development) and the growth at UC Berkeley under its LRDP would affect traffic and transportation in the City. Unfortunately, after much review, City staff was unable to tell for certain exactly how LBNL was factored into the traffic impact analysis. This fact alone is very troubling to the City and calls into question the adequacy of a document where such a basic analytical approach cannot be easily determined. From the best the City can determine, the DEIR factored in the expected growth at LBNL as part of its "baseline" for the target year (2020). This too is troubling because the City cannot determine what impacts are being caused by which agency. The higher baseline that results from LBNL growth masks the impacts of the University (they would be less). And the City cannot determine at all how the growth at LBNL affects the City. Although LBNL is not directly part of this LRDP, it emphasizes the absurd situation where the University of California is proposing two major projects with significant impacts on the City, and then chooses to separate the analysis of their impacts in ways that make analysis and comment almost impossible. This approach by a single agency is explicitly not permitted by CEQA and could easily have been resolved through a more coordinated approach by these two arms of the University of California.

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Another side of the cumulative impact issue is related to how mitigations are factored into the analysis. The University of California has two EIR's in circulation at this time, one for University Village and one for the UC Berkeley LRDP, with a third for LBNL under preparation. The City notes that the analysis and mitigations between the University Village DEIR and LRDP DEIR are not consistent.

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Parking. Perhaps more than any other transportation issue, the City is most disturbed by the University's assumption that it "needs" 2300 more parking spaces. There is a direct correlation between additional parking and more traffic traveling through City streets. Parking also has visual and aesthetic impacts. As has been noted, the University's plan will lead to significant and unavoidable impacts on traffic. The City cannot build its way out of traffic congestion. The only feasible approach to traffic is not more parking for commuters, but stronger promotion of alternatives to the automobile.

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As has been noted earlier, the University's fundamental assumption that there is some inflexible amount of demand that must be met is unsupportable. They provide no basis for this determination, and no sensitivity analysis to show what alternatives might be available besides close-in parking. The University fails to even consider the 20-minute transit radius that it establishes for student housing as an option for the location of potential satellite parking structures.

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The two LRDP policies related to parking are in direct opposition to one another: "Increase the Supply of Parking to Accommodate Existing Unmet Demand and Future Campus Growth; and "Reduce Demand for Parking Through Incentives to Alternative Travel Modes". The University makes no commitment to expanding and enhancing its existing promotion activities related to alternatives to the automobile, and yet expects to capture an increasing share of drivers; meanwhile, it proposes to significantly expand its supply of parking. Clearly, the University has already made its choice of which policies to actively implement, notwithstanding the significant and unmitigated impacts on the City.

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Finally, it should be noted that the manner of calculation of existing and proposed parking and parking demand is inconsistent and poorly supported in the DEIR.

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The EIR does not discuss at all potential impacts on residential on-street parking, except to note that all residential development will provide off-street parking in accordance with 2003 City zoning standards. It is extremely naïve to assume that the off-street parking will satisfy all of the parking demand for residents. With 2,600 new residential units in the Housing Zone, even a relatively low level of vehicle ownership is likely to create additional demand for on-street parking in areas that currently are virtually at capacity throughout the day. Parking impacts from housing development should be considered significant, and the City and University should jointly adopt appropriate mitigation measures.

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Mitigation is required: While the University discusses its campus policies and programs related to transit promotion, when it came time to actually list its mitigations for

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transportation impacts, that list of programs is not found – nor any other commitment to a transit-first policy, while roadway improvements are discussed in specific detail. When the DEIR describes significant and unmitigated impacts (page 4.12-053), it indicates that while “the magnitude of the impacts would be reduced through trip reduction policies . . . no feasible mitigation can currently be implemented . . .” There is no evidence to support the assertion that no mitigation is feasible. In fact, there is no listing of current programs (as a mitigation), no commitment to future programs, and no analysis of the potential effectiveness of existing or future programs. Absent appropriate analysis and a commitment to specific mitigations, this DEIR is fatally deficient.

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The LRDP DEIR is quick to conclude that the significant roadway impacts identified are unavoidable since the City's General Plan does not identify any projects to mitigate congestion. As a result, the University states that it has no financial obligation to address the congestion. The statement that “campus transportation programs and incentives would continue to reduce the number of auto commute trips” attempts to soften this conclusion but is completely without merit, since the University's existing travel behavior has already been considered in the traffic forecasts. The City's General Plan acknowledges that some traffic impacts may be unavoidable, but it addresses congestion through a “Transit First” policy and where that fails, to address problems through an appropriate mix of capital, operating, and trip reduction programs.

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At this time, it is difficult to assess the improvements that will be required to reduce the impacts to an acceptable level, but based on an average cost of \$600,000 per mile, the total cost would be approximately \$3.8 million. Construction and modification of intersections adjacent to the campus with improvements identified in the Draft EIR would cost an additional estimated cost of \$1.5 million. The University must accept its fair share of programs and facilities that mitigate significant traffic impacts, regardless of whether they are currently identified. The City feels that the intersection improvements adjacent to the University should be funded in large part by the University as it accounts for not only most of the new traffic, but a high percentage of existing traffic.

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In regards to bicycle access, the City has made major improvements to its bicycle network over the past few years, and the University has contributed little to those improvements. Nevertheless, a significant portion of the University's workers and students use bicycles. According to the DEIR, an additional 483 more people will be using bicycles due to LRDP growth. However, in considering impacts and mitigations (TRA-1, page 4.12-43), the University chooses a very narrow definition of bicycle impacts, noting that impacts on bicycle hazards would only be significant if volumes exceeded capacity. Despite the City's best efforts to improve bicycle access, the DEIR acknowledges (page 4.12-24) that there are concerns, and the DEIR documents a significant safety hazard (Table 4.12-16). Based on the University's own measure of significance, it would seem that the LRDP may indeed expose more bicyclists to potentially hazardous conditions. This should be identified as a potentially significant impact. The proposed “Continuing Best Practice TRA-1” indicates that the University will continue a partnership with the City of Berkeley to develop a City program in

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regard to specific bicycle safety objectives. As has been previously noted, a “partnership” (where one partner commits no resources) is not a mitigation, and the City believes mitigation for bicycle safety concerns is necessary. Likewise, “strategic bicycle access planning,” (TRA-1-b) is also not mitigation. Once again, nice sentiment, but no action. The University should commit itself to specific actions to improve bicycle safety and access for its workers and students, not only as a safety measure but also as a means of reducing dependence on the automobile. Among these specific actions should be an education program that is designed for students and faculty/staff to prevent bicyclist injuries both on and off campus.. Using the Housing Zone model, the EIR should define a Biking Zone in which it would carry out bicycle capacity and safety analysis and commit to providing its fair-share funding for required improvements. The bicycle impact and mitigation section should be similar to that for pedestrians (TRA-12) where at least there is some implied commitment to implementing improvements (although this too is unclear and weak).

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Other Mitigations: Another possible mitigation for transportation impacts not mentioned in the DEIR is car sharing, which has been shown to reduce vehicle ownership, miles traveled and pollution. The University should provide for the placement of car-sharing facilities in all University-built housing, and should provide further incentives for the use of car-sharing in lieu of owning a car (membership and price subsidies, marketing support). Another mitigation would be for the University to place restrictions on the eligibility of residents of University-built housing to receive a City of Berkeley Residential Parking Permit (RPP). This would serve to guarantee the expected LRDP Impact TRA-2.

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Another mitigation would be for the University to develop a parking signage and information system that would direct drivers to available parking. This action would expand the ‘practical capacity’ of University’s existing parking supply. UC’s parking system could be coordinated with the City’s system, thereby maximizing parking utilization and reducing the need for duplicative underutilized facilities. Finally, the University should encourage off-peak trips to reduce parking demand.

Fair Share: The LRDP indicates that the University will pay its “fair share” of traffic improvements where mitigations can be identified to reduce impacts to less than significant. Included is the monitoring of traffic congestion at intersections where significant impacts are forecast to occur. However, the LRDP DEIR has carefully avoided a discussion of what is meant by “fair share”. One can only assume that the University’s intent is to negotiate its meaning for each individual project, which could make the University’s commitment almost meaningless, as there is no guarantee that adequate funds would be provided to pay for the required improvements.

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The City believes that basic guidelines must be provided in the DEIR for what constitutes “fair share” contributions in order for proposed mitigation to be adequate. The following concepts must be included:

- Capital projects for which the University would provide “fair share” contributions would include but not be limited to impacts listed in the DEIR and would be based on planning and monitoring studies jointly prepared by the University and the City. B7-247
- The “fair share” should consider not only the increase in traffic related to the University LRDP but also the extent of University traffic in the baseline traffic. At locations within one block of the University, it should pay close to 100 percent of the costs. Given the extent of growth anticipated in the LRDP in the block immediately south and east of the University, this area will essentially become an extension of the campus from a transportation perspective.
- “Fair share” contributions should occur not only for capital improvements that provide mitigations but also for trip reduction programs that are necessary to mitigate impacts. This last issue gets to the heart of the failure of this DEIR to avoid any commitment whatsoever to a transit-first policy.

In addition, the University must broaden its commitment to address its impacts:

1. For signalized intersections and major travel corridors, the University has generally assumed that no mitigations for significant impacts are required if no specific improvement projects have been included in the City’s General Plan or Capital Improvement Plan. It is unrealistic to assume that all potential improvement projects at these locations have already been identified. The City proposes a variety of strategies to address its congestion and the University is expected to contribute its “fair share” to all necessary mitigation measures, whether or not they have all been identified at this time. B7-248
2. The LRDP DEIR assumes that intersection mitigations are primarily achieved through capital improvements, which contradicts the main thrust of the City’s General Plan transportation strategies. Where impacts are determined to be unavoidable, the possibility of adequately mitigating the impacts through trip reduction strategies or even a combination of capital improvement and trip reduction strategies is not addressed. As has been noted in various ways throughout this letter, the University’s assumptions regarding trip reduction strategies are unacceptable and contrary to the requirements of CEQA. B7-249
3. For unsignalized intersections, the University has assumed that whenever the levels of significance are reached that the appropriate mitigation is a new traffic signal. The decision whether or not to install a signal depends on a variety of factors, including level of service analysis, traffic signal warrant analysis, potential impact on signal coordination and operations of adjacent intersections, and the cost of improvements. Through the suggested traffic monitoring programs, appropriate mitigation measures will be developed that might include lesser improvements. B7-250

The attached memo sets forth specific proposed modifications regarding mitigations.

Monitoring: CEQA requires that mitigations be monitored to ensure they are implemented and are effective. The University has committed itself to some monitoring of intersections. But the City wants to make sure that there is agreement concerning monitoring. The City believes monitoring has three major elements:

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- Monitoring of traffic conditions adjacent to the University
- Monitoring of travel behavior by students, faculty and staff to assess the success of trip reduction programs
- Area-wide monitoring to identify unacceptable levels of congestion at City gateway corridors.

The University has agreed to the first type of monitoring, but in the City's view, it may be too limited. It is not clear whether the University is committed to the second type of monitoring. Although the City undertakes the third type, the City would expect the University to participate in the funding of mitigations related to congestion on these road segments.

As has been previously noted, the above is a summary of the more detailed June 11 memo attached and made part of these comments.

4.13 Utilities and Services

Solid Waste

DEIR Section 4.13.5 regarding solid waste impacts includes several erroneous statements and omits measures that could mitigate identifiable impacts. The discussion of analytical methods (§4.13.5.1) is limited to requirements on existing and planned infrastructure, presumably for the collection and disposal of solid waste only. The analysis does not mention assessment of the impact on the City of Berkeley's ability to meet its legal obligations regarding solid waste disposal and diversion, nor does the DEIR indicate whether it considered impacts on waste diversion infrastructure. Similarly, the Regulatory Framework (§4.13.5.1) fails to mention Alameda County Measure D, which requires Alameda County jurisdictions to divert 75 percent of the solid waste by 2010. State law also requires new buildings to include a Recycling Area Plan, in order to reduce structural obstacles to recycling. As with the California Integrated Waste Management Act (AB 939), UC Berkeley is exempt from these requirements. Nonetheless, in electing to ignore these statutes, UC Berkeley negatively affects the City's ability to meet the requirements of both AB 939 and Measure D.

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The City's Solid Waste Management Division of the Department of Public Works provides collection of commercial and residential solid waste, residential plant debris, and commercial organic materials on non-UC Berkeley properties adjacent to the campus. In addition,

through contract with private non-profits, the City provides for residential curbside recycling, and drop-off and buyback recycling services. Currently, the City operates no solid waste "pilot" programs. In 2000, the entire City of Berkeley, including UC Berkeley, disposed of 119,135 tons of solid waste.

The DEIR reports that UC Berkeley's construction waste is managed by construction contractors and not by UC Berkeley itself. (§4.13.5.4.) Further, it states that these contractors deliver construction and demolition debris to specialized recycling facilities. However, the DEIR provides no evidence that the construction managers have recycled or diverted any waste from landfill. Nor is there any indication that UC Berkeley has collected data on construction and demolition waste generated on campus, or how that waste tonnage compares to the 9,186 tons of non-construction waste generated in 2000. It is quite possible that a single construction project could generate more waste than that generated by non-construction campus activities over an entire year. Therefore, data on construction and demolition waste generation, diversion, and disposal is critical to the understanding of the existing setting.

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The DEIR mentions that UC Berkeley is exempt from county requirements to dispose of waste in the county. In fact, Alameda County has no such requirements, and all jurisdictions are at liberty to dispose of waste in whatever landfill they choose. However, Measure D requires that a fee be paid on all waste disposed in the county, and normally this fee is collected by the landfill operator. The fee is used to fund waste diversion programs throughout the county, including technical assistance provided by ACWMA. Jurisdictions that export waste to other County's are required to ensure that the Measure D fees are paid by some other mechanism, since landfill operators outside of Alameda County cannot be made to collect the fee. Though UC Berkeley has directly benefited from the technical assistance provided by ACWMA through Measure D funding, UC Berkeley is exempt from these fee collection and payment requirements and pays no Measure D fees.

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The DEIR identifies two standards of significance to assess the potential impacts of the project related to solid waste, neither of which is adequate to determine the project's impacts in this area. The first standard is whether the project would violate any applicable federal, State, and local statutes and regulations related to solid waste. Since UC Berkeley is exempt from most statutes, the obvious answer to this question is "no." A more appropriate standard would ask whether the project would cause the host community to violate any statutes. Since solid waste generated and disposed by UC Berkeley negatively affects the City's ability to meet the requirements of AB939 and Measure D, the proposed project might well exceed this standard of significance.

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The second standard is "Would implementation of the project exceed the permitted capacity of a landfill that serves the project's waste disposal needs." This question, as noted earlier, is focused too narrowly. The DEIR must consider impacts on the capacity of existing waste diversion facilities to be meaningful. Moreover, the DEIR must consider capacity related to

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construction and demolition waste disposal and diversion needs, and not just those needs as related to non-construction activity.

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Section 4.13.5.6 (Policies and Procedures Guiding Future Project Review) deals with potential mitigation of construction and building operation impacts through use of LEED and LABS standards. These standards generally address solid waste through life cycle cost analysis of the structures themselves, but not the impacts on solid waste generation of building occupants and activities. This section needs to address policies on recycling, composting, and waste reduction during operation of the facilities. UC Berkeley has no published policies on waste diversion, recycling, recycled-content purchasing, or other "green" measures that would affect waste generation and disposal in the planned facilities. Any policy referenced in the DEIR should be attached as an appendix.

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In Section 4.13.5.7, the DEIR states only that UC Berkeley waste materials "may" be counted against the City of Berkeley for purposes of meeting AB 939 waste reduction requirements. The DEIR further claims that the campus is committed to a policy of improving waste reduction, although UC Berkeley has no published waste reduction policy, so the commitment is questionable. In fact, there is no question that UC Berkeley disposal tonnage is counted against the City of Berkeley in its efforts to meet state and local diversion requirements. Thus the impacts of the LRDP on the City's ability to comply with AB 939 requirements must be acknowledged, analyzed and mitigated.

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The DEIR projects an increase in solid waste disposal of 2.8 tons per day, excluding construction and demolition waste. This represents a 17 percent increase in current solid waste generation at UC Berkeley, and a one percent increase for the City of Berkeley. Again, the DEIR inappropriately measures the impact of increased disposal against the capacity of Altamont Landfill, a facility where no UC Berkeley waste is delivered. Landfill capacity is only one consideration, and in this case one of little significance; there are several landfills and transfer stations in the region that UC Berkeley may use. The DEIR does not clearly identify the amount of waste that may be diverted due to implementation of the LRDP, nor whether existing waste diversion facility capacity would be adequate to handle the new tonnage.

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The DEIR describes the Continuing Best Practice USS-5.2 as requiring UC Berkeley's construction and demolition contractors to report solid waste diversion. However, this practice does not require contractors to divert materials, nor does it set any goals for diversion of construction and demolition waste. A reasonable "best practice" consistent with the waste reduction ethos claimed in this section, would be to require specific waste reduction and diversion practices and performance standards as part of each construction project, and regular reporting on the results of these practices.

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Wastewater

As can be inferred from the DEIR, all of UC Berkeley's wastewater is transported from campus to the EBMUD treatment facility through City of Berkeley sewer lines. As has been previously discussed, UC Berkeley provides no direct, on-going support for the maintenance and replacement of the transport facilities upon which it is dependent, although it did agree to contribute towards some improvements, and pays a connection fee for some of its new bed spaces. As has been documented in the attached fiscal impact report and accompanying Brown and Caldwell study, the University's past "contributions" towards the maintenance of this infrastructure is far less than the costs attributable to the University. It is clear that should the City system fail due to lack of sufficient funding for maintenance, the University would be a contributor to significant environmental impacts related to water quality (e.g., violating water quality standards or waste discharge requirements). This should be considered a significant potential impact requiring appropriate mitigation.

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In addition, the regulatory framework discussion (DEIR, p. 4.13-6) is flawed because it omits mention of a March order imposing additional restrictions affecting the City's sewer system. (Final Order No. R2-2004-0010, NPDES Permit No. CA0038466.) The order includes a prohibition on all sewer overflows of untreated wastewater directly or indirectly into receiving waters including storm drain systems. While the City's earlier NPDES permit limited the sewer system capacity to handle only a 5-year design storm, the City NPDES Permit now prohibits overflows regardless of the size of storm event. Because UC discharges flow into the City systems, it is critical that the DEIR consider the extent to which proposed development may result in violations of the Final Order.

B7-263

B7-264

In Section 4.13.2.3 (DEIR, p. 4.13-7) the second paragraph of this section states "... allow for a base wastewater flow increase of up to 20 percent in each of the city's 89 sub-basins." This 20 percent allowance was taken as a safety factor in the Berkeley Sewer System Evaluation Survey Report, November 1985. The 20 percent was used in the analysis to allow for future growth in the study area. However since 1985, there has already been considerable growth, eroding the 20 percent allowance in the 1985 study. Accordingly the DEIR cannot depend on a full 20 percent. Further, an analysis using the 1985 data shows that sub-basins 17-011, 17-012, 17-013 and 17-502, which include UC's main campus and south campus area, have a 1985 base flow of 1.30 million gallons per day (mgd). The 20 percent allowance for these sub-basins would be approximately 0.26 mgd. (This analysis does not include possible "restored" capacity through collection system rehabilitation, as the effectiveness of the rehabilitation is currently being studied.)

B7-265

B7-266

Table 4.13-2 of the DEIR indicates the base flow increase from the LRDP would be 0.385 mgd, which exceeds the 0.26 mgd available as estimated in 1985. The DEIR thus lacks sufficient and specific information on which to base a reliable engineering analysis of the impacts. A reliable analysis would require the DEIR to consider factors including, but not limited to, the location of proposed development, planned uses, wastewater generation factors, discharge points from UC to City system, peaking factor information, and diurnal flow variations. Without this analysis the DEIR does not include sufficient information to support a determination that the project would not have a significant impact on the capacity

B7-267

of the wastewater collection system that conveys UC discharges to the EBMUD treatment facility. The City must be given the opportunity to perform a detailed engineering analysis of the impacts of the developments.

B7-267

The first line of Section 4.13.2.4 (DEIR, p. 4.13-7) states "EBMUD provides wastewater collection for the entire 2020 LRDP area ..." As noted above, this is not correct. The City of Berkeley provides conveyance/collection from the limits of the UC Campus to the EBMUD interceptor.

B7-268

EBMUD has indicated to the City that EBMUD peak wet weather facilities were designed for a 5-year recurring design storm. The peak wet weather flows from the EBMUD SD-#1 have not decreased as much as anticipated from the communities wet weather I/I correction programs that have been underway for 17 years. Current changes in the NPDES permits for the seven cities and communities and pending EBMUD NPDES permit call for the facility and collection facilities to handle high recurring year storm events (possibility 100-year). At present, neither the EBMUD nor City collection facilities have the capacity to handle these changes.

B7-269

Infiltration and inflows during wet weather were previously routed to the sanitary sewer. Overflow and by-pass connections to the storm systems have been removed or plugged. As mentioned above, all flows during wet weather and storm condition flows must be contained within the City collection system and conveyed to EBMUD treatment facilities.

B7-270

Under the City's infiltration and inflow (I/I) correction program (DEIR, p. 4.13-9), despite the replacement or rehabilitation of significant portions of the City's sewer system, peak wet weather flows are still problematic. Flow monitoring sampling of sub-basins where 50 percent of the sewers have been replaced or rehabilitated shows that wet weather flows have not met the required or anticipated reductions from earlier projections. The City is revising the sewer program to include replacements in all of the sub-basins in the City regardless of whether they were identified in the Cease and Desist Compliance Plan. It is anticipated that a target as high as 80 percent replacement of the entire City owned sewer mains and laterals will be required, at much higher cost, in order to comply with the new more stringent NPDES discharge permit requirements forbidding untreated sewer overflows regardless of the severity of the recurring storm event. The City estimates that flows from infiltration and storm water inflows from private laterals may contribute as much as 40 percent of the peak wet weather I/I flows. A program is underway to develop a policy for the systematic inspection and mandatory replacement of old defective sewers on private property but such a program will require a long phase in period.

B7-271

B7-272

The description of the sewer system should be revised as follows:

B7-273

- Campus Park (DEIR, p. 4.13-8.) The secondary east side campus park sewer system that connects to Bancroft Way is not mentioned.

- Clark Kerr Campus is not included and the sewer system for this large area should be addressed. B7-274
- Adjacent Blocks, Southside and City of Berkeley (DEIR, p. 4.13-8.) The UC wastewater contributing flows should cover all UC flows both on campus and off campus including UC facilities, living quarters, and dormitories in this area. B7-275

The DEIR includes incorrect information about the amount of wastewater generated by UC and the City of Berkeley. The DEIR (DEIR, p. 4.13-8) states that the existing ADWF for the City is approximately 75 mgd and the ADWF from UC Berkeley is approximately 8.3 mgd, or about 11 percent of the city's flow. This is not correct. In fact, the entire flow from all of the City of Berkeley is approximately 7.8 mgd, and recent estimates from a draft sanitary sewer fee study indicate that UC Berkeley discharges approximately 1.9 mgd, or 24 percent of the wastewater flowing through the City's sanitary sewer system. According to recent EBMUD data, all UC accounts generated 906,627 hundred cubic feet (ccf) or about 18 percent of the wastewater flow in the City. B7-276

In the Hill Campus the sewer main on Centennial Road serving Hill Campus area is owned and maintained by UC. (DEIR, p. 4.13-9.) This sewer main connects to the City sewer mains on Prospect Street and Dwight Way that serve the Panoramic Hill community and have significant wet weather capacity problems. The impact of additional flows from Hill Campus sewers would be to reroute the sewer main from Centennial Road westerly around the Memorial Stadium to the Campus Park sewer system. B7-277

Impact USS-2.1-b (DEIR, p. 4.13-10) indicates that the flow increases will not have significant environmental impact. As shown above in the discussion for Section 4.13.2.3, the proposed flow exceeds the estimated allowance for future growth. Flow capacity issues must be studied, which will require better defined flow input points to the City's system, flow magnitudes and hydrograph shapes, etc. (See also comments above regarding Section 4.13.2.3.)

Table 4.13-2 (DEIR, p. 4.13-11) fails to address the impacts of major sporting events. Such events concentrate and magnify peaking factors for sanitary wastewater flows and at inopportune times, could cause a significant impact. B7-278

Because the University does not identify potentially significant impacts described above, it fails to identify mitigations. It continues to identify "best practices" regarding retrofitting and water conservation measures, but does not commit to meeting specific objectives in order to mitigate its impacts. The DEIR is therefore deficient in addressing wastewater impacts. B7-279

Alternatives

CEQA requires an EIR to describe a reasonable range of range of alternatives to the project or its location that would attain most of the project's objectives but avoid or substantially lessen one or more of the project's significant effects. (CEQA Guidelines Sec. 15126.6.) An EIR must include enough information about each alternative to allow meaningful comparison with the proposed project. The DEIR's analysis of alternative is flawed for three separate and independent reasons.

B7-280

First, the range of alternatives chosen for analysis is based on erroneous conclusions that various impacts discussed above (e.g., Land Use, Circulation, Hydrology, and Utilities and Service Systems) will not be significant or will be rendered less than significant by the proposed mitigation measures. Analysis by City staff shows that the LRDP would have significant impacts that will not be mitigated by the measures the DEIR proposes. As a result, the DEIR's choice of alternatives is inherently flawed.

Second, even if the DEIR were correct in its conclusion as to the remaining significant impacts that alternatives should be designed to reduce; the alternatives it describes are not true alternatives to the proposed project but "straw men." They appear to be designed to be infeasible or to have a level of impacts that is virtually indistinguishable from the project (and as such they are not true alternatives from an environmental impact perspective).

B7-281

Third, the evaluation of alternatives presented in the DEIR is not sufficient to allow meaningful comparison with the proposed project.

B7-282

The City believes that a real reduced parking alternative would clearly be environmentally superior to the proposed project and would allow UC to meet most of its objectives. Instead, the DEIR has presented an unrealistic and ineffective alternative that is designed to fail. The DEIR acknowledges this intent stating that Alternative L-2 (reduced parking/increased transit incentives) "serves the purpose of isolating and *maximizing the effects* of less new parking." (DEIR, p. 5.1-8, emphasis added.)

B7-283

A real reduced parking alternative would have included discussion of the enhanced measures to encourage alternatives to the automobile (including substantial new investment in those programs), an assessment of the potential for trip reduction policies and programs to reduce future parking demand, and how parking pricing programs and other tools could maximize the effective use of current parking supply. Such an alternative should also consider the development of satellite parking facilities, sited within a 10-20 minute transit ride from campus. This "Satellite Parking Zone" should be modeled on the Housing Zone presented in the DEIR. Such a realistic alternative would be more in line with the transportation policies in the City's General Plan policies as well as those for the University than either the proposed project or the alternatives listed.

The DEIR posits a "straw man" alternative with little or no analysis and fails to describe an effective alternative that might achieve the access goals of the University, and yet asserts that lack of parking will somehow prevent the University from achieving the objective of a "vital

B7-284

intellectual community". Where is the support for this assertion? In what way is parking critical to a "vital intellectual community"? The lack of any assessment of this alternative has been discussed in great detail in the attached memo from Assistant City Manager Peter Hillier and elsewhere in these comments.

B7-284

The DEIR concludes (with inadequate analysis, as documented in comments on the Air Quality section) that there is a cumulative air quality impact. (AIR 1, DEIR, p. 4.2-31.) Accordingly, an alternative should have been fully described and evaluated that would mitigate that impact. Clearly, L-2 should have been that alternative. Yet, when trip reductions are proposed, as in Alternative L-2, the EIR fails to provide any meaningful analysis of trip and emission reductions due to the increased use of alternative travel modes (page 5.1-9). It appears that that there was no actual air quality analysis conducted for Alternative L-2.

B7-285

A reduction in vehicle emissions is an obvious result of reducing parking and providing further incentives to increase transit use. Nevertheless, the DEIR asserts that because the DEIR will not eliminate the cumulative impact in regard to mobile emissions, that efforts to minimize that impact are therefore pointless – or at least, that is what can be inferred from the discussion on page 5.1-9. This is, of course, absurd and contrary to the requirements CEQA.

The EIR further avoids a meaningful analysis by stating that the stationary source emissions "would remain unaccounted for in projections informing the Clean Air Plan." The EIR should provide a Table here regarding the sources and percentage contribution of emissions in the 2020 LRDP, clearly divided between stationary and vehicular. Notably absent from the DEIR is any discussion or calculation of the significant reduction in construction emissions from **not** building 2,300 parking spaces.

B7-286

B7-287

Section 4.12 on Transportation Impacts documents significant and supposedly unavoidable impacts on the City's street network. An alternative should have been presented that provided an analysis of potential trips reduced from the application of "every effort" to accommodate growth through shifting commuters to transportation alternatives. L-2 should have been that alternative. Rather than evaluating that alternative, the DEIR makes several assertions (backed by no analysis) that somehow, this alternative would exacerbate local traffic conditions. But without a proper analysis, the statement in the second sentence of section L-2 Transportation and Traffic (DEIR, p. 5.11-9), that "[t]his would create a new significant parking impact..." is unsupported by evidence or analysis. Contrary to the EIR's statement, if transportation alternatives were able to transform travel behavior and reduce the parking demand sufficiently, then this would *not* create a new significant parking impact.

B7-288

B7-289

Curiously, the evaluation of Alternative L-2 (DEIR, p. 5.1-11) fails to provide any traffic analysis of this alternative although reduced traffic impacts would be an obvious outcome of reducing parking and increasing transit use. Because no traffic analysis offered in this section, there can be no informed discussion of how UC's objectives regarding campus

B7-290

access would be affected by this alternative. The DEIR's dismissal of this alternative is, therefore, fundamentally unsupported.

B7-290

As our preceding comments explain, and as mentioned above, we strongly disagree with the DEIR's conclusion that the only significant and unavoidable impacts of the proposed LRDP would be on air quality, cultural resources, noise, and traffic. A revised reduced parking alternative that includes a range of realistic incentives for transit use could also significantly mitigate, if not eliminate, significant impacts on land use that will result from the construction of up to 2,300 additional parking spaces in the blocks around Campus Park.

B7-291

Conclusion

In conclusion, we believe that the DEIR contains numerous critical flaws that prevent an accurate evaluation of the potential impacts of the proposed 2020 LRDP, or of alternatives that could mitigate those impacts. We also object to the inadequate opportunities that UC has provided for review and comment on the LRDP itself. We believe that many new issues have been raised and significant environmental effects identified that had not been previously addressed. The alternatives' discussion is fundamentally flawed. The level of revision required to adequately address these comments suggests that a significantly revised DEIR be prepared and recirculated for comments.

B7-292

The City stands ready to assist UC by providing information to help revise the LRDP to integrate the substantial concerns that we have voiced. City staff is also available to meet and review the detailed comments included in this letter. Finally, the City remains willing to discuss appropriate and realistic mitigation measures, as well as methods by UC Berkeley, and the City – entities that the DEIR states are inextricably intertwined – can cooperate on implementing those measures, for our mutual benefit.

B7-293

Sincerely,



PHIL KAMLARZ
City Manager

Enclosure

cc: Mayor and Council
City of Berkeley Commission Secretaries
Senior Leadership Collaborative
Zach Cowan, Assistant City Attorney
Grace Maguire, Assistant to the City Manager

Comment Letter B7: List of Attachments

Documents are available for review during business hours at the Physical & Environmental Planning office at 1936 University Ave, Suite 300, Berkeley CA 94720.

<u>No.</u>	<u>Date</u>	<u>Description</u>
A	June 2004	<i>UC Berkeley Fiscal Impact Analysis, Draft Interim Report</i> , prepared for City of Berkeley by Economic & Planning System, Inc.
B	April 2004	<i>City of Berkeley Sewer Service Charges and Connection Fees, and Clean Stormwater Fees Study for the Evaluation of "Fair Share" Contributions from the UC Regents, Final Report</i> , Prepared by Brown and Caldwell
C	June 11, 2004	City of Berkeley Comments on Transportation Sections of the UC LRDP EIR (INCLUDED IN THE FINAL EIR AS COMMENT #B7a)

11.2B.7 RESPONSE TO COMMENT LETTER B7

RESPONSE TO COMMENT B7-1

The 2020 Long Range Development Plan is not a General Plan. Both documents conform to mandates in state law: the University is required to develop an LRDP by Public Resources Code section 21080.09, which defines an LRDP as “a physical development and land use plan to meet the academic and institutional objectives for a particular campus or medical center of public higher education.”

A municipal General Plan conforms to the extensive provisions of the Government Code, Section 65300 et seq., which establish mandatory elements and minimum requirements for such plans. While a General Plan and an LRDP are substantively different under state law, they commonly provide a vision for land use, circulation, environmental goals and policies related to land use and development.

The writer’s comment is an observation on the process by which UC Berkeley formulated the 2020 LRDP, not on the Draft EIR. However, community input was solicited at several points during the creation of the 2020 LRDP and the Draft EIR. UC Berkeley held two informational “open house” events in March 2003, at which University staff presented an overview of our preliminary analyses and findings on the plan, and then invited questions and comments from the audience. Shortly after the publication of the Draft EIR Notice of Preparation, UC Berkeley held a scoping session in September 2003 to encourage public input on the scope of the EIR.

For the Draft EIR itself, UC Berkeley not only extended the public comment period from the required 45 days to 61 days, but then extended it again to 65 days at the request of the City of Berkeley. During the comment period, UC Berkeley held two public hearings on the Draft EIR, at which oral as well as written comments were taken. Also, as noted in the introduction to the City comments, UC Berkeley staff has engaged City of Berkeley staff early and regularly during preparation of the 2020 LRDP and Draft EIR, including both an informational presentation and dialogue on the 2020 LRDP, and a preview of the preliminary Draft EIR findings prior to publication.

RESPONSE TO COMMENT B7-2

The writer contends the City comments on the alternatives in its response to the NOP should have been taken into consideration. In fact, they were: some of the alternatives proposed in the NOP were found upon further analysis not to have significant environmental benefits and were eliminated, as the City scoping comments suggested. Their objection to the “alternate site” alternative was found, upon further conversation with City legal counsel, to be based on a misunderstanding of the alternative. A full examination of the selection and evaluation of 2020 LRDP alternatives in the Draft EIR is presented in Thematic Response 3 regarding 2020 LRDP alternatives analysis.

RESPONSE TO COMMENTS B7-3 THRU B7-5

These short statements serve as introductions to more detailed comments later in the comment letter. Our responses are keyed to those more detailed comments.

RESPONSE TO COMMENT B7-6

See Thematic Response 4 regarding fiscal impacts.

RESPONSE TO COMMENT B7-7

See Response B7-1. The University believes that the 74-page LRDP serves as an adequate project description. The writer also seems to object to the fact the 2020 LRDP was not prepared and presented to the community in advance of the environmental analysis. However, preparing the LRDP and EIR simultaneously enabled the University to respond to the results of the environmental analysis in the plan itself, and also enabled the public to use those results in the review and critique of the plan.

RESPONSE TO COMMENTS B7-8 AND B7-9

A Long Range Development Plan does not need to set forth significance thresholds for environmental impacts. To the extent this comment really applies to the Draft EIR, each impact analyzed provides significance thresholds that are used in evaluation of the 2020 LRDP, and which can be applied to future projects as they undergo individual CEQA review. Those impacts found to be significant within the 2020 LRDP EIR have corresponding mitigation measures, many of which have impact thresholds that trigger their implementation in future projects. General Plan and state zoning law requirements do not apply to the University of California. Please see Thematic Response 1 regarding future project review, and Thematic Response 5 regarding the use of qualifiers.

RESPONSE TO COMMENT B7-10

See Thematic Response 5 regarding the use of qualifiers.

RESPONSE TO COMMENTS B7-11 THRU B7-14

See Thematic Response 6 regarding the relationship to LBNL.

RESPONSE TO COMMENTS B7-15 AND B7-16

The growth in the number of college-age Californians is projected to level off around 2010, and the 2020 LRDP recommends UC Berkeley enrollment stabilize at this point. The writer correctly notes the Regents can direct any campus to absorb more growth if conditions make it necessary to do so. However, if the 2020 LRDP is adopted by the Regents, any further increase beyond the maximum stated in the plan would require an amendment of the plan, including CEQA review.

CEQA expressly provides that the environmental impacts of changes in enrollment levels are to be assessed at the campus level as part of the LRDP process for each campus. See Public Resources Code Section 21080.09(b). The Enrolled Bill Report for the legislation enacting Public Resources Code Section 21080.09 (Senate Bill 896, Mello) clarifies that the intent of the bill was to ensure that CEQA evaluation of student enrollment changes should be addressed at each campus individually as part of the LRDP process, and not on a statewide or systemwide basis. The bill's author stated that the bill "clarifies the intent of existing law that the appropriate place for environmental review of the impact of academic and enrollment plans under CEQA is in a Long Range Development Plan EIR...for the particular campus or medical center where the environmental impact actually takes place" and not on a "statewide, systemwide basis." See letter dated September 12, 1989, from State Senator Henry J. Mello to Governor George Deukmejian.

RESPONSE TO COMMENT B7-17

The figures in table 3.1-1 reflect our best estimates of how the 4000 FTE increase would translate into regular term and summer headcount at UC Berkeley.

RESPONSE TO COMMENT B7-18

The Draft EIR analyses use the regular term figures as the environmental “worst case” for analysis. Summer headcount, despite the greater percentage increase, is still projected to be only two-thirds of regular term headcount.

RESPONSE TO COMMENT B7-19

The “off-campus headcount” to which the writer refers is presumably the difference between the 2001-2002 estimated regular terms headcount and the estimated on-campus headcount reported to the City. The latter includes numerous adjustments including students studying abroad, faculty on leave, and so on. It is likely a similar percentage of the projected 2020 headcount would also be “off campus”; however, the unadjusted numbers were selected for ease of explanation and as a conservative “worst case” for the purpose of analysis.

RESPONSE TO COMMENT B7-20

The writer questions the academic justification behind the projected growth in research programs, and also questions which of those programs need to be within walking distance. The University of California is a research university, and has the responsibility for “academic research” under the California Master Plan for Higher Education. The UC Berkeley Strategic Academic Plan explains the role of research as follows:

Research provides the energy that drives the modern research University. The passion for discovery is at the core of everything we do. While the mission of the University has three dimensions - research, education, and public service - excellence in research is fundamental to the other two.

We serve the people of California in two principal ways. One is through the direct benefits of the research and scholarship we undertake, from improved agricultural and industrial productivity, to advances in human and environmental health, to new insights into personal and social behavior. The other is through our education of new generations of leaders, innovators, and educators reflecting and serving the full spectrum of society. A vital research enterprise is essential to both.

Education at a research University is not, and is not meant to be, the same as education at a liberal arts college. The research University provides its students, both graduate and undergraduate, with a unique kind of learning experience, one in which critical inquiry, analysis, and discovery are integral to the coursework. The student expects, and is expected, to play an active role in the research enterprise, under the guidance of faculty who are themselves engaged in creating, not merely imparting, knowledge.⁴

Research, in other words, is not a discrete enterprise apart from education at UC Berkeley. Rather, it is integral to both our mission as a University and to the provision of both graduate and undergraduate education.

The UC Berkeley Strategic Academic Plan further emphasizes the increasingly interdisciplinary nature of both education and research, and the importance of a campus environment that fosters interaction and collaboration. The core principles of the Academic Plan, summarized at section 3.1.3 of the 2020 LRDP, in turn inform the

Location Guidelines at section 3.1.16. These Guidelines enable UC Berkeley to make decisions that optimize the use of University land and resources.

See also Thematic Response 6 regarding the relationship of the 2020 LRDP to the Lawrence Berkeley National Laboratory. LBNL is a Department of Energy national laboratory with distinct institutional objectives. UCB and LBNL share some programmatic objectives and seek to share some resources in order to maximize the public benefit of research; however, research at LBNL is controlled by DOE and its funding.

RESPONSE TO COMMENT B7-21

While the writer contends research space could be located using the same criteria as University housing, in fact the two pose different problems. The locational criteria used to define the Housing Zone are based on the typical case of no more than one round trip from home to campus per day. The faculty who participate in research, however, also have teaching roles and must be able to travel conveniently from one venue to the other in the course of a day. The need for proximity to the Campus Park is even more critical for research projects involving students, whose day includes not only coursework but also use of the library and other campus academic resources. Further, additional research off campus would likely result in removal of property from municipal tax rolls.

RESPONSE TO COMMENT B7-22

As indicated at Table 3.1-3 on page 3.1-22 of the Draft EIR, 2300 is the “not to exceed” number for net new parking spaces. The note on that page states “In order to provide flexibility in siting individual projects, the sum of the maxima for individual land use zones is greater than the maximum ‘not to exceed’ (NTE) totals for all the zones combined. However, the university may not substantially exceed the NTE totals without amending the 2020 LRDP.” See also response to comment B7a-46, below and Thematic Response 5 regarding the use of qualifiers.

RESPONSE TO COMMENTS B7-23 AND B7-24

See Thematic Response 7 regarding tax exempt property.

RESPONSE TO COMMENT B7-25

As stated in section 3.1.7, “... University-owned land will always be the first option explored for both program space and housing.” However, in some instances, particularly short- to mid-range needs, leased space may offer a better and more economical alternative to meet critical University needs. While fiscal impacts are not within the scope of CEQA, the physical impacts of any such lease transactions would be subject to CEQA review.

RESPONSE TO COMMENT B7-26

See Thematic Response 7 regarding tax exempt property.

RESPONSE TO COMMENT B7-27

The writer states a concern that, while the boundaries of the Housing Zone are predicated on AC Transit routes as of July 2003, this level of service may not continue throughout the life of the 2020 LRDP. Cutbacks in service are always possible, but while the frequency of service could be reduced as the result of such cuts, it is unlikely the duration of the trip would change significantly.

RESPONSE TO COMMENT B7-28

The writer suggests several reasons for expanding the size of the Housing Zone, including factoring in the proposed BRT line along Telegraph; increasing the time criterion from 20 to 27.8 minutes; and including BART stations within the Housing Zone which meet the travel time criterion. The writer also suggests a policy of regularly reviewing transit service and adjusting the Housing Zone to reflect changes.

In fact, the original Housing Zone was larger, because it used the criterion of a 20 minute transit trip to the edge of campus. As the result of comments received from the ASUC during the scoping process, however, the zone was reduced to its present dimensions. The objections of the ASUC had to do with both a measure of travel time, that includes the walk from transit stop to destination, and the impact of physical dispersion on intellectual community. UC Berkeley finds the arguments of the ASUC to be persuasive, and the Housing Zone should remain as presently defined.

As noted in its caption, figure 3.1-5 is generalized, is based on AC Transit routes of July 2003, and does not show "... suitable sites within one block of some BART stations [which] may also qualify for inclusion in the zone." The writer is correct in anticipating the zone boundaries could change over time in response to service changes; however this would not change the definition of the zone itself, which is based on travel time. The caption has been revised in the Final EIR to clarify the distinction, as follows:

The 2020 LRDP Housing Zone overlays the other Land Use Zones. It includes all areas within a one mile radius of Doe Library, or within a block of a transit line providing trips to Doe Library in under 20 minutes. The Housing Zone excludes those sites with residential designations of under 40 units per acre in a municipal general plan as of July 2003. This figure shows the extent of the Housing Zone based on transit trips via AC Transit routes as of July 2003. Suitable sites within one block of some BART Stations may also qualify for inclusion in the Zone. The depiction of the Housing Zone is generalized in this figure, and may not reflect the precise boundaries of individual parcels or land use designations. The zone boundary may be revised in the future to reflect service changes which affect travel time and/or changes in land use designations due to adoption of the Southside Plan.

RESPONSE TO COMMENT B7-29

Section 3.1.14 at page 3.1-48 is explicitly clear on the Clark Kerr Campus:

In 1982 the University executed a Declaration of Covenants and Restrictions with neighboring property owners and a Memorandum of Understanding with the City of Berkeley, both of which commit the University to a site plan and land use program on the Clark Kerr Campus for a period of 50 years. While many of its 26 buildings require extensive repairs and upgrades, no significant change in either the use or physical character of the Clark Kerr Campus is proposed in the 2020 LRDP.

The writer also notes some areas of the Southside which meet the 40 units per acre criterion for inclusion in the Housing Zone would not meet this criterion under the proposed Southside Plan. Whereas the general plan is an existing body of policy, which the University can evaluate against its own mission and make an informed judgment as to what extent it can comply, the Southside Plan is not as yet.

The most recent July 2003 draft of the plan, as the 2020 LRDP states, is acceptable to the University. However, this draft has not been adopted by the City, nor has the City completed CEQA review. Given the intense interest in the future relationship of City and University evident in the comments on the 2020 LRDP and its EIR, there is no assurance the Southside Plan would be adopted in its current form.

Once the Southside Plan is adopted, assuming no further substantive changes are made by the City, the provisions of the Southside Plan would supersede the designations of the general plan for the purpose of defining the Housing Zone. See response B7-28 and Thematic Response 11.

As suggested in comment B7-174, the Elmwood commercial district has been removed from the Housing Zone.

RESPONSE TO COMMENT B7-30

The writer's comments are noted. See Thematic Response 7 regarding tax exempt property. Further, as shown in figure 3.1-5 on page 3.1-26 of the draft 2020 LRDP, the area of the "housing zone" within the one mile radius of Doe Library is just a little over 1 square mile.

RESPONSE TO COMMENT B7-31

See Thematic Response 8 regarding Hill Campus development.

RESPONSE TO COMMENTS B7-32 AND B7-33

See Thematic Response 9 regarding parking demand. Recognizing that AC Transit has proposed a "reasonable substitute" that may appeal to those who currently drive to campus, UC Berkeley may defer some portion of the 2020 LRDP parking program in favor of AC Transit's BRT/Telegraph project, as described in Thematic Response 9. See also response to comment B7-280, below.

RESPONSE TO COMMENT B7-34

See response to comment B7-22, above, and Thematic Response 5 regarding the use of qualifiers.

RESPONSE TO COMMENT B7-35

See Thematic Response 9 regarding parking demand. The writer questions the parking demand estimate and also whether some spaces may be double-counted. They are not. Thematic Response 9 presents a more thorough explanation of how the parking demand estimate in the 2020 LRDP was derived.

RESPONSE TO COMMENT B7-36

The writer suggests a parking wayfinding system with dynamic signing to improve parking utilization and minimize traffic adjacent to garages. These and other measures remain part of the menu of demand management strategies available to the City and UC Berkeley to manage parking supply and demand. The effects of these strategies may help mitigate the traffic impacts of campus growth but such benefits are not known at this time. Accordingly, the effects of these measures in mitigating traffic impacts cannot be guaranteed and cannot be used as a rationale for identifying a potential impact as mitigated to a less than significant level.

The effectiveness of UC Berkeley trip reduction measures will become apparent through the mitigation monitoring process. See Thematic Response 2 on mitigation monitoring; see also Thematic Response 10 on trip reduction programs.

RESPONSE TO COMMENT B7-37

UC Berkeley notes that the proposed parking development program is intended to address key principles of the 2020 LRDP and the academic plan that serves as its foundation. See Draft EIR at pages 3.1-28 to 3.1-29.

RESPONSE TO COMMENT B7-38

See Thematic Response 9 regarding parking demand. Other writers also suggested UC Berkeley benchmark itself against other research universities with exemplary programs of transportation incentives. Thematic Response 9 includes such an analysis.

RESPONSE TO COMMENT B7-39

The writer's comment is noted.

RESPONSE TO COMMENT B7-40

See Thematic Response 7 regarding tax exempt property.

RESPONSE TO COMMENT B7-41

The writer contends the combination of new program space and new housing under the 2020 LRDP could transform downtown Berkeley into "... a student district, increasingly more like Telegraph Avenue." The writer contends this would have a significant adverse impact on the "eclectic and diverse character" of downtown. Changes in the demographic mix of an area do not constitute an adverse environmental impact per se. However, while the writer's concern is noted, such a transformation in character is not a realistic prospect.

Under the 2020 LRDP Location Guidelines presented in section 3.1.16, the Campus Park would be prioritized for academic programs and resources that involve and serve students. The new program space on Adjacent Blocks, including downtown, would be prioritized for other research, cultural, and service programs with lower day-to-day student interaction. Student activity, therefore, would continue to be focused on the Campus Park, as it is today.

With respect to housing, while some of the up to 2,500 net new student beds in the 2020 LRDP could be built within the downtown, the cost of land and the need for new University program space adjacent to campus suggest this would be more the exception than the rule. The Housing Zone includes many other sites which are as suitable for housing, but not for program space given their distance from the Campus Park. Even in the unlikely event half the new student beds are built in the downtown, this pales in comparison to the roughly 7,000 existing University and affiliate operated student beds in the Southside as of June 2004.

See also comment letter B7b, comment 2 and comment 4.

RESPONSE TO COMMENTS B7-42 AND B7-43

The writer questions the allocation of most of the new University parking to the Adjacent Blocks, and contends this could have land use as well as traffic impacts. The

traffic impacts of this new parking are evaluated in Chapter 4.12 of the Draft EIR. With respect to land use, the relevant standard of significance under CEQA is whether the new parking would conflict with local regulations to the extent a significant land use incompatibility is created.

Not only is parking a permitted use in the downtown under the general plan, but the C-2 central commercial zone presently requires parking at the rate of 1.5 spaces per 1,000 gsf of non-residential space.⁵ Given the 2020 LRDP maxima of up to 800,000 gsf of program space and up to 1,300 parking spaces in the West Adjacent Blocks, up to 1,200 new parking spaces would seem to be required under City zoning just to serve the new program space, not including any University parking built to serve the current unmet need.

The writer's comment on design guidelines is covered in Thematic Response 11.

RESPONSE TO COMMENT B7-44

The boundaries of the Adjacent Blocks are defined at pages 3.1-5 to 3.1-7 of the Draft EIR.

RESPONSE TO COMMENT B7-45

The specific locations of projects that may be implemented under the 2020 LRDP are not yet known. However, as stated in section 3.1.7, "... future growth in both program space and parking is planned to be accommodated primarily through more intensive use of University-owned land ... University-owned land will always be the first option explored for both program space and parking."

The writer correctly assumes the 690 net new CEQA reviewed parking spaces in table 3.1-2 represents the Underhill parking facility, entitled under its own prior EIR: these spaces are in addition to the net new parking spaces anticipated under the 2020 LRDP.

RESPONSE TO COMMENT B7-46

The writer's comments are noted.

RESPONSE TO COMMENTS B7-47 THRU B7-49

See Thematic Response 11 regarding project design review.

RESPONSE TO COMMENT B7-50

See Thematic Response 5 regarding the use of qualifiers and Thematic Response 11 regarding project design review. See also pages 3.1-60 and 3.1-61 of the 2020 LRDP: the Adjacent Blocks South are identified as the first block south of Bancroft, and those blocks are designated for research and academic support functions under the Location Guidelines.

RESPONSE TO COMMENTS B7-51 AND B7-52

See response B7-25.

RESPONSE TO COMMENT B7-53

See Thematic Response 7 regarding tax exempt property.

RESPONSE TO COMMENT B7-54

Please see new figure 3.0-5.

RESPONSE TO COMMENT B7-55

See Thematic Response 5 regarding the use of qualifiers.

RESPONSE TO COMMENT B7-56

See Thematic Response 8 regarding Hill Campus development.

RESPONSE TO COMMENTS B7-57 AND B7-58

See Thematic Response 8 for a comprehensive response to comments on Hill Campus development. Due partly to comments received and partly to its uncertain near-term feasibility, faculty housing has been deleted as a potential future Hill Campus use in the 2020 LRDP. As noted in Thematic Response 8, the site formerly designated H1 has been redesignated as a reserve site in figure 3.1-10, while former site H2 has been redesignated as part of the surrounding research designation.

The writer also states it is not clear how the existing parking on Hill Campus sites would be addressed. Many potential future project sites under the 2020 LRDP are now utilized as parking: in many instances the parking would be replaced on site as part of the new project, in others the better solution is to replace it elsewhere. However, the 2020 LRDP policy “Replace and consolidate existing University parking displaced by new projects” in section 3.1.9 would apply to all future projects including those in the Hill Campus.

RESPONSE TO COMMENT B7-59

The writer contends a new building on (former) site H2 would have a significant visual impact compared to the existing parking terraces. The standards of significance relevant to this question, as presented in Chapter 4.1, are “Would the project substantially degrade the existing visual character or quality of the site and its surroundings?” and “Would the project have a substantial adverse effect on a scenic vista?”

Replacing the existing parking terraces with a building would result in visual change, but change is not necessarily adverse by definition. In fact, while (former) site H2 is visible from points to the west, large buildings about the site on both the east and west: the Lawrence Hall of Science lies downslope, and partly screens the site from the west, while the Space Sciences Laboratory and the Mathematical Sciences Research Institute lie upslope. A project on (former) site H2 would add another building to this cluster, but would not expand the area of this developed cluster into the adjacent natural landscape.

The writer presumes a new residential project on (former) site H1 would “denude” the site, and therefore have a significant visual impact. As noted above, this site has been redesignated as a reserve site.

The general design principles articulated at page 3.1-56 would guide project-specific design review of any future project in the Hill Campus. Any project which does not conform with the general plan designation would, under Best Practice LU-2-c, as revised per Thematic Response 8, be subject to further CEQA review. A project level analysis of visual impacts would be conducted as part of this review.

RESPONSE TO COMMENT B7-60

As noted above, faculty housing in the Hill Campus is no longer an element of the 2020 LRDP. See Thematic Response 8.

RESPONSE TO COMMENT B7-61

The boundary of the Botanical Garden shown in figure 3.1-10 incorporates the expansion implemented in the 1990-2005 LRDP. The “faunal refuge” is also carried forward from the 1990-2005 LRDP (UC Berkeley 1990 LRDP page 50). The 2020 LRDP does not propose changes to these boundaries, and thus no potential environmental impacts are anticipated.

RESPONSE TO COMMENT B7-62

Any future connection links required for projects on “Other Berkeley Sites” would be reviewed as part of project-specific CEQA review. No such requirements are presently identified. See Thematic Response 1 regarding future project review.

RESPONSE TO COMMENT B7-63

See Thematic Response 5 regarding the use of qualifiers, and Thematic Response 11 regarding city participation in project design review. Guidelines are advisory by definition, although the writer’s comments about the value of exception criteria are noted.

RESPONSE TO COMMENT B7-64

See Thematic Response 11 regarding project design review.

RESPONSE TO COMMENT B7-65

The writer notes the Campus Park Design Guidelines, while otherwise limited to the Campus Park, include some provisions for ground level spaces on the Adjacent Blocks. In fact, though admittedly outside the Campus Park, these guidelines do actually benefit the Campus Park indirectly. The streets at the perimeter of the Campus Park should be thought of as seams, rather than dividers. While, as explained in Thematic Response 11, UC Berkeley has not prescribed general design guidelines for the City Environs, in this case the character of ground level spaces should be consistent on both sides of these perimeter streets to create an active, pedestrian-friendly character. The guidelines in question are also generally consistent with City policy as we understand it.

RESPONSE TO COMMENT B7-66

The key to figure 3.1-12 has been revised in the Final EIR.

RESPONSE TO COMMENT B7-67

See Thematic Response 11 regarding project design review.

RESPONSE TO COMMENT B7-68

The writer’s comment is noted. The Regents have final authority over project design.

RESPONSE TO COMMENT B7-69

See Thematic Response 1 regarding future project review. Figures 3.1-3A and 3.1-3B do identify some candidate buildings for replacement and some potential future projects, respectively, but as the captions make clear these represent only one way in which the 2020 LRDP might be implemented. With the exception of the Tien Center, there is not yet enough definitive information about any of these potential projects to enable a project specific environmental analysis. Public Resources Code section 21080.9 provides for the LRDP to serve as “a physical development and land use plan to meet the academic and institutional objectives for a particular campus,” and as such does not

require the level of detail requested by the City about development of specific parcels and facilities not yet defined.

RESPONSE TO COMMENT B7-70

See Thematic Response 1 regarding future project review. With respect to environmental approvals in the draft 2020 LRDP section 3.1.18, the comment misrepresents what the LRDP says. Approval step 3.5b actually states: “Facilities services begins environmental review based on initial study, to be completed prior to start of phase 6.” Step 4.6 then states: “UCOP/Regents environmental and design approvals to be completed prior to start of phase 6.” The extent of this environmental review depends on the nature of the project in question. The timing of CEQA approval within the context of UC capital project development and approval was established in the Mt.Sutro case: see *Mount Sutro Defense Committee v. Regents of University of California*, 77 Cal.App.3d 20; 143 Cal Rptr 365 (1978).

RESPONSE TO COMMENTS B7-71 THRU B7-73

The activities referred to in the comment will occur on and around a particular place, UC Berkeley, as indicated in the Draft EIR. See Thematic Response 2 regarding mitigation monitoring and continuing best practices.

RESPONSE TO COMMENT B7-74

See Thematic Response 11 regarding project design review.

RESPONSE TO COMMENT B7-75

The Draft EIR concludes that the impact is potentially significant and unavoidable at the bottom of page 4.12-52.

RESPONSE TO COMMENT B7-76

See Thematic Response 6 regarding the relationship to LBNL.

RESPONSE TO COMMENT B7-77

The writer contends one of the objectives of the 2020 LRDP, “Plan every project to respect and enhance the character, livability, and cultural vitality of our City environs”, should be used as a standard of significance for environmental analysis. The 2020 LRDP was formulated with the specific intent of guiding future land use and capital investment toward realizing those objectives, and the University is confident it does so.

The purpose of environmental analysis under CEQA, however, is not to assess whether a project meets its own objectives, but rather to assess whether the project, in doing so, would have a significant adverse physical impact on the environment. The standards of significance for environmental analysis, therefore, are more specific to its purpose under CEQA. The standards in the Draft EIR are based on those listed in Appendix G of the CEQA Guidelines.

RESPONSE TO COMMENTS B7-78 AND B7-79

See Thematic Response 11 regarding project design review.

RESPONSE TO COMMENT B7-80

The analysis in section 4.1.7 recognizes the size and diversity of the City Environs, “... [which] present a highly variegated visual character, with architectural styles dating from

every decade of the 20th century and a few examples from the 19th. However, they have in common an orthogonal urban grid which is relatively dense but, except for portions of the Adjacent Blocks and Downtown Berkeley, overwhelmingly low-rise in character.”

Specific conditions within the Housing Zone may create the potential for localized impacts, which project specific CEQA review would disclose. However, given Best Practices AES-1-e through AES-1-h, the cumulative aesthetic impact of the 2020 LRDP on the visual quality of the Housing Zone is expected to be less than significant: particularly since, as prescribed in AES-1-g such projects would in general be designed within the parameters of setbacks and height in stories established by City zoning. See pages 4.1-17 to 4.1-18.

RESPONSE TO COMMENT B7-81

See response B7-41. See also comment letter B7b, comment 2.

RESPONSE TO COMMENT B7-82

See Thematic Response 11 regarding project design review, Thematic Response 8 regarding Hill Campus development, and Thematic Response 5 regarding the use of qualifiers. See response B7-59 regarding visual impacts of residential development.

RESPONSE TO COMMENTS B7-83 THRU B7-85

The comment misrepresents what the EIR says. It does not say there would be no significant cumulative adverse impact. On the contrary, at page 4.1-23 the Draft EIR states:

... The specific design provisions of the proposed Lawrence Berkeley National Laboratory 2004 LRDP are not yet available ... it is not yet possible to determine whether those guidelines would entirely eliminate the potential for adverse impacts ... however, the design provisions of the 2020 LRDP would ensure the contributions of UC Berkeley projects to any such adverse impact would not be cumulatively considerable.

The writer mistakes the term “cumulatively considerable” for a new measure. The term has a specific meaning under CEQA which is different from “cumulatively significant.” As defined in section 15065(c) of the CEQA Guidelines, “... Cumulatively considerable means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects as defined in Section 15130.”

RESPONSE TO COMMENT B7-86

The two Hill Campus guidelines cited by the writer are not “contradictory”. Often, clustering buildings is the best way to minimize site disturbance, by minimizing the land area which must be disturbed. Moreover, clustering typically reduces the number of exterior access routes required to serve a project: as a general rule, the more discrete buildings, the more discrete points of entry, and the more access routes required to serve them. However, the writer should also note that the 2020 LRDP and EIR have been revised to delete the proposal for up to 100 new faculty housing units in the Hill Campus.

RESPONSE TO COMMENT B7-87

As stated in Continuing Best Practice AES-1-d on page 4.1-17, the temporary visual impact of reducing fire hazard through vegetation removal would be mitigated by replacing the hazardous removed species with native species, thus improving the visual quality and habitat value of the affected areas as well as reducing fire hazard. It is unclear what else the writer has in mind, except possibly not continuing this critical program. The University believes this measure adequately mitigates any potential impact.

RESPONSE TO COMMENTS B7-88 AND B7-89

The University recognizes there have been reports in the press about prospective future plans for the Stadium, as there have for a number of other campus projects. At present, however, no plans to renovate or change the use of the Stadium exist at a level of definition sufficient to support a project-level environmental analysis. A Stadium project would be subject to project-specific environmental review in accordance with CEQA; the timing of CEQA approval within the context of UC capital project development and approval was established in the Mount Sutro case. See *Mount Sutro Defense Committee v. Regents of University of California*, 77 Cal.App.3d 20; 143 Cal Rptr 365 (1978)..

The reference to visual and/or historic character in Mitigation AES-3-a pertains primarily to the older portions of the Campus Park, which has a tradition of historic light standards. Also, as the writer notes, the syntax in the first sentence of the Mitigation is bit imprecise. In the Final EIR, Mitigation AES-3-a has been revised as follows:

LRDP Mitigation Measure AES-3-a: Lighting for new development projects would be designed to include shields and cut-offs that minimize light spillage onto unintended surfaces, and to minimize atmospheric light pollution. The only exception to this principle would be in those areas within the Campus Park where such features would be incompatible with the visual and/or historic character of the area.

RESPONSE TO COMMENT B7-90

The University employs current safe practices already established for ultrafine particles and these would apply to nanotechnology research. As further safe practices are developed by appropriate agencies, the University Office of Environment, Health and Safety (EH&S) will incorporate these practices, as is University policy on the handling of all materials with known or potentially dangerous properties. As described at page 4.6-16 of the Draft EIR, each laboratory at UC Berkeley maintains a chemical hygiene plan and chemical inventory system. Biohazard safety measures are also described in this section of the Draft EIR. These safety frameworks would apply to the use of any new materials, including nanoparticles, as appropriate.

The internet link (<http://www.cdc.gov/niosh/topics/nanotech/#oshrisks>) provides a summary of recent NIOSH efforts, which are at the same stage as the U.S. Environmental Protection Agency (EPA) nanotechnology program – the funding of initial research in toxicity and health risks. The NIOSH announcement on the development of a safe practices document was released on May 7, 2004, after the publication of the Draft EIR (<http://nano.gov/html/about/NIOSHannounce.htm>). The announcement states that NIOSH “...plans to issue a “best practice” document for working with nanomaterials.” EH&S will examine this information once it becomes available.

RESPONSE TO COMMENT B7-91

Please see Draft EIR Volume 2, Appendix F, pages F.1-13 through F.1-17.

RESPONSE TO COMMENT B7-92

The writer incorrectly summarizes the discussion related to AIR-1 in the Draft EIR. Projecting 2020 LRDP growth, implementation of the LRDP would not violate the carbon monoxide standard or expose sensitive receptors to substantial CO concentrations; thus, no mitigation measure is necessary. The campus does intend, however, to maintain and improve its alternative transportation programs. See Thematic Response 2 regarding continuing best practices, and Thematic Response 10 regarding alternative transportation programs.

RESPONSE TO COMMENT B7-93

UC Berkeley complies with BAAQMD regulations governing odor complaints.

RESPONSE TO COMMENT B7-94

The Draft EIR, at LRDP EIR Mitigation Measure AIR-4-a, commits UC Berkeley to effective control of dust emissions. A pre-specified number of water treatments each day may cause unneeded over-watering which can lead to adverse stormwater pollution impacts.

RESPONSE TO COMMENT B7-95

Existing practices regarding soil contamination evaluation and asbestos and lead are outlined at pages 4.6-27 to 4.6-28 of the Draft EIR.

RESPONSE TO COMMENT B7-96

UC Berkeley, under the leadership of the Environment, Health and Safety office, is convening a focus group to implement the use of biodiesel and other alternative fuels.

RESPONSE TO COMMENT B7-97

UC Berkeley is eager to work with City staff on programs to implement the use of alternative fuels.

RESPONSE TO COMMENT B7-98

The comment will be referred to the focus group on alternative fuel implementation programs for consideration.

RESPONSE TO COMMENT B7-99

The comment may refer to the table on page 4.2-8 of the Draft EIR. The writer's opinion is noted. UC Berkeley's contribution to air quality impacts as a result of implementation of the proposed 2020 LRDP, and measured according to thresholds of significance, is examined in section 4.2.7, page 4.2-20 and thereafter.

If the comment is targeted at Table 4.2-9 (on page 4.2-28 of the Draft EIR) the table was for operational impacts, the subject of LRDP Impact AIR-5. Construction emissions were addressed under LRDP Impact AIR-4. The treatment of construction emissions in the Draft EIR is further discussed under response B7-105.

BAAQMD CEQA guidance for plan-level documents does not require a lead agency to quantify emissions.⁶ Since campus growth may not be consistent with the most recent

Clean Air Plan, operational emissions under the 2020 LRDP were found to result in a potentially significant and unavoidable impact. A linkage between the BAAQMD emissions thresholds (designed for individual projects) and operational emissions under the 2020 LRDP is not needed to understand that the 2020 LRDP's "plan level" emissions pose a "significant and unavoidable impact" in terms of the 2020 LRDP's potential interference with regional air quality management efforts. However, as stated in the text, operational emissions projections under the 2020 LRDP were provided in table 4.2-9 for informational purposes.

The applicable BAAQMD emission thresholds are 80 lb/day for nitrogen oxides (NO_x), reactive organic gases (ROG), and particulate matter less than 10 microns in diameter (PM₁₀), and 550 lb/day for carbon monoxide (CO).⁷ Although these thresholds are not appropriate for assessing "plan level" emissions, and therefore, do not need to be included in table 4.2-9, UC Berkeley feels it is relevant to point out that the projected operational emissions under the 2020 LRDP are relatively low compared to BAAQMD project-level thresholds, thus the magnitude of the overall 2020 LRDP impact on regional air quality may not be great. Still, a significant and unavoidable impact was found, and mitigation is proposed to minimize the level of this potential impact.

RESPONSE TO COMMENT B7-100

The writer's opinion is noted. See response B7-102, below. Some of the measures are described in Continuing Best Practice AIR-5.

RESPONSE TO COMMENT B7-101

See Thematic Response 2 regarding mitigation monitoring and continuing best practices.

RESPONSE TO COMMENT B7-102

The writer seems to assert that the finding at LRDP Impact AIR-5, that operational emissions from implementation of the 2020 LRDP may hinder attainment of the Clean Air Plan, is avoidable. However, the Draft EIR clearly explains that the analysis of this impact presents a very conservative interpretation of local and regional growth projections: namely, that all growth associated with 2020 LRDP implementation is in addition to, rather than a subset of, anticipated regional growth. Under this assumption, no matter how small or reduced the growth associated with the 2020 LRDP might become, the impact - the possibility that the 2020 LRDP presents a hindrance to attainment of the Clean Air Plan - would remain the same. Therefore, UC Berkeley disagrees with the writer and believes the potential impact was characterized appropriately. Further, LRDP Impact AIR-5 mirrors a finding made in the Berkeley General Plan EIR, as noted in the Draft EIR at page 4.2-11. See also response B7-99, above.

RESPONSE TO COMMENTS B7-103 AND B7-104

See page 4.2-31 of the Draft EIR. The cumulative impact would be significant and unavoidable in the near-term. See response B7-102, above.

RESPONSE TO COMMENT B7-105

UC Berkeley does not concur with the writer's opinion that "a true cumulative impact" would be indicated by combining construction activity with other activities. As stated at page 4.2-25, "The scale and location of construction activities on the campus under the LRDP will vary with time and cannot be accurately characterized at this time."

RESPONSE TO COMMENT B7-106

UC Berkeley continues to meet its obligations under AB 2588, described at page 4.2-9 of the Draft EIR. Toxic air contaminant emissions from UC Berkeley remain below significance thresholds. Additionally, UC Berkeley has installed particulate filters in some new diesel generators and will consider doing so for all future installations and retrofits or replacements of older units.

As discussed on page 4.2-33 of the Draft EIR, the California Air Resources Board (CARB) has implemented an aggressive diesel risk reduction plan. Rules have already been adopted under this plan for new equipment as well as existing equipment for a variety of emission sources, including stationary diesel engines, on- and off-road vehicles, various vehicle fleets, as well as low-sulfur fuel requirements.⁸ Further information from the CARB website can be found at:
<http://www.arb.ca.gov/diesel/factsheets/factsheets.htm>.

The EPA has also promulgated standards for heavy-duty diesel trucks and locomotives, as well as federal low-sulfur fuel requirements. The State's efforts have already reduced diesel particulate matter (DPM) concentration levels by over 40% between 1990 and 2000 in the Bay Area, and the CARB diesel risk reduction program is designed to achieve another 75% reduction between 2000 and 2010. UC Berkeley is not aware of any BAAQMD models showing the effects of DPM reductions, as stated by the City of Berkeley, but the CARB has made such projections, which can be found at:
<http://www.arb.ca.gov/toxics/cti/hlthrisk/cncrinhl/rskmapvwtrend.htm>. These show that DPM levels through 2010 were expected to be reduced with control measures in place prior to the diesel risk reduction plan, but that DPM levels will be reduced further as control measures under the diesel risk reduction plan are implemented.

The University will need to comply with these aggressive measures as they become adopted. The University will therefore contribute to the overall process of achieving continued DPM emissions reductions. For example, all new emergency diesel generators will be required to comply with the CARB's recently adopted rule for stationary diesel engines, which requires new engines to meet CARB certified emissions levels (emissions on the order of 10% of older engines), and older existing engines to come under retrofit requirements. Efforts such as these to comply with the CARB's aggressive diesel risk reduction program will contribute to continued progress toward reducing DPM exposures.

RESPONSE TO COMMENT B7-107

Project-level air quality impacts for the Chang-Lin Tien Center were evaluated in the Initial Study/Notice of Preparation for the 2020 LRDP and Tien Center Environmental Impact Report. See Draft EIR Volume 2, Appendix A. The Tien Center did not warrant further project-level evaluation of operational emissions. The Tien Center would generate almost no net new traffic, and the conclusion in the Initial Study/Notice of Preparation regarding CO emissions remains valid under any of the tests noted in the comment. Thus, a specific project-level air quality analysis for the Tien Center against BAAQMD project-level criteria is not needed for the Draft EIR. The Draft EIR is cited for the assessment of construction impacts and regional air plan consistency for the Tien Center.

As noted by the writer, BAAQMD significant emission thresholds on page 4.2-18 of the Draft EIR require correction. The last sentence is corrected to read:

...would be compared to BAAQMD thresholds (80 pounds per day for NOx, ROG, and PM10 and, 550 pounds per day of CO for CO emissions, a) emissions are greater than 550 pounds per day; or b) project traffic would impact intersections or roadway link operating at LOS D, E, or F or would cause LOS to decline to D, E, or F, or c) project traffic would increase traffic volumes on nearby roadways by 10% or more (unless the traffic volume is less than 100 vehicles per hour).

The BAAQMD thresholds stated in the Draft EIR for NOx, ROG, and PM10 are correct. For CO, the 550 pounds per day criteria was inadvertently listed as the only threshold. This emissions threshold applies to overall project emissions to assess potential regional impacts. The other two BAAQMD CO thresholds are aimed exclusively at mobile source emissions, the chief cause of elevated CO concentrations in urban areas. Should a proposed action increase traffic congestion that could lead to potential localized CO impacts, then a microscale CO air quality analysis is needed to assess potential localized CO impacts. An assessment of potential localized CO impacts will be part of any future project-level air quality analysis.

RESPONSE TO COMMENT B7-108

UC Berkeley's contribution to air quality impacts as a result of implementation of the proposed 2020 LRDP, and measured against the thresholds of significance, is examined in section 4.2.7 of the chapter. See page 4.2-20 and thereafter.

RESPONSE TO COMMENT B7-109

There is no question that air pollution at unhealthful levels presents a human health risk. The national and state ambient air quality standards are set by the EPA and the CARB to be protective of sensitive populations with margins of safety. These standards address the health issues outlined by the City of Berkeley. The CARB and BAAQMD control programs on which the Draft EIR's thresholds of significance are based are designed to make progress toward attainment of these air quality standards.

The cited American Lung Association (ALA) report, *The State of the Air 2004 Report*, does give an "F" rating for Alameda County for ozone and 24-hour particulate matter pollution. For ozone, the association of Berkeley with a general statistic for Alameda County is misleading. Since 2000, the only recorded violations of the federal ozone standard in Alameda County have been in Livermore. With respect to the state ozone standard, most Alameda County violations have been in Livermore, with a few in Southern Alameda County. There have been none in Oakland, the closest monitoring location to Berkeley. This holds true from 1998 through July 2004.

Table 4.2-3 of the Draft EIR shows the highest peak 1-hour ozone concentration in Oakland between 2000 and 2002 to be 0.072 ppm. (Note the Table 4.2-3 entries of one day above the state standard in 2000 and in 2002 should instead read zero days: these have been corrected in the Final EIR) The state standard is 0.09 ppm. Examination of BAAQMD data at

<http://gate1.baaqmd.gov/aqmet/AQYearly.aspx> shows ozone levels in Oakland to be comparable to those in San Francisco County. The ALA Report gives San Francisco County an “A” rating in terms of air quality for ozone.

With respect to particulate pollution, all Bay Area counties rate poorly in the ALA Report. This is due to the extremely stringent state 24-hour particulate matter air quality standards. Most of California is in nonattainment of these 24-hour standards.

Since the growth projections and vehicle miles traveled (VMT) rates in the 2020 LRDP may not be consistent with most recent BAAQMD Clean Air Plan, the Draft EIR found a significant and unavoidable impact in terms of regional air quality. Mitigations are proposed. In addition, mitigation during construction is proposed, which helps control particulate matter.

RESPONSE TO COMMENT B7-110

The Draft EIR describes a number of best practices and mitigation measures to reduce air quality impacts from 2020 LRDP activities; hindering attainment of the Clean Air Plan is the only significant and unavoidable impact of the 2020 LRDP itself. See Draft EIR Chapter 4.2; see also response B7-102, above. A commitment by UC Berkeley to ill-defined measures of unknown effectiveness, in order to reduce impacts already identified as less than significant, is not required by CEQA. See response B7-96 above; see also Thematic Response 10 regarding alternative transportation programs.

RESPONSE TO COMMENT B7-111

No portions of the Hill Campus are “left out”, as the writer contends. The comment may refer to the LBNL site, but LBNL is not within the scope of the 2020 LRDP.

RESPONSE TO COMMENT B7-112

The writer claims that updates to the Strawberry Creek Management Plan and the 2020 Hill Area Fire Fuel Management Plan should be completed before any projects are approved; however, there is no such requirement. The 2020 LRDP includes the policies that guide the individual management plans. See, for example, pages 3.1-41, 3.1-57, and 3.1-63 to 3.1-66 of the Draft EIR.

RESPONSE TO COMMENT B7-113

See Thematic Response 5 regarding the use of qualifiers.

RESPONSE TO COMMENT B7-114

See Thematic Response 1 for an explanation of the role of the 2020 LRDP and its EIR in relation to project review. In the case of cultural resources, the writer correctly points out the difficulty of program level analysis for a subject in which significance is largely or entirely due to site-specific factors.

However, the comment misinterprets the intent of Chapter 4.4. It does not, as the writer contends, conclude “...there will necessarily be potentially significant impacts on cultural resources.” Because the 2020 LRDP would be implemented in an area with abundant cultural resources, the purpose of Chapter 4.4 is to inform University decisionmaking, by characterizing these resources and identifying the conditions under which significant impacts may occur, how those impacts could be averted or mitigated –

as in Best Practices CUL-2-a and CUL-2-b – and what should be done in the event such impacts are unavoidable – as in Mitigation CUL-3.

RESPONSE TO COMMENTS B7-115 THRU B7-117

As a leading research University, UC Berkeley is extremely demanding in terms of the performance it requires from its buildings and infrastructure, and the pace of functional obsolescence is rapid. While UC Berkeley treasures its historic buildings and landscape, it would be unrealistic to assume no University resources of potential significance would ever be considered for substantial alteration or demolition.

Impacts that result in a substantial adverse change in the significance of cultural resources would only be warranted, however, when no feasible alternatives exist that meet the objectives of the project. The role of project specific CEQA review is to make such determinations. LRDP Impacts CUL-3 and CUL-5 do not try to “justify” such determinations in advance, but merely recognize such impacts are possible and, in Mitigations CUL-3 and CUL-5, describe what would happen in such instances.

RESPONSE TO COMMENT B7-118

Best Practice CUL-2-b has been revised in the Final EIR to read as follows:

Continuing Best Practice CUL-2-b: For projects with the potential to cause adverse changes in the significance of historical resources, UC Berkeley would make informational presentations of all major projects in the City Environs in Berkeley to the Berkeley Planning Commission and if relevant the Berkeley Landmarks Preservation Commission for comment prior to schematic design review by the UC Berkeley Design Review Committee. Major Such projects in the City Environs in Oakland would similarly be presented to the Oakland Planning Commission and if relevant the Oakland Landmarks Preservation Advisory Board.

RESPONSE TO COMMENT B7-119

An Historic Structures Assessment would be among the consultant services scoped at step 2.2 of the Project Approval Process described in section 3.1.18, and would inform the project design guidelines and the environmental analysis of a proposed project.

RESPONSE TO COMMENT B7-120

The writer’s comment is noted, and addressed by responses to comments B7-114 to 119 above, as applied to Impact CUL-5.

RESPONSE TO COMMENTS B7-121 AND B7-122

The referenced paragraph at page 4.4-5 of the Draft EIR is revised in the Final EIR as follows:

The criteria used in evaluation of buildings afford three levels of designation for historic buildings, including properties of exceptional significance (landmarks); structures of merit; and properties of special character or special historical, architectural, or aesthetic interest or value, with Landmarks generally occupying one site and Historic Districts occupying multiple sites in designated areas of the City. Structures of Merit are structures that do not meet landmark criteria but are worthy of preservation as

part of a neighborhood, block, or street front, or as part of a group of buildings that include landmarks. The lists in this chapter include specific properties on and off the UC Berkeley campus which have been listed as City of Berkeley landmarks.

RESPONSE TO COMMENT B7-123

See Thematic Response 4 regarding fiscal impacts.

RESPONSE TO COMMENT B7-124

The statement by the writer is not a comment on the Draft EIR, and no response is required.

RESPONSE TO COMMENT B7-125

Emergency preparedness is addressed in the Draft EIR at page 4.11-12.

RESPONSE TO COMMENT B7-126

The statement by the writer is not a comment on the Draft EIR, and no response is required.

RESPONSE TO COMMENT B7-127

The adequacy of emergency response services is addressed in the Draft EIR at Chapter 4.11, Public Services, and detailed analysis appears at pages 4.11-12 to 4.11-14. See also responses B7-206 through B7-215.

RESPONSE TO COMMENT B7-128

Emergency service to the two Hill Campus sites is discussed at pages 4.11-11 to 4.11-12 of the Draft EIR. Due partly to comments received and partly to its uncertain near-term feasibility, faculty housing has been deleted as a potential future Hill Campus use in the 2020 LRDP. See Thematic Response 8 regarding Hill Campus development.

In early December 2003 representatives from UC Berkeley and the City of Berkeley met at a forum titled "Promoting a Disaster-Resistant Community" to celebrate their individual and joint achievements in preparing for a major earthquake on the Hayward Fault and to plan for future collaboration in disaster mitigation. As recently as June 10, 2004, UC Berkeley and the City of Berkeley were part of a multi-agency exercise related to emergency preparedness. UC Berkeley is eager to continue its work with City staff, implementing improvements that reduce hazard exposure; however, as analyzed in the Draft EIR in accordance with CEQA, the 2020 LRDP does not present a significant risk to evacuation and emergency response.

RESPONSE TO COMMENT B7-129

Contrary to the writer's comment, earthquake-induced landslide hazards are evaluated in the Draft EIR at pages 4.5-11 to 4.5-13. Figure 4.5-3 is taken directly from the state source mentioned by the writer; the figure also shows the liquefaction hazards identified by the state. The Alquist-Priolo zone is shown in figure 4.5-1, which also shows the two active fault traces cited by the writer. However, upon closer inspection of the figure, the western LBNL boundary is not correct (it is correct in figure 4.5-3). Figure 4.5-1 has been corrected in the Final EIR.

RESPONSE TO COMMENT B7-130

Eight best practices are outlined in the Draft EIR, each of which would apply to new construction in the Hill Campus. Among these is the practice of conducting site-specific geotechnical studies for geotechnical hazard prevention and abatement in project design (Best Practice GEO-1-b at page 4.5-17). The risk of landslides would be minimized with new construction in the Hill Campus. See also Thematic Response 8 regarding Hill Campus development: the housing proposals for the Hill Campus have been eliminated from the 2020 LRDP.

RESPONSE TO COMMENT B7-131

The City of Berkeley passed a resolution adopting the Disaster Mitigation Plan on June 22, 2004, to be included as an appendix to the Berkeley General Plan. UC Berkeley is eager to continue its work with City staff, implementing improvements that reduce hazard exposure; however, no changes are required to the existing Draft EIR text.

RESPONSE TO COMMENT B7-132

The Draft EIR indicates the small scale of use of such materials, but volumes fluctuate and are not precisely noted.

RESPONSE TO COMMENT B7-133

As described at page 4.6-16 of the Draft EIR, each laboratory at UC Berkeley maintains a chemical hygiene plan and chemical inventory system. Biohazard safety measures are also described in this section of the Draft EIR. These safety frameworks would apply to the use of any new materials, including nanoparticles, as appropriate.

RESPONSE TO COMMENT B7-134

The writer's assertions are noted. As noted in Thematic Response 1, because the 2020 LRDP EIR, as a program-level analysis, is necessarily general, some future individual LRDP projects may require more detailed environmental analyses, including additional site-specific technical detail. The CEQA Guidelines support "preparing analytic rather than encyclopedic environmental impact reports" (CEQA Guidelines 15006). The requested information need not be reprinted as part of the Draft EIR. Where the claim that the 2020 LRDP does "not provide the level of technical analysis that is needed to adequately evaluate the LRDP impacts (sic)" is substantiated in the subsequent comments, it is addressed below.

RESPONSE TO COMMENT B7-135

As described in the Draft EIR at pages 4.7-24 through 4.7-35, UC Berkeley is complying with permitting requirements in accordance with documents it submitted to the Regional Water Quality Control Board in 2003. Although the regulator has not yet acted, UC Berkeley has already begun to implement the programs outlined in its permit documents. UC Berkeley programs apply to all properties owned by UC Berkeley, on or off the central campus.

RESPONSE TO COMMENT B7-136

See pages E-1 through E-12 of Volume 2 of the Draft EIR for a discussion of UC Berkeley safety programs; see also page 4.6-19 of the Draft EIR for a description of the campus spill response team. A Spill Prevention Control and Countermeasure Plan assesses the risk of discharge of oil from storage tanks into waters of the US and establishes procedures, methods, equipment and other preventative measures to prevent

these discharges. Preventative systems used to contain petroleum products from reaching waterways include such things as rupture basins, dikes, berms, retaining walls, curbing, weir, booms, spill diversion ponds and sorbent materials. The CEQA Guidelines support “preparing analytic rather than encyclopedic environmental impact reports” (CEQA Guidelines 15006). The requested information need not be reprinted as part of the Draft EIR. The writer is welcome to review the referenced documents, which are available through the UC Berkeley office of Environment, Health and Safety, with which the City of Berkeley regularly interacts.

RESPONSE TO COMMENT B7-137

See pages E-1 through E-12 of Volume 2 of the Draft EIR for a discussion of UC Berkeley safety programs; see also page 4.6-19 of the Draft EIR for a description of the campus spill response team. The Storm Water Management Plan is intended to improve water quality by reducing the quantity of pollutants that stormwater picks up and carries into waterways and by eliminating direct discharges of pollutants. The SWMP develops and implements Best Management Practices in six program areas to reduce the discharge of pollutants: 1) public education and outreach, 2) public involvement and participation, 3) illicit discharge detection and elimination, 4) pollution prevention/good housekeeping for facilities operation and maintenance, 5) construction site stormwater runoff control, and 6) post-construction stormwater management in new development and redevelopment. The UC Berkeley Stormwater Management Plan was developed by an oversight committee which included representatives from the City of Berkeley and the community. The writer is welcome to review the referenced documents, which are available through the UC Berkeley office of Environment, Health and Safety.

RESPONSE TO COMMENT B7-138

See Thematic Response 4 regarding fiscal impacts.

RESPONSE TO COMMENT B7-139

UC Berkeley complies with the intent of the Joint Watershed Goals Statement. Many of the goals outlined in the 2020 LRDP and many of the practices and mitigations outlined in the Draft EIR align UC Berkeley with the Watershed Statement: for example, the overarching goal to plan every new project as a model of resource conservation and environmental stewardship. The Draft EIR includes many protections for riparian areas, in both the Hill Campus and the Campus Park. Best Practices outlined in Chapter 4.3, Biological Resources serve to protect and enhance riparian areas, wildlife habitat, and other natural communities in the Hill Campus and Campus Park. UC Berkeley is eager to work with the City of Berkeley and other land management agencies in the watershed to evolve additional improvements in land management strategies for the watershed.

RESPONSE TO COMMENT B7-140

Citation is the USGS study, 'Mean Annual Runoff in the San Francisco Bay Region, California, 1931-70', Miscellaneous Field Study mf-613, 1974.

RESPONSE TO COMMENT B7-141

The extent of impervious surfaces resulting from implementation of the 2020 LRDP is addressed at page 4.7-27 of the Draft EIR:

... most development under the 2020 LRDP would occur in areas that are currently mostly impervious, and implementation of SWMP post-construction design measures are expected to increase rainwater infiltration.

...and further discussed at page 4.7-28 of the Draft EIR:

For the most part, 2020 LRDP projects would occur on already urbanized lands, including existing surface parking lots, and will not substantially reduce the area of pervious surfaces. Therefore, development will not generate significant amounts of additional runoff that would transport pollutants to local waterways.

...and the influence of 2020 LRDP development on stormwater capacity is addressed at page 4.7-29 of the Draft EIR:

Continuing Best Practice HYD-4-e: UC Berkeley shall continue to manage runoff into storm drain systems such that the aggregate effect of projects implementing the 2020 LRDP is no net increase in runoff over existing conditions.

See also Chapter 4.13 of the Draft EIR, pages 4.13-14 through 4.13-16.

RESPONSE TO COMMENT B7-142

The writer is referred to response B7-141, above, and B7-151, below. The existing capacity issues at Oxford Street are not an impact of implementation of the 2020 LRDP.

RESPONSE TO COMMENTS B7-143 AND 144

See responses B7-262 thru B7-279 regarding potential impacts on the City of Berkeley sewer system. The writer's assertion that campus development "has significantly increased runoff" impacting the City of Berkeley sewer system is not supported by any evidence, nor is the fact mentioned that campus water consumption has declined significantly since the 1980s.

RESPONSE TO COMMENT B7-145

The stormwater construction specification cited in the text of the Draft EIR is available on the web through the UC Berkeley office of Environment, Health and Safety. Post-construction stormwater management practices are a standard element of LEED certification, and part of the 2020 LRDP as described at section 3.1.11, Sustainable Campus. Post-construction stormwater management practices are also outlined in Best Practice HYD-3 at page 4.7-27 of the Draft EIR. Also see Thematic Response 2 regarding mitigation monitoring and continuing best practices.

RESPONSE TO COMMENT B7-146

The Strawberry Creek Management Plan is intended to address the creek as it flows through the Hill Campus and Campus Park, and is not intended to be a comprehensive watershed management plan. UC Berkeley is eager to work with the City of Berkeley and other land management agencies in the watershed to evolve additional improvements in land management strategies for the watershed. UC Berkeley staff are also available to participate in stormwater management programs developed by the City of Berkeley, should any be undertaken. Given that the highest coliform counts occur at the north fork of Strawberry Creek that drains the area north of the central campus, these

would have the potential to result in significant new improvements to the quality of Strawberry Creek. See response B7-137, above.

RESPONSE TO COMMENTS B7-147 AND B7-148

LRDP Impact HYD-1 at page 4.7-24 of the Draft EIR is not considered a significant impact. Therefore, no measures are required to mitigate it. Best Practices HYD-1-a through HYD-1-d list existing programs UC Berkeley would pursue under the 2020 LRDP to ensure continuing water quality protections. See Thematic Response 2 regarding mitigation measures and continuing best practices.

RESPONSE TO COMMENT B7-149

The writer's comment is noted. As noted in the text, UC Berkeley has been voluntarily complying with NPDES stormwater permitting requirements, even while the campus Phase II MS4 NPDES permit is pending. See Draft EIR page 4.7-26, second paragraph.

RESPONSE TO COMMENT B7-150

See response B7-141, above.

RESPONSE TO COMMENT B7-151

Existing measures have not prevented flooding during storm conditions at the Oxford Street storm drain. As stated in the Draft EIR at page 4.7-8, "The City of Berkeley reports that the capacity of the City storm drain at Oxford Street (where Strawberry Creek leaves the Campus Park) would be exceeded by 25 percent during a 25-year design storm event under existing conditions." However, while the current practices in themselves have not entirely prevented flooding, the Draft EIR also prescribes a new Mitigation HYD-5, which will ensure no net increase in flow from any Hill Campus project site. The best practices and new mitigation together would ensure no net increase in runoff over existing conditions due to the 2020 LRDP. See also response B7-141, above. Further, it should be noted that the drainage area for the Oxford Street culvert includes city streets and properties not managed by nor affiliated with UC Berkeley.

RESPONSE TO COMMENT B7-152

See Thematic Response 2 regarding mitigation measures and continuing best practices.

RESPONSE TO COMMENT B7-153

The mitigation measure noted by the writer specifies both the method of study and the necessary result of the measure. If a project cannot prevent downstream flooding and substantial siltation and erosion, it fails to implement the measure, and further CEQA analysis must occur. See Thematic Response 2 regarding mitigation measures and continuing best practices. Further, Best Practice HYD-4-e specifies "the aggregate effect of projects implementing the 2020 LRDP is no net increase in runoff over existing conditions." See Draft EIR page 4.7-29.

RESPONSE TO COMMENT B7-154

The writer's comment is noted. Differences of opinion on the merit of an EIR are common. UC Berkeley believes the text of the Draft EIR is accurate and appropriate. See responses B7-134 through B7-153, above.

RESPONSE TO COMMENT B7-155

The writer misrepresents the cumulative analysis in Chapter 4.7. See pages 4.7-33 through 4.7-35. At Cumulative Impacts HYD-3, HYD-4 and HYD-5, cumulative impacts are anticipated, but the contribution of the 2020 LRDP is not expected to be cumulatively considerable. UC Berkeley believes the text of the Draft EIR in this instance is accurate and appropriate.

RESPONSE TO COMMENTS B7-156 THRU B7-158

The writer's comments are noted: the text has been corrected in the Final EIR. The last paragraph on page 4.8-6 of the Draft EIR is revised to read:

Within areas designated Institutional, the General Plan allows building intensity ranging from less than FAR 1 to FAR 4.

The third paragraph on page 4.8-7 of the Draft EIR is revised to read:

The Berkeley General Plan designates the Berkeley portion of the Hill Campus as Open Space, which ~~allows recreational facilities, schoolyards, community services, and facilities necessary for the maintenance of the areas~~ is "... appropriate for parks, open space, pathways, recreational facilities, natural habitat and woodlands. Appropriate uses include parks, recreational facilities, schoolyards, community services, and facilities for the maintenance of the areas."

RESPONSE TO COMMENT B7-159

A general description of the physical character of the Campus Park, Hill Campus, and City Environs is given in Chapter 4.1, at pages 4.1-4 thru 4.1-12. The description in Chapter 4.8, at pages 4.8-6 thru 4.8-10, complements this description by focusing on land use designations, as well as the major properties within each zone owned by the University. Figures 3.1-3A and 3.1-3B respectively identify candidate University buildings for replacement, and potential future projects on the Campus Park and Adjacent Blocks. As noted in Thematic Response 1, because the 2020 LRDP EIR, as a program-level analysis, is necessarily general, some future individual LRDP projects may require more detailed environmental analyses, including additional site-specific detail.

RESPONSE TO COMMENT B7-160

The writer's comment is noted.

RESPONSE TO COMMENT B7-161

See Thematic Response 8 regarding Hill Campus development.

RESPONSE TO COMMENT B7-162

The writer contends one of the objectives of the 2020 LRDP, "Plan every project to respect and enhance the character, livability, and cultural vitality of our City environs", should be used as a standard of significance for environmental analysis. The 2020 LRDP was formulated with the specific intent of guiding future land use and capital investment toward realizing those objectives, and the University is confident it does so.

The purpose of environmental analysis under CEQA, however, is not to assess whether a project meets its own objectives, but rather to assess whether the project, in doing so, would have a significant adverse physical impact on the environment. The standards of significance for environmental analysis, therefore, are more specific to its purpose under

CEQA. The standards in the Draft EIR are based on those listed in Appendix G of the CEQA Guidelines.

RESPONSE TO COMMENT B7-163

The standard of significance cited by the writer is directly addressed in LRDP Impact LU-1 at page 4.8-15.

RESPONSE TO COMMENTS B7-164 AND B7-165

UC Regental policy requires campus building project approvals be generally in conformance with the applicable LRDP. The purpose of including the Campus Project Approval Process, presented in section 3.1.18, into the 2020 LRDP is to provide a formal mechanism for ensuring the objectives, policies and guidelines of the 2020 LRDP are incorporated into future land use and capital investment decisions at UC Berkeley. The Mitigation Plan will serve a complementary role with respect to implementing best practices and mitigations prescribed in the Draft EIR.

RESPONSE TO COMMENTS B7-166 AND B7-167

See Thematic Response 11 regarding project design review.

RESPONSE TO COMMENTS B7-168 THRU B7-170

The writer's observations are noted: these paragraphs appear to serve as background for subsequent comments rather than comments in themselves. The writer does not indicate any environmental effects from the University actions which, the writer claims, have divided an established community.

RESPONSE TO COMMENTS B7-171 AND B-172

See response B7-41. See also Thematic Response 11 on project design review. See also comment letter B7b, comment 2 and comment 5.

RESPONSE TO COMMENTS B7-173 AND B-174

The cited text on page 4.8-16 has been revised in the Final EIR to read as follows:

The Berkeley portions of the LRDP Housing Zone outside the Adjacent Blocks and Southside are primarily designated Avenue Commercial, which allows residential uses. Since the University anticipates only residential projects within these areas, no significant incompatibilities with respect to use are anticipated. Moreover, the LRDP Housing Zone by definition excludes areas ~~designated as low density residential~~ with residential designations of under 40 units per acre in a municipal general plan as of July 2003.

The University also concurs with suggestions to remove the Elmwood commercial district from the Housing Zone, as well as the west side of Hillside Ave: figure 3.1-5 has been revised in the Final EIR to incorporate these changes.

RESPONSE TO COMMENTS B7-175 AND B7-176

See Thematic Response 11 regarding project design review.

RESPONSE TO COMMENT B7-177

Beyond the measures described in Thematic Response 11 to give the City a greater voice in UC Berkeley project review, the CEQA evaluation of projects under Best Practice LU-2-c would include the prescription of any required mitigations.

RESPONSE TO COMMENTS B7-178 AND B7-179

See Thematic Response 5 regarding the use of qualifiers.

RESPONSE TO COMMENT B7-180

The writer's comment is noted.

RESPONSE TO COMMENT B7-181

No plans presently exist for such extensions, but any such work would be evaluated as part of project-specific CEQA review.

RESPONSE TO COMMENT B7-182

See response B7-20 for an explanation of the role of research in the mission of UC Berkeley.

RESPONSE TO COMMENT B7-183

The writer's comments regarding the 2020 LRDP are noted. The Draft EIR applies local standards when analyzing impacts of the 2020 LRDP. See Best Practice NOI-2 at page 4.9-17, referencing the City of Berkeley Noise Ordinance.

RESPONSE TO COMMENT B7-184

The writer's comments ignore the text at page 4.9-17 of the Draft EIR, which states "interior noise levels are predicted to exceed the 45 Ldn noise insulation standard *if windows are assumed to be open for ventilation*" (emphasis added). Double paned windows and mechanical air circulation cannot reduce noise impacts in the referenced circumstance.

RESPONSE TO COMMENT B7-185

See Thematic Response 2 regarding mitigation monitoring and continuing best practices. LRDP Mitigation Measure NOI-4 clearly indicates the types of activities that will be included in the specifications and that the specifications will be included in construction contracts; it is not expected to reduce the impact of construction and demolition noise to less than significant, as stated at Draft EIR pages 4.9-17 and 4.9-18.

RESPONSE TO COMMENT B7-186

The writer's comment is noted.

RESPONSE TO COMMENT B7-187

As noted in section 4.10.7, the Primary and Secondary Employee Housing Areas "... include any intermediate tracts within this boundary ... the inclusion of intermediate tracts assumes future employees would be willing to commute from any location within the limits established by current employee residential patterns," thus creating the contiguous areas shown in figures 4.10-1 and 4.10-2.

RESPONSE TO COMMENT B7-188

The writer questions what algorithm was used to define the primary and secondary employee housing areas. The process was as follows:

- List census tracts in order of most to least UCB employees.
- Starting with the tract with the most UC employees, add tracts to the list until the target percentage of employees (50% or 80%) is reached.
- Include intervening tracts to form contiguous areas.

With any such algorithm, it is possible to have slight variations in tracts selected at the perimeter, because the computer might have more than one option to select in order to get the last few individuals it "needs" to get to the 50% or 80% target.

RESPONSE TO COMMENT B7-189

The writer's comment is noted.

RESPONSE TO COMMENT B7-190

The writer requests the University hire Berkeley residents in implementing the 2020 LRDP. While this comment is not within the scope of CEQA, a number of state and federal laws regulate UC Berkeley hiring practices, and would prohibit UC Berkeley from favoring local candidates in the hiring process. However, the City/UC TDM study includes recommendations on increasing the local housing supply in a manner that encourages students, staff and faculty to live locally.⁹

RESPONSE TO COMMENTS B7-191

The writer's comment is noted. UC Berkeley is eager to continue working with City staff on summer youth employment programs. Annually between 30 and 50 students have been placed in summer jobs on campus. The program includes a mentoring and college orientation component.

RESPONSE TO COMMENTS B7-192 AND B-193

These brief statements serve as introductions to more detailed subsequent comments. See Thematic Response 4 regarding fiscal impacts.

RESPONSE TO COMMENTS B7-194 THRU B7-205

See Thematic Response 4 regarding fiscal impacts. The comments on police services relate to the perceived adequacy of staffing levels and fiscal impacts on City services. The comment speculates that UCPD staffing influences BPD service demand; however, there is no evidence to support this assertion. UCPD provides a better officer to service population ratio than typical municipal police services and UCPD staffing continues to demonstrate a commitment to its service goal of 1.5 sworn officers per 1000 population.¹⁰ Further, while these are matters of concern, under CEQA staffing and support needs for public services are relevant only to the extent they translate into physical changes which in turn result in environmental impacts.

However, the City of Berkeley has prepared a fiscal impact study and submitted it as an attachment to its comments on the EIR. At the City's request, the University and the City have each designated a team of staff representatives to meet, review and critique the study findings, and formulate strategies for public services that benefit both entities, as envisioned in Continuing Best Practice PUB-1.1.

RESPONSE TO COMMENT B7-206

The writer's comments on LBNL service are noted, but do not contradict the fact that the University, through the reciprocal agreement with LBNL, does provide services which augments the City's own resources. Moreover, the writer neglects to mention that, under the provisions of the 1990 Mitigation Implementation Agreement, UC Berkeley has through 2004 contributed over \$1.8 million in training and equipment to City fire and emergency services.

RESPONSE TO COMMENT B7-207

See Thematic Response 8 regarding Hill Campus development.

RESPONSE TO COMMENT B7-208

Paving the Jordan Trails to improve emergency access, as the writer proposes, would be a suitable topic for consideration of the Management Authority proposed by the 2020 LRDP for the Ecological Study Area, at page 3.1-54. This action may have potential significant impacts on Hill Campus biota and on the research and educational value of the Ecological Study Area, and by increasing the amount of impermeable surface, would also increase runoff with the consequential potential for erosion, pollution, and storm-water impacts.

The City of Berkeley passed a resolution adopting the Disaster Mitigation Plan on June 22, 2004, to be included as an appendix to the Berkeley General Plan. UC Berkeley is eager to continue its work with City staff, implementing improvements that reduce hazard exposure; however, no changes are required to the existing Draft EIR text.

RESPONSE TO COMMENTS B7-209 AND B7-210

See Thematic Response 8 regarding Hill Campus development.

RESPONSE TO COMMENTS B7-211 AND B7-212

With respect to fire services, CEQA analysis focuses on environmental impacts that could result from the construction of new facilities that are required to provide fire department services, not staffing or equipment purchases, which are fiscal matters. The writer confirms, "...no new facilities or stations are planned as a specific result of the LRDP." See Thematic Response 4 regarding fiscal impacts.

RESPONSE TO COMMENT B7-213

The issue of emergency vehicle access to locations within the Campus Park is thoroughly evaluated for each project as part of the Plan Review and Construction Inspection procedures described in section 4.11.2.6. The UC Berkeley Fire Marshal consults with the Berkeley Fire Department on the adequacy of emergency access routes from City streets. In order to recognize this ongoing practice, Continuing Best Practice PUB-2.3 has been revised in the Final EIR as follows:

Continuing Best Practice PUB-2.3: UC Berkeley would continue its partnership with LBNL, ACFD, and the City of Berkeley to ensure adequate fire and emergency service levels to the campus and UC facilities. This partnership shall include consultation on the adequacy of emergency access routes to all new University buildings.

RESPONSE TO COMMENTS B7-214 AND B7-215

See Thematic Response 4 regarding fiscal impacts.

RESPONSE TO COMMENT B7-216

The decline in playfield space has, unfortunately, led to a reduction in organized campus recreational programs such as intramural sports. The writer does not provide evidence to suggest, however, that student use of City parks has increased. In any case, however, the relevant baseline for environmental analysis of the 2020 LRDP is existing, not historical conditions.

RESPONSE TO COMMENTS B7-217 AND B-218

The writer is mistaken in stating "... the 2020 LRDP ... lacks a plan for how to restore [lost playfield] space ... the LRDP does not have a policy to increase the space in proportion to student growth over the course of the LRDP." Section 3.1.10 explicitly calls for the restoration of both Underhill Field and West Hearst Field, which is reiterated in section 4.11.4.7. As explained, the completion of both projects would compensate for the anticipated increase in campus headcount under the 2020 LRDP and maintain the ratio of campus recreational space to headcount at roughly the same ratio as it is today.

RESPONSE TO COMMENT B7-219

The ratios of recreational space cited in the previous response, and the conclusions derived from those ratios are based on campus headcount, which include employees as well as students. The writer refers to but does not provide "current usage patterns" as the source of the "belief" City facilities would be impacted. However, the writer's statement "... UC Berkeley should provide additional recreational facilities commensurate with the projected population increase ..." is exactly what the 2020 LRDP and EIR propose to do, as explained in the previous response.

RESPONSE TO COMMENT B7-220

Impact PUB-4.4 does not indicate that an impact would occur, but rather that an impact could occur. Thus, the mitigation challenged by the writer properly sets forth how UC Berkeley expects to monitor the potential for impact, and how UC Berkeley expects to mitigate an impact that may occur. Although CEQA requires that any project, even one proposed as mitigation for a programmatic impact, be reviewed for environmental impacts and this need not be further stated, Mitigation PUB-4.4 has been revised in the Final EIR as follows:

LRDP Mitigation Measure PUB-4.4: Before implementing any change to the use of any existing recreational facility, UC Berkeley would conduct a study to ensure that the loss of recreational use would not result in increased use at other facilities to the extent it would result in the physical deterioration of those facilities. If such deterioration is found to have the potential to occur, then the University would build replacement recreation facilities or take other measures to minimize overuse and deterioration of existing facilities in connection with removal of or reduction in use at the recreation facility in question. Any such facilities and/or measures would be reviewed in accordance with CEQA.

RESPONSE TO COMMENT B7-221

The writer expresses concern that an increase in population density would increase transport and spread of communicable disease, in particular as the result of foreign travel. Possibly, the CEQA standards of significance that address hazards to the public, or emergency services, could be considered to address the fear of increased transmission of foreign diseases due to density as an environmental impact. However, the presumed impact is more speculative than measurable at this time. The asserted impact would not result from implementation of the 2020 LRDP itself, or the cumulative impact of any related projects, and therefore need not be analyzed in the Draft EIR.

RESPONSE TO COMMENT B7-222

University Health Services at the Tang Center is a fully accredited health care facility providing comprehensive medical, mental health and health promotion services to all UC Berkeley students and a variety of occupational health services to faculty and staff. UHS employs over 200 people, including physicians, psychiatrists, consulting medical specialists, nurse practitioners (nurses with advanced training), registered nurses, pharmacists, health educators, PhD psychologists, social workers, and other health professionals. University Health Services staff meet with City of Berkeley staff, and closely communicated regarding SARS concerns. UC Berkeley is eager to meet with City public health staff to discuss monitoring and disease control; University Health Services staff are available to meet with City staff to discuss any perceived capacity concerns. However, the comment does not address a significant environmental impact, and no further response is required in accordance with CEQA.

RESPONSE TO COMMENT B7-223

See Thematic Response 4 regarding fiscal impacts. UC Berkeley also offers employment services.

RESPONSE TO COMMENT B7-224

See responses B7-190 and B7-191.

RESPONSE TO COMMENTS B7-225 THRU B7-251

As noted, these comments summarize a detailed letter included in this Final EIR as Comment Letter B7a. Please see the Response to Comment Letter B7a for detailed responses to these concerns.

RESPONSE TO COMMENTS B7-252 THRU B7-255

These statements provide background for subsequent comments.

RESPONSE TO COMMENTS B7-256 THRU B7-261

The writer contends that, while UC Berkeley is exempt from AB 939 and Measure D, the solid waste generated by UC Berkeley may cause the City of Berkeley to violate these statutes, since it is counted against City of Berkeley tonnage. The 2020 LRDP is expected to generate an increase of up to 2.8 tons per day from operational and maintenance activities, or 1,022 tons per year. This represents less than one percent of the 119,135 tons presently generated within the City of Berkeley, and is not expected to have a significant impact on disposal or diversion facilities.

However, the above numbers exclude construction and demolition waste, which under current UC Berkeley practice are at the discretion of the contractor. It should be noted that the economics of waste diversion have improved to the point where over 80% of the demolition waste from the new Stanley Hall project has been diverted. Still, construction and demolition waste could, as the writer contends, have an impact on the City of Berkeley's ability to meet its diversion requirements.

The City of Berkeley is presently finalizing a construction and demolition waste ordinance, expected to be adopted in 2005. Therefore, in addition to Best Practice USS-5.2, the Final EIR also includes a new Mitigation Measure USS-5.2, as follows:

LRDP Mitigation Measure USS-5.2: Contractors on future UC Berkeley projects implemented under the 2020 LRDP will be required to recycle or salvage at least 50% of construction, demolition, or land clearing waste. Calculations may be done by weight or volume, but must be consistent throughout.

RESPONSE TO COMMENT B7-262

The Brown and Caldwell study does not, as the writer contends, demonstrate the contributions by the University toward the maintenance of the City sewer infrastructure are "... far less than the costs attributable to the University." The referenced study estimates the percentage of system wastewater generated by the University, using water consumption data, then assumes the University should contribute an amount equal to this percentage, times all sewer construction, operation, and maintenance costs in the City budget, including indirect staff support.

This methodology ignores the actual physical impact of UC Berkeley wastewater on the City system. All wastewater generated by UC Berkeley flows into relatively few sewer mains, and is transported through these mains to the EBMUD interceptor line. The actual physical impacts of UC Berkeley wastewater on the City sewer system, therefore, are limited to those few lines into which this wastewater is discharged. The extent to which this entails a potential significant impact is examined below.

As further described at pages 4.13-6 through 4.13-11 of the DEIR, the wastewater generation anticipated under the 2020 LRDP would remain lower than volumes experienced in the 1980s.

RESPONSE TO COMMENTS B7-263 AND B7-264

See responses B7-269 thru B7-272, below.

RESPONSE TO COMMENTS B7-265 THRU B7-267

The Berkeley General Plan EIR, completed in 2001, found the area bounded by the City boundary to the east, Virginia Street to the north, MLK Way to the west, and Dwight Way to the south "could accommodate over 4,100 new jobs and 1,600 new housing units without generating a 20 percent increase in any single sub-basin" (Berkeley General Plan Final EIR, June 2001, page 29). The writer suggests that the City's findings regarding sub-basin capacity may be based on old data, or otherwise incomplete; the comment is noted.

The actual locations of future projects implemented under the 2020 LRDP is not yet known. However, the Draft EIR recognizes this fact, and states at page 4.13-11 "... depending on where it is located, it is possible new clusters of development may exceed the capacity of individual sub-basins." The Draft EIR then prescribes Best Practices USS-2.1-a thru USS-2.1-e to minimize those impacts. The identification and evaluation of such impacts would occur at project level review, as described in Thematic Response 1. Note Best Practice USS-2.1-e references the conditions established in California Government Code Section 54999 for payments by the University to public utility service providers.

RESPONSE TO COMMENT B7-268

EBMUD does, in fact, collect wastewater from all municipal systems within the 2020 LRDP area, but the language is a bit unclear. In the Final EIR, the first sentence of the

referenced paragraph at page 4.13-7 has been changed to read, “EBMUD provides wastewater ~~collection~~ treatment for the entire 2020 LRDP area located in Alameda County.”

RESPONSE TO COMMENTS B7-269 THRU B7-272

As prescribed in Best Practice HYD-4-e at page 4.7-29, “... the aggregate effect of projects implementing the 2020 LRDP shall be no net increase in runoff over existing conditions.” Thus no significant impacts to stormwater facilities are anticipated as a result of the 2020 LRDP.

RESPONSE TO COMMENTS B7-273 THRU B7-275

The description of the sewer infrastructure at pages 4.13-8 to 4.13-9 is not meant as a detailed description, but merely confirms the basic point that wastewater on the Campus Park, Clark Kerr Campus, and Hill Campus is collected by the University sewer system and discharged into the City system, while wastewater in the City Environs is collected directly by the City system.

As noted in Thematic Response 4, the University and the City of Berkeley have designated teams of staff representatives to meet, review and critique the findings of a City study of public services furnished by the City to UC Berkeley, including wastewater conveyance, and identify strategies that benefit both parties.

For certain fiscal impacts, namely those related to utility infrastructure, the conditions under which the University is authorized to make payments to cities and other public utility service providers for capital improvements is established by California Government Code Section 54999. It should be noted any such improvements to increase system capacity would also enable the City to correct existing deficiencies in these system elements due to age or other factors not directly related to University growth.

RESPONSE TO COMMENT B7-276

As the writer notes, the referenced figures in the EIR are incorrect. However, the writer’s own figure for Citywide wastewater volume in the comment is also incorrect, and the same comment cites two conflicting figures for UC percentage of Citywide volume, both evidently based on the same source document.

The writer states “... the entire flow from all of the City of Berkeley is approximately 7.8 mgd.” However, the draft sanitary sewer fee study prepared by the City, and referenced by the writer, seems to estimate the Citywide wastewater volume as 5,049,264 ccf/yr, which is equivalent to roughly 10.3 mgd, not 7.8 mgd.¹¹ The writer correctly quotes the study on the estimated volume of UC wastewater, 906,627 ccf/yr, which is equivalent to roughly 1.9 mgd, but this is equal to 18 percent of Citywide volume, not 24 percent. The two sentences of the referenced paragraph at page 4.13-8 are therefore revised in the Final EIR to read:

Existing ADWF for the City of Berkeley is approximately ~~7.5~~ 10.3 mgd. The ADWF from UC Berkeley is ~~approximately 8.3~~ estimated by the City as 1.9 mgd, or about ~~44~~ 18 percent of the City’s flow.

The estimated increase in wastewater generation under the 2020 LRDP, therefore, at 385,500 gpd, would represent an increase of roughly 20% in the volume generated by

UC Berkeley. This in turn changes the evaluation, but not the conclusions, of potential impacts in section 4.13.2.7. In the Final EIR, the second paragraph under LRDP Impact USS-2.1-b is revised to read as follows:

As described in the discussion of water supply and distribution, above, with anticipated 2020 LRDP development, water usage and wastewater generation will remain lower than volumes experienced in the 1980s. The wastewater generation due to the 2020 LRDP would represent an increase of ~~under 5 percent in the up to 20 percent in the City-estimated~~ current existing UC Berkeley flow of ~~8.3 1.9 mgd, well within or an increase roughly equal to~~ the 20 percent increase in capacity for each sub-basin projected in the Berkeley General Plan EIR.

RESPONSE TO COMMENTS B7-277 AND B7-278

The specific condition referenced by the writer, namely an increase in wastewater generation as the result of future Hill Campus development, would be evaluated in project level CEQA review as described in the Draft EIR. The re-routing of this wastewater into the Campus Park system, as proposed by the writer, is one potential mitigation this review would consider. Similarly, significant changes in the use or capacity at the Stadium or other Hill Campus sporting venues would be subject to project level CEQA review.

RESPONSE TO COMMENT B7-279

The standard of significance for whether the impact on wastewater systems is significant is not whether some system components might have to be improved to handle increased volumes, but rather whether these improvements would cause significant environmental impacts. As the Draft EIR concludes at page 4.13-12:

To the extent Continuing Best Practice USS-2.1-e results in the construction of new or enlarged facilities, such construction may have the potential to cause environmental impacts. However, each such project would be reviewed and, as necessary, mitigated by the service provider in its role as CEQA lead agency. In general, any such impacts would be limited to the temporary impacts of construction. Given the already intensively developed character of the Campus Park and City Environs, these new wastewater facilities are not anticipated to significantly alter land use patterns or have other permanent environmental impacts.

Best Practice USS-2.1-e references the conditions established in California Government Code Section 54999 for payments by the University to public utility service providers. It should be noted any such improvements to increase capacity would also enable the City to correct existing deficiencies in these system elements due to age or other factors not directly related to UC Berkeley growth.

RESPONSE TO COMMENTS B7-280 THRU B7-285

See Thematic Response 3 regarding 2020 LRDP alternatives analysis, and Thematic Response 9 regarding parking demand. In comment B7-284, the writer challenges the statement at page 5.1-11 of the Draft EIR that “The objective of a vital intellectual community can not be met if access to campus is increasingly constrained by the shortage of parking.”

This conclusion has its origins in the UC Berkeley Strategic Academic Plan. In describing the importance of an interactive campus to academic excellence, the Academic Plan states:

The breadth and quality of our academic programs are the equal of any university in the world, but Berkeley is more than the sum of its parts. A great university also requires a vital and dynamic intellectual community, one that provides exposure to a wide range of cultures and perspectives, and generates the encounters and interactions that lead to new insight and discovery. For such a community to thrive requires a campus organized and designed to foster those interactions.

Although the academic structure of the campus is based on the traditional disciplines defined over a century ago, they are no longer insular and self-contained. On the contrary, the potential for creative interaction is everywhere. The health sciences initiative, for example, brings researchers from physics, biology and chemistry together to study phenomena at the molecular level. The various fields of study at Berkeley focused on culture, gender, and ethnicity integrate the humanities and social sciences.

The 2020 LRDP supports this fundamental principle in several sections, including the introduction to Campus Access at page 3.1-28 of the Draft EIR:

Access to campus is vital to the work and culture of UC Berkeley. Our faculty, students and researchers depend not only on the academic resources of the campus, but also on their interactions with colleagues that lead to new insights, concepts and methods. Many of our senior faculty with long tenures at UC Berkeley enjoy the convenience of a residence near campus, acquired in the days when a Berkeley home was within reach of even moderate income households.

But more recently, due in large part to the shortage of good and reasonably priced housing near campus, our residential patterns have become more and more dispersed. For those who live beyond walking or bicycling distance or good transit service, the time and inconvenience of travel to and from campus, exacerbated by the shortage of parking, has become a significant disincentive to on-campus presence. This trend undermines the goal of a strong and vital intellectual community, and we must strive to reverse it.

RESPONSE TO COMMENTS B7-286

See Response to Comment B7-99, B7-102, and B7-105 above.

RESPONSE TO COMMENTS B7-287

The writer is referred to Table 5.1-4 at page 5.1-4 of the DEIR. Alternative L-1 considered emission reductions, including construction emission reductions, from reduced growth, yet emissions remained significant and unavoidable. With no parking construction, but program growth as anticipated in the 2020 LRDP, Alternative L-2 would have similar results.

RESPONSE TO COMMENTS B7-288 THRU B7-291

See Thematic Response 3 regarding 2020 LRDP alternatives analysis, and Thematic Response 9 regarding parking demand.

RESPONSE TO COMMENTS B7-292 AND B7-293

These concluding statements summarize the more detailed comments above.

