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Ms. Kate Gordon, Director
Office of Planning and Research
1400 10th Street
Sacramento, California 95814

RE: Comments on the AB 987 Application for the Inglewood Basketball and Entertainment Center Project (Clearing House Tracking No. 2018021056)

Dear Ms. Gordon:

On behalf of MSG Forum, LLC, we respectfully submit these comments on Murphy's Bowl LLC's application requesting the Governor's certification under Assembly Bill 987 for the Inglewood Basketball and Entertainment Center Project ("IBEC project" or "project"). The application for certification under AB 987 falls far short of AB 987's statutory requirements and should be denied. The negative legal and policy precedent that would be established by approval of this application cannot be overstated. At a minimum, additional data must be collected and analysis must be completed to define the project and its actual impacts before the Governor can consider the application.

In adopting AB 987, the Legislature conditioned the possibility of extraordinary judicial relief under the California Environmental Quality Act on certification by the Governor, subject to review by the Joint Legislative Budget Committee, that the project meets the highest environmental standards. AB 987's author characterized the bill as "setting a new gold standard for green standards."

Governor Brown, in his signing message, highlighted that:

[AB 987] allows the Inglewood project to qualify for expedited judicial review if it meets certain standards, including providing traffic reduction benefits and achieving a net zero greenhouse gas standard. This issue requires particular attention here given the potential for high levels of congestion.¹

¹ See Governor Brown's Signing Message, available at <https://www.gov.ca.gov/wp-content/uploads/2018/09/AB-987-signing-message.pdf>.

Governor Brown also noted that “the project must reduce criteria pollutants, a requirement that is not included in the current Environmental Leadership Development Project standards.”

The attached extensive review and expert technical analysis compel the conclusion that the project does not meet AB 987’s clear, unambiguous, and rigorous mandates, and certainly does not reflect the mandate expressed by Governor Brown. The application lacks essential details about the project that are required for the California Air Resources Board’s determination of net zero greenhouse gas emissions and the Governor’s certification.² This is particularly troubling given the clear commitments made during the legislative hearings. The Governor cannot and should not certify the project under AB 987 based on the current limited record.

Specifically, the application fails to meet AB 987 requirements as follows.

- **The Project’s GHG Emissions Are Grossly Underestimated; Net Zero GHGs Are Not Demonstrated** – The project does not achieve net zero Greenhouse Gas (GHGs) emissions. The application fundamentally miscalculates the project’s estimated net GHG emissions by applying a baseline methodology that is inconsistent with agency guidance, industry practice and a long-history of Clean Air Act rules governing verifiable emission reductions. The application uses an inflated baseline by taking credit for (i) emissions associated with existing basketball games relocating from Staples Center and no backfilling of those event dates, (ii) emissions from assumed “market shifts” of events from the Forum, Staples Center, and Honda Center to the new arena.

These “credits” mistakenly assume that Staples Center will not backfill the lost Clippers games with other events (concerts and other events). Further, the applicant fails to demonstrate that such “market shift” will occur and has failed to show that, if an event is relocated from one of these venues to the project, the existing venue would not replace it with any other event.

- This faulty baseline methodology, if broadly applied, would create a loophole and make it difficult for CARB or any lead agency to estimate and mitigate GHGs from development projects. It would also undermine California’s ambitious climate targets, including achieving net zero GHGs by 2045.

For example, if a new, mixed-use project is built in California, it could be argued that some (or most) of the project’s future residents and businesses come from existing California residents and businesses relocating to the site. If the applicant’s methodology were applied, however, this hypothetical project could argue that it has almost no new net GHG emissions because the project could assume most of the emissions were

² For example the application does not even provide the arena’s square footage, number of parking spaces, heights of buildings, or the construction assumptions.

simply being reallocated from other parts of the region, even though the project would not eliminate the existing homes or business sites from which it would draw people. The agency-approved and industry standard approach does not permit this methodology. Only emissions that have been truly eliminated can be credited, such as when onsite uses are demolished to make way for new buildings.

- When correctly calculated, the project's actual GHG emissions are well over 400,000 MTCO_{2e}. This is nearly *four times higher* than the 101,623 MTCO_{2e} calculated in the application and this does not even account for the numerous errors and data gaps identified in the attached independent expert report. The applicant fails to achieve net zero GHG as AB 987 requires. The application must be resubmitted with additional information and proper emissions calculations so that the public can review and comment on the project's actual impacts.
- AB 987's author characterized the bill as "setting a new gold standard for green standards." If the applicant is allowed to shortchange the community by grossly understating its emissions and mitigation by using a faulty baseline, the applicant will have gutted the gold standard.
- **50% Mitigation Requirement For Greenhouse Gas Reduction Falls Woefully Short** – Not only does AB 987 require net zero GHG, AB 987 requires that at least 50% of the GHG reductions must come from *local* measures. This 50% is a floor and not a ceiling— *all GHG reductions* should come from local sources if feasible. When the proper baseline is accounted for (as best that can be calculated based on the incomplete application), *the applicant's local mitigation only achieves a 14% reduction in project GHGs*. The project's mitigation program leaves a local reduction shortfall (assuming the 50% target) of at least 150,000 metric tons of GHGs and a total shortfall of over 315,000 metric tons of GHGs. Put simply, the project not only fails to be net zero for GHGs, the applicant shortchanges neighboring communities with inadequate local mitigation. The application must be revised and resubmitted with an AB 987-compliant mitigation package.
- **Health Risks on Neighboring Communities Are Not Disclosed and Are Underestimated, Contrary to AB 987** – The applicant's erroneous baseline methodology likely results in a substantial underestimation of the project's local criteria pollutant emissions (PM, NO_x, VOCs) and toxic air contaminants (diesel fumes). As the state has concluded, there is a close correlation between ambient levels of pollutants and localized health consequences, including decreased lung function and increases in pulmonary inflammation, asthma development, and congestive heart conditions. Because health risks are directly correlated to local pollutant emissions, the *health risk impacts on neighboring low-income communities, with significant children and senior populations, are not adequately disclosed or addressed*.

- CARB’s Scoping Plan recognizes that local GHG mitigation measures can result in local co-benefits, including reduced pollutants and improved air quality. However, because the applicant has underestimated total GHG emissions by 75%, the applicant’s local GHG mitigation proposal is grossly deficient. As a result, the neighboring communities are being shortchanged of the co-benefits of criteria pollutant emission reductions required by AB 987.
- In addition, increased local traffic congestion and vehicle miles traveled (VMT) raises potential serious health risks to residents, including children and seniors, from particulate matter exposure. It is difficult to understand how CARB could determine the project is net zero GHGs when it fails to satisfy the Legislature’s mandate to “maximize public health, environmental and employment benefits” by reducing GHG emissions “in the project area and in the neighboring communities.”
- **Required Local Offset Credits are Not Being Implemented** – Unlike AB 900, AB 987 establishes strict locational requirements for using offset credits. The project is mandated to first prioritize feasible local offset credits before pursuing any other credits and the applicant cannot use international credits. *The application fails to commit to any local offset programs*, even though such programs are specified in AB 987, available, and feasible, such as retrofit programs in disadvantaged communities. Given AB 987’s strict locational requirements for offset credits, as well as guidance from the Scoping Plan on local offsets, CARB cannot determine the project has met its minimum 50% local mitigation requirement unless the applicant has first identified and commits to all feasible local offset opportunities before non-local offsets are relied upon.
- **The TDM Program Reflects Aspirational Goals, Not a Rigorous Demonstration of Expected and Real Trip Reductions** – The project’s Transportation Demand Management (TDM) program’s summary conclusions regarding efficacy are belied by the applicant’s own statements, the reality of Inglewood’s existing and future transit system, and a complete lack of evidence. There is no evidence to support the conclusion that the project’s TDM program will achieve the required 7.5% reduction in trips after the first season much less a 15% reduction in trips, as AB 987 mandates. The TDM program is merely a set of goals that are not adequately defined. The TDM program fails to include evidence to support conclusory assumptions and statements and fails to include—as AB 987 requires—enforceable implementation measures for the public or CARB to ensure local GHG emissions and harmful co-pollutants will be reduced. The TDM program does not address the fact that when the project’s arena, NFL stadium, and Forum hold simultaneous events, the surrounding roadways will be well beyond failure.
- **The Project Increases Regional VMT** – The application fails to account for significant *increases* in indirect GHG emissions, criteria pollutant emissions, and

VMT caused by moving events from the dense urban core of downtown Los Angeles with immediate adjacency to multiple transit facilities to a location that Inglewood's Mayor, the applicant's consultants, and other elected officials have stated is "transit starved." There can be no legitimate dispute that the project's location is less centrally located, less connected to transit—even taking into account unbuilt projects—and is more dependent on single-occupancy vehicle trips. There is absolutely no dispute that this project will actually worsen traffic conditions for the region and certainly in Inglewood for the people who literally live next door to this proposed project.

- **The Project Conflicts with the RTP/SCS By Increasing VMT and Reducing Transit and Pedestrian Options** – The project is inconsistent with the 2016 Regional Transportation Plan / Sustainable Communities Strategies Plan ("RTP/SCS") adopted by the Southern California Association of Governments ("SCAG") for a number of reasons including because it would decrease access to transit and increase VMT. Moreover, the Applicant has not proven that the project is consistent with the use and density allocations for the area that were submitted by the City of Inglewood to SCAG for the 2016 RTP/SCS.
- **The Application Is Missing Evidence To Support Its Many Other Conclusions** – The application lacks sufficient evidence to support other AB 987 requirements that the project will create high wage, highly skilled jobs, meet LEED's Gold certification standard, satisfy AB 987's waste reduction requirements, or achieve economic investment obligations.

Attached is a detailed technical memorandum, together with supporting expert reports and evidence, on the application's numerous deficiencies in demonstrating compliance with AB 987. For the reasons outlined in the memorandum and attachments, we respectfully request that the Office of Planning and Research ("OPR") recommend that the Governor *not* certify this project. At a minimum, we request that OPR and CARB require the applicant to submit a supplemental application with the following additional information for agency and public review before this request for AB 987 certification is considered any further.

1. Core project information to allow OPR and CARB to make informed judgments under AB 987's standards.
2. Revised net GHG estimates for the project relying on a proper baseline.
3. Updated GHG mitigation proposals adopting all feasible reductions in local measures that benefit the neighboring communities.
4. Identification of local carbon offset programs that will be relied upon before non-local offsets can be considered.
5. Empirical data supporting the project's TDM program.

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6. Empirical data supporting the project's LEED scorecard.

Thank you for considering our comments and supporting materials. If you have questions, you may reach me at (213) 891-7540.

Very truly yours,



Maria Pilar Hoje

LATHAM & WATKINS LLP

**COMMENTS ON MURPHY'S BOWL LLC'S
APPLICATION UNDER ASSEMBLY BILL 987 FOR
THE INGLEWOOD BASKETBALL AND
ENTERTAINMENT CENTER PROJECT**

Submitted on behalf of

MSG Forum, LLC

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I. THE PROJECT DESCRIPTION LACKS ADEQUATE DETAIL TO SUPPORT ANALYSIS OR CERTIFICATION

Critical data needed to evaluate the Inglewood Basketball and Entertainment Center Project's ("project") compliance with AB 987's requirements are missing from the application. The application lists the various land uses but only provides a partial list of their size and operations. The application does not include enough information to allow the Governor, OPR, or CARB to find that the exacting standards of AB 987 are met. AB 987 certification should be denied. At a minimum, a revised corrected application should be submitted with all the necessary information and the public must be provided an opportunity for full review.

The application for certification under AB 987 is so bereft of project information that it is impossible for OPR and CARB to determine that the project could ever meet the standards the legislature required in exchange for extraordinary judicial relief under CEQA.

For example, the application omits the following basic project information.

- The square footage of the arena itself. The application states that there will be 18,000 seats with capacity for another 500 seats more, but there is no mention of its actual size in terms of square footage. OPR and CARB do not know if the arena is 300,000 square feet or 1,000,000 square feet or more. The square footage of all project elements is needed to determine a variety of issues relevant to AB 987, including, for example, the amount of GHGs emitted during the arena's construction and the amount of GHGs emitted during operations (heating, cooling, etc.).
- The number and location of parking spaces. Is the project providing 3,000 spaces or 5,000 spaces? The application does not say. This is relevant to understanding and evaluating GHG emissions associated with construction and also the efficacy of the TDM program. The availability of parking and its pricing has an established relationship to the effectiveness of TDM. Is the parking structure open air or mechanically ventilated? This information is relevant to much of AB 987's analysis.
- The height of the parking structures, arena, and other buildings. Are the structures 100 feet tall or 200 feet tall? The application does not say. This information is relevant to the LEED analysis.
- The amount of excavation required for the project. Is the excavation 20,000 cubic yards, 500,000 cubic yards, or more? This information is needed to inform the analysis of GHG emissions during construction.
- The basic site plan (Attachment A-2) shows the arena, training facility, offices, and sports medicine clinic all as a single large structure. Will it be a single structure or a series of buildings? This information is needed to inform the LEED and GHG analysis because it goes to building efficiency, energy usage, emissions, etc.

- The project’s construction schedule and the required equipment to build the project. This is critical information to be evaluated in determining GHG emissions.
- How the municipal groundwater well is currently used and to where will it be relocated. This information is needed to inform the LEED scorecard and GHG analysis. Will this local source of water continue or will additional water need to be imported to residents as a result of the City well relocation, which is part of the project?
- A description of the surrounding community of low-rise single family and multi-family homes that the project will directly impact. This information is needed to inform, among other application components, the LEED scorecard.

II. THE PROJECT’S GHG EMISSIONS AND POTENTIAL HEALTH IMPACTS ARE GROSSLY UNDERESTIMATED; NET ZERO GHG EMISSIONS ARE NOT DEMONSTRATED

A. The Application Fundamentally Miscalculates Project GHG Emissions

1. The Application Inappropriately Takes “Credit” for Illusory, Non-Local Emissions, in Contrast with Long-Standing Agency Guidance and Accepted Modeling Practice

The application grossly underestimates the project’s net GHG emissions by taking credit for an artificially high “baseline” condition. CEQA is clear that the “baseline” is established by the “*physical environmental conditions in the vicinity of the project...*”³

As detailed below, the application artificially lowers the project’s net GHG emissions by using a baseline that takes credit for eliminating offsite uses at the Staples Center, the Forum, the Honda Center, and the Clippers’ team practice facility. The Clippers’ GHG analysis is based on the presumption that when they leave Staples, it will remain vacant for the 40 to 50 Clipper game dates and also assumes that the new project arena will take other events away from Staples Center, the Forum, and Honda Center, and no other events will ever be booked on those dates anywhere in the market.

Staples Center is home to the NBA’s Los Angeles Lakers, NHL’s Los Angeles Kings and the WNBA’s Los Angeles Sparks, and is the host of major, high-profile events and performances. At a minimum, Staples Center will continue to operate, and there is no proof that dates held for the Clippers will not be backfilled after the Clippers leave. To the contrary, given the success and popularity of the Staples Center, it is very likely that such event dates would be easy for Staples Center to backfill with other events. Eliminating the Clippers games would allow greater scheduling flexibility for other events, which would allow Staples Center to attract

³ CEQA Guidelines, § 15125 (emphasis added).

more multi-night engagements. In addition, dates that are reserved for possible playoff games that ultimately might not occur would no longer be blocked and lost.

Further, basing its GHG analysis on the presumption that the new arena will take events from the Forum and Honda Center and such event dates will not be backfilled with some other events is without empirical support. While an additional venue would change the competitive landscape and have adverse financial consequences for existing venues, the applicant provides no information to support its claim that those venues would not be used for some other, perhaps less profitable, events that would still result in the continued generation of GHG emissions that the applicant assumes would simply disappear.

There also is no evidence that an event being held in Orange County at the Honda Center would relocate to Inglewood nor any evidence that if an event did relocate, that the Honda Center would not or could not replace it with another event. To the best of our knowledge, none of these other arenas has agreed to restrict their future capacity.

The applicant also assumes that existing Clippers Training Center will not be reused and, therefore, “existing emissions from operations of the Clippers Training Center are included in the baseline conditions.” It is unreasonable to presume the Clippers Training Center will be vacant after the Clippers move out.⁴

By artificially inflating the baseline, the application incorrectly reduces the disclosed level of emissions by more than 75%. Expected net GHG emissions with the corrected baseline are shown to be *at least 407,240 MT CO_{2e}*— and likely much higher due to the other errors and data gaps described in this comment letter — *four times higher* than the 101,623 MT CO_{2e} disclosed in the application.⁵

In addition, the application’s baseline:

- does not employ the accepted standard methodology for evaluating GHG emissions using the CalEEMod model recommended by the South Coast Air Quality Management District;
- does not follow agency guidance for taking credit for baseline emissions;
- is not consistent with long-standing agency guidance and rules employed under the Clean Air Act for when a new facility can take credit for eliminating existing emissions; and

⁴ The application assumes that only a portion of the Clippers Facilities will be reused. See IBEC Application for Certification (“Application”), Attachment G, at pp. 6-7.

⁵ See EXHIBIT 1, Table 1; Application GHG emissions of 448,139 MT CO_{2e} – corrected baseline emissions of 40,902 MT CO_{2e} = project estimated net emissions of 407,240 MT CO_{2e} without correcting for other errors.

- does not apply the rigor and consistency necessary to substantiate the reductions identified in the application.

CARB cannot determine the project achieves net zero GHGs until the application is resubmitted with proper emissions calculations and supporting data. Moreover, the public must be given an opportunity to understand the project's actual impact with corrected data.

a. SCAQMD-Recommended CalEEMod Model Does Not Take Credit for Moving Operations with New Development When Existing Facilities Will Not Be Eliminated

If this application's methodology were applied to other projects in California, the majority of emissions from most new development projects would "disappear" because a project applicant could simply assume the emissions already existed within the region or state. Not surprisingly, this methodology is not consistent with the SCAQMD-recommended model used in most credible GHG analyses. Modeling tools developed by the air agencies to evaluate project-level GHG emissions do not reduce project emission inventories to take credit for offsite conditions that may exist elsewhere in the region. For example, new commercial developments include emissions from all vehicles coming to and from the new building. New development is not permitted to take a "credit" and reduce its projected emissions by claiming that some of those emissions are shifted from an existing building to the new building.

If the applicant's approach is followed, the negative precedent for the State is substantial and runs counter to the framework air agencies and accepted models have established to evaluate GHG impacts. Broadly applying the applicant's methodology will allow many projects to "zero out" most emissions since the projects will claim they are merely relocating uses otherwise within the basin, region, or state.

CalEEMod, the statewide program designed to calculate both criteria and GHG emissions from CEQA development projects in California, does not net out existing offsite emissions. CalEEMod was developed for the California Air Pollution Officers Association (CAPCOA) in collaboration with the California Air Districts, and is recommended by the SCAQMD. The application's treatment of baseline emissions and crediting of offsite emissions reductions is inconsistent with CalEEMod's standards.

b. The Application is Inconsistent With Air District Guidance on Baseline Emissions

The application conflicts with other Air District guidance, which limits baseline emissions to existing emissions sources that will be removed. The Bay Area Air Quality Management District (BAAQMD) CEQA guidance describes the methodology for determining baseline emissions and the technical basis for doing so when evaluating a project's emissions profile:

"If a proposed project involves the **removal** of existing emission sources, BAAQMD recommends subtracting the existing emissions

levels from the emissions levels estimated for the new proposed land use.”⁶ (Emphasis added)

Thus, “subtracting” emissions should occur only if existing sources will be removed by the project. For example, here, the application may appropriately take credit for eliminating any existing onsite emissions associated with the proposed site. However, the application takes credit for both removing existing land uses *and* purportedly shifting offsite activities at ongoing venues even though there is no proof that such offsite activities will not continue if the project is built. Hence, such offsite emissions will not actually be eliminated.

The applicant’s assumption would effectively make over 75% of its project emissions disappear by taking credit for unsubstantiated off-site reductions. This is in complete contravention of the claims made by the applicant and legislators during the hearing process on AB 987. AB 987’s author characterized the bill as “setting a new gold standard for green standards.” If the applicant is allowed to shortchange neighboring communities by grossly underestimating its emissions and mitigation by using a faulty baseline, the applicant will have fallen far short of this standard to the direct detriment of the community.

c. The Application is Inconsistent With Clean Air Act’s Long-Standing Rules for Obtaining Emission Reduction Credits for Eliminating Existing Stationary Sources

The application’s baseline methodology also conflicts with longstanding regulatory rules and guidance under the state and federal Clean Air Act for taking credit for removing stationary source emissions. As highlighted in SCAQMD Rules and Regulations, the approach for a closing facility to obtain emission reduction credits is rigorous, requires actual data on historical emissions, and does not employ speculative assumptions as included in the application (see Rule 1306⁷, Rule 1309⁸, and application for Emission Reduction Credit Certificate of Title XX⁹). The regulatory approach relies upon the review of the actual operating levels of the facility in the most recent time period. The analysis also requires detailed evaluation and a calculation that

⁶ BAAQMD, 2017, CEQA Air Quality Guidelines, *available at* http://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa_guidelines_may2017-pdf.pdf?la=en, accessed January 2019.

⁷ SCAQMD, Rule 1306, Emission Calculations, *available at* <http://www.aqmd.gov/docs/default-source/rule-book/outdated-sip-rules/rule-1306-emission-calculations.pdf?sfvrsn=4>, accessed January 2019.

⁸ SCAQMD, Rule 1309, Emission Reduction Credits and Short Term Credits, *available at* <http://www.aqmd.gov/docs/default-source/rule-book/reg-xiii/rule-1309.pdf?sfvrsn=4>, accessed January 2019.

⁹ SCAQMD, Form 401, Application for Emission Reduction Credit (ERC) Certificate of Title, *available at* <http://www.aqmd.gov/docs/default-source/aqmd-forms/Permit/401-erc-form.pdf?sfvrsn=14>, accessed January 2019.

reduces the credited emissions based on a specific ratio (i.e., 1.2-to-1.0¹⁰). Additionally, under both the federal Clean Air Act and the state Clean Air Act, as well as SCAQMD regulations, a facility operator cannot obtain emission reduction credits (i.e., “take credit”) for eliminating emissions from the facility unless the operator can prove future operations are not possible without another operator obtaining a new operating permit.

In the framework of AB 987, where the project must ensure that there is no net additional emissions of GHG, the GHG reductions claimed in the analysis must be well substantiated. *Those emissions claimed as being removed must be proven to be real, additional, permanent, verifiable and enforceable.* The application does not provide adequate information or analysis to confirm these standards are being achieved.

d. Application Recognizes Baseline Error by Not Taking Credit For Moving Office Uses But Fails to Apply the Proper Standard to Games and Events

Tellingly, the application recognizes its improper baseline by applying the *correct* methodology to the LA Clippers team offices, where it assumes the vacant offices will be backfilled by other users even though it does not know exactly who will backfill the use or when it will occur. For the remaining existing uses, the analysis assumes, without technical substantiation and in contravention of existing guidance and policy, industry realities, and common sense that (1) Staples Center will not find replacement events for the Clippers home games; (2) the Clippers Training Center will remain largely vacant; and (3) non-Clippers’ events at Staples and events at the Forum and Honda Center will leave those arenas and that those other arenas would then not to fill those dates. The application should apply the same, correct logic it applied to the Clippers team offices, instead of erroneously, and in violation of established methodology, taking credit for the games and events at other venues and by assuming the potentially open dates will not be filled ever.

The application “quantifies emissions for the existing LA Clippers games at the Staples Center, existing uses at the downtown LA Clippers’ Team Offices, the team’s existing LA Clippers Training Center in Playa Vista, and the portion of non-NBA events anticipated to occur at the IBEC Project arena instead of other venues in the Los Angeles region (i.e. market-shifted non-NBA events) in order to calculate the net GHG emissions associated with the IBEC Project.” It goes on to state that the “analysis assumes that after the LA Clippers Team Offices relocate to the IBEC Project Site, the vacated existing office space would be used by a different, unknown office tenant in the future.” However, the application ignores any potential future replacement tenants or activities for the basketball game dates, the training center, in assuming other non-Clippers events shifting to the project. In doing so, the application greatly inflates its baseline emissions to reduce the amount of emissions that have to be offset.

Existing Staples Center Games and Events. The application provides no evidence that the dates for NBA games, events, and NBA and NHL playoff holds that would be freed up at

¹⁰ SCAQMD, Emission Reduction Credits, *available at* <http://www.aqmd.gov/home/permits/emission-reduction-credits>, accessed January 2019.

Staples Center will not be filled with other events. Given the popularity and central location of the venue, it is unreasonable to assume Staples Center will sit empty during all of these dates for 30 years. Staples is the second grossing facility in the region, behind the Forum. It is not simply going to lose dates and not backfill them. Moreover, eliminating the Clippers games from the schedule would allow Staples Center to attract more multi-night engagements and to book events during dates that were previously reserved for possible playoff games that ultimately might not occur.

According to the application, LA Clippers games account for approximately 21% of the total events hosted at the Staples Center. But after acknowledging that the Clippers account for such a large percentage of Staples Center business, the application assumes that no events will replace them. Not one. Staples will not stay dark for 30 years on these dates. This allows the application to “count” 5,992 MT CO₂e each year towards its baseline emissions without *any* corresponding offset to account for new activities that would replace existing Clippers games at the Staples Center.

Market-Shifted Events. The application assumes, without evidence, that “half of the non-NBA game events (e.g., concerts, family shows, non-NBA sports games, etc.) anticipated to occur at the IBEC Project ... would have otherwise occurred at other venues in the Los Angeles area, but would be relocated at the IBEC Project..., which are referred to as market-shifted events in this analysis.”¹¹ The application assumes that the other venues in Los Angeles will not fill any of the market shifted event dates with new events.

Beyond this unsubstantiated assumption that a market shift of events would occur and there would never be any other use to fill that date, there is no modeling standard or regulatory guidance to support this approach. This is inconsistent with the standard approach for GHG analyses. For example, if a project were to build new dwelling units, that project does not discount the emissions for people who may move in from existing homes. As discussed above, CalEEMod does not approach project emissions inventory in this way and does not include any method to consider market-shifted events.

Additionally, one of the venues assumed to be losing “market-shifted” events, the Honda Center, has one of the highest GHG utility intensity values—further inflating the baseline emissions credit used in the application. No information is provided to substantiate that percentage of events assumed to leave existing venues for the project and that those venues would not fill the open dates with other events. Consistent with current accepted methodology, no offsite reductions for such events should be assumed.

Clippers Training Facility. The application notes that “given the unique design and space allocation of the existing LA Clippers Training Center, the potential future use of this facility or site after completion of the IBEC Project is unknown. It would be speculative to assume what type of use might occupy this facility in the future.... Thus, the existing emissions from operations of the LA Clippers Training Center are included in the baseline conditions without assumptions about the future use of this facility and site.” The application is therefore

¹¹ Application, Attachment G, at p. 6.

cognizant that future uses *should* be taken into account in its baseline emissions, but it simply chooses not to because it would be “speculative.” However, assuming *no* future use of the facility is equally speculative and certainly less likely than assuming that the entire emissions of 1,000 MT CO₂e will simply disappear. It is more likely that the facility will be occupied by a new user and that the new use would be more intensive because it would not be tied to the local training schedule for the Clippers.

e. Application Relies on Default Assumptions Instead of Site Specific Data, Which Further Inflates the Baseline

The application relies upon mostly default assumptions in CalEEMod to calculate baseline emissions, further artificially inflating the baseline. Regulatory programs, including CalEEMod, mandate that site-specific data be used to assess emissions when determining a baseline. The default assumptions of CalEEMod are designed to be conservatively *high* to ensure that project emission inventories are not under predicted when default assumptions are applied. By using default assumptions for the baseline emissions credit, the application again artificially inflates the modeling results to inaccurately minimize the project’s GHG emissions inventory. In other words, by using the default assumptions, the application is likely *less conservative* than if site-specific data were used, resulting in a likely underestimation of project emissions.

The application uses default assumptions for mobile, waste, water, and area sources. Unless the applicant can demonstrate that site-specific data is not available for those emission sources, the default assumptions should not be used.

B. Project Fails to Adequately Mitigate GHG Emissions or Achieve Local Reductions Mandated by AB 987

1. AB 987 Mandates Reduction of *Local* GHG Emissions, a Much Higher Standard than AB 900 Imposes

Unlike AB 900, which has no locational reduction requirements, AB 987 imposes a higher standard for the project to “reduce the emissions of greenhouse gases in the project area and *in the neighboring communities of the arena*” to accomplish net-zero GHGs. As shown below, the application falls far short of the local reductions AB 987 mandates.

2. The Application Grossly Underestimates Actual Mitigation Requirements

AB 987 requires that the GHG emissions reductions first be from local, direct GHG emissions reduction measures to “maximize public health, environmental, and employment benefits...” The applicant’s assertion that it meets this directive is illusory.

First, as discussed in Section II.A, *supra*, the applicant’s methodology to estimate its net new emissions is fundamentally flawed, resulting in a net new emissions figure that is drastically underestimated. By beginning with an incorrect goal to mitigate 101,623 MT CO₂e rather than

at least 407,240 MT CO₂e (and probably much more), the applicant sets the bar of compliance artificially low, shortchanging its local mitigation commitment (and the community).

Applying more accurately estimated net new emissions, as required by AB 987, the application’s local mitigation only achieves a 14% reduction in Project GHGs, not the 57% reduction applicant’s analysis presumes. This leaves a dramatic *local mitigation shortfall*. AB 987’s mandate to **maximize** environmental and public health benefits in neighboring communities requires the applicant to pursue available local reductions first.

Table 2: GHG Mitigation Shortfall¹²

IBEC Project Condition and Reductions	Application Claimed Mitigation ¹³		Mitigation Requirements with Corrected Baseline	
	Emissions Estimates (MT CO ₂ e)	Percent of Net New Emissions	Emissions Estimates (MT CO ₂ e)	Percent of Net New Emissions
Total Net New Emissions IBEC Project Without GHG Reduction Measures	101,623	100%	407,240	100%
Total Amount of Reduction from Local Measures	58,195	57%	58,195	14%
Total Net New Emissions (After Reductions from Local Measures)	43,428	43%	349,045 (net zero GHGs not achieved)	86%

CARB cannot determine the project achieves net zero GHGs unless the project satisfies AB 987’s mandate to “maximize public health, environmental and employment benefits” by reducing GHG emissions “in the project area and in the neighboring communities.” As demonstrated by Table 2, the application is not even close to being net zero GHGs and substantially more local GHG reductions would be required. The application must be revised and resubmitted to CARB and for public review with a proper mitigation package.

The total amount of reductions from local, direct measures is closer to 14 percent rather than the reported 57 percent. Moreover, the applicant’s local mitigation requirements are not

¹² This table likely underestimates the actual shortfall in mitigation due to the numerous errors and data gaps identified in this comment letter. When these data gaps and errors are addressed, the Project’s actual emissions and mitigation obligation will likely be much higher.

¹³ The application’s estimate of emissions are incorrect and the identified mitigation does not meet the requirements of AB 987, as described in this comment letter.

local and do not meet the requirements to be real, additional, permanent, verifiable and enforceable.

The application fails to propose enough local, direct measures to mitigate the anticipated net new emissions associated with the project. Numerous available local, direct mitigation measures are identified in AB 987. The applicant must propose them to obtain certification.

C. Potential Health Risks to Neighboring Communities Are Correlated to Actual Local Emissions

There is a close correlation between ambient levels of pollutants and localized health consequences.¹⁴ If local emissions are underestimated, local health consequences will likely be underestimated.

CARB's Scoping Plan explains that local GHG mitigation programs can provide co-benefits by reducing other pollutants:

Greenhouse gas emissions reduction strategies...can also lead to important co-benefits, such as improved air quality, local economic benefits such as green jobs, more mobility choices, improved public health and quality of life, protection of locally, statewide, and globally important natural resources, and more equitable sharing of these benefits across communities.¹⁵

And:

[S]ome climate strategies, such as GHG reduction measures that decrease diesel combustion from mobile sources, produce air quality co-benefits in the form of concurrent reductions in criteria pollutants and toxic air contaminants.¹⁶

As a result, "CARB recommends that lead agencies prioritize on-site design features that reduce emissions, especially from VMT, and direct investments in GHG reductions within the project's region that contribute potential air quality, health, and economic co-benefits locally."¹⁷ The connection between local GHG mitigation and local health benefits explains why the

¹⁴ For a detailed description of health consequences associated with exposure to various pollutants, *see* SCAQMD, 2016 Air Quality Management Plan (AQMP), Appendix I, Health Effects, *available at* <http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-management-plans/2016-air-quality-management-plan/final-2016-aqmp/appendix-i.pdf?sfvrsn=14>. Accessed January 2019; *see also*, EXHIBIT 1, pp. 7-8; EXHIBIT 3.

¹⁵ CARB, Final Scoping Plan Update, 2017, p. 100, *available at* https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf.

¹⁶ *Id.* at 14.

¹⁷ *Id.* at 102.

Legislature required GHG mitigation measures to “maximize public health, environmental and employment benefits” by reducing GHG emissions “in the project area and in the neighboring communities.”

If the Project relies on a faulty baseline to underestimate GHG emissions, as described above, the Project is likely underestimating local emissions of diesel particulate matter, PM10, PM2.5, NOx and other pollutants and the related health consequences associated with such emissions in neighboring communities. This is particularly critical in the case of the project, since it is located directly in a lower income residential community. Taking credit for illusory reductions located elsewhere in the region will not mitigate localized health risks on neighboring communities. As the requirement to apply local mitigation to benefit the neighboring community is clearly part of AB 987, the applicant must mitigate its actual local GHG emissions, which will have the co-benefit of reducing local emissions of criteria pollutants and toxic air contaminants.

The application also does not account for increased VMT and traffic congestion that may increase local emissions. Traffic congestion and idling time will be exponentially compounded by the fact that when the Forum, the new NFL stadium, and project’s arena operate at the same time, the surrounding roadways are forecast to cease functioning. If the Project’s local emissions are underestimated, the actual emissions of toxic air contaminants, such as diesel particulate matter from heavy duty trucks, may be underestimated. The potential health consequences of diesel particulate matter is well documented.¹⁸

D. CARB Cannot Determine Project Achieves Net Zero GHGs Without Satisfaction of the Locational Requirements

Unlike AB 900, the Legislature specifically mandated that AB 987 projects satisfy strict locational requirements for any carbon offsets utilized to achieve net zero GHGs. Specifically, Public Resources Code Section 21168.6.8(j)(4) requires:

The applicant may obtain offset credits for up to 50 percent of the greenhouse gas emissions reductions necessary to achieve the requirements of paragraph (3) of subdivision (b). *The applicant shall, to the extent feasible, place the highest priority on the purchase of offset credits that produce emission reductions within the City of Inglewood or the boundaries of the South Coast Air Quality Management District...* (Emphasis added.)

The inclusion of locational requirements in AB 987 where there was previously silence on this topic establishes the Legislative’s affirmative intent to hold this project to a higher standard of reducing specifically local GHG emissions. Governor Brown also made this clear in

¹⁸ See CARB, Diesel and Health Research, *available at* www.arb.ca.gov/research/diesel/diesel-health.htm.

his signing message.¹⁹ CARB cannot determine the project is net zero GHGs in conformance with AB 987 unless the applicant identifies and legally commits to achieving feasible reductions from carbon offset programs located within the neighborhood and the City of Inglewood.

The application lacks any information about how AB 987's locational reduction requirements could ever be achieved. The application states that almost 40 percent of reductions will come from "carbon credits," even assuming all other GHG reductions identified in the application are accurate (an assumption this analysis shows is flawed). The application makes no attempt to identify which offset programs are currently available in the neighborhood or in the City of Inglewood or even within the SCAQMD boundary. Instead, the application defers the purchasing of carbon credits to the grading permit or certificate of occupancy stage, *long after* CARB has evaluated the project under AB 987 and the CEQA process has been completed, and does not seek to identify what might even be available then.

AB 987's locational requirements are consistent with CARB's 2017 Scoping Plan Update.²⁰ It would be inconsistent with AB 987 and the Scoping Plan for CARB to determine the project is net zero GHGs without evaluating the feasibility of local carbon offsets, and specifically what they are. The application provides no meaningful information regarding real local measures and certainly makes no commitment to such measures.

Importantly, the applicant cannot rely on any measures utilized to satisfy its *separate* Section 21168.6.8(j)(3) requirements,²¹ which themselves mandate local measures to reduce the project's GHG emissions. The locational requirements in Section 21168.6.8(j)(4) apply to any additional carbon offsets the project may pursue and Section 21168.6.8(j)(4) imposes distinct obligations that are in addition to the Section 21168.6.8(j)(3) mandates. The separate requirements under Section 21168.6.8(j)(3) and Section 21168.6.8(j)(4) are necessary to improve local air quality and health co-benefits for neighboring communities.²²

¹⁹ Writing that "the project must reduce criteria pollutants, a requirement that is not included in the current Environmental Leadership Development Project standards."

²⁰ Final Scoping Plan Update, 2017, Appendix B ("Encourage the applicant to consider generating or purchasing local and California-only carbon credits as the preferred mechanism to implement its offsite mitigation measure for GHG emissions and that will facilitate the State's efforts in achieving the GHG emission reduction goal.")

²¹ Pub. Resources Code § 21168.6.8(j)(3) provides: "Not less than 50 percent of the greenhouse gas emissions reductions necessary to achieve the requirement of paragraph (3) of subdivision (b) shall be from local, direct greenhouse gas emissions reduction measures, including, but not limited to, any of the following:" Section 21168.6.8(j)(3)(A)-(B) identify onsite and offsite GHG reduction measures that should be considered.

²² See CARB, Final Scoping Plan Update, 2017, p. 102 (onsite and local measures "contribute potential air quality, health, and economic co-benefits locally"), *available at* https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf.

The Governor cannot certify the project unless CARB has determined that it would result in net zero GHG emissions, and CARB cannot reach this determination unless CARB is satisfied the project will either not require carbon offsets or will meet the carbon offset locational requirements.²³

E. The Technical GHG Analysis Contains Numerous Data Gaps and Erroneous Assumptions

1. The Application Uses Inconsistent Methodology When Calculating Baseline and Project Emissions

The application uses inconsistent internal logic to take credit for decreasing project emissions over time while holding steady baseline emissions. The application assumes that due to projected utility intensity factors and cleaner vehicles, the project's GHG emissions will decrease from 2024 into the future. However, the application does not reduce baseline emissions as would inherently also occur as fuel efficiencies improve. The application should apply similar reductions in future years to baseline emissions as it did for the project's future emissions.

The application also cherry-picks inconsistent utility intensity values without adequate explanation. When calculating the baseline emissions, the application should have matched the site-specific usage for the time period upon which the analysis is based. For instance, for each venue the application assumes will lose "market-shifted" events, the application uses a different year to calculate baseline emissions (Staples Center: 2016; the Forum: 2018; Honda Center: 2017).

2. The Application Contains Numerous Errors and Inconsistencies

The application contains numerous errors and inconsistencies, which make it difficult to verify or understand how the reported emissions are calculated.

- **Mobile Source Emissions.** The application contains internal inconsistencies regarding mobile source emissions. Table 7 of the TDM section reports total annual trips of 2,972,568. However, the "Mobile Source Emissions" table of the Attachment G summary reports total annual trips of 2,646,393. This diminishes the mobile component of the project's emissions by approximately 12%.
- **Proximity to Downtown Transportation Services.** As detailed below, the application does not account for the fact that a significant portion of the project's guests and employees will no longer benefit from the same proximity to downtown Los Angeles transportation services adjacent to the Staples Center location. Based on the applicant's own estimates, VMT is expected to increase, leading to a corresponding increase in GHG emissions.

²³ See Pub. Resources Code, § 21168.6.8(j)(4), cross-referencing the § 21168.6.8(b)(3) determination.

- Ten Percent Energy Reduction is Unsubstantiated. The application simply claims, without substantiation, that the project will be ten percent more efficient than Title 24 2019 standards. This claim is dubious. First, while the project’s commitment to Tier 1 of the CALGreen Code will achieve energy consumption benefits, there is no explanation how the applicant arrived at a ten percent (10%) reduction over Title 24 2019 standards. Indeed, the Tier 1 requirements are included in the 2016 version of CALGreen and thus were established well before the 2019 standards. Without further substantiation, any estimated reduction in energy reduction is purely speculative.
- LEED Reductions are Unsubstantiated. The application takes credit for emissions reductions achieved through LEED Gold certification with no substantiation as to how LEED Gold commitments will result in any material GHG reductions. For example, the application takes LEED credit for heat island reduction, light pollution reduction, green education programs, and other measures that are unlikely to result in material GHG reductions.
- Details Regarding White Box Model are Missing. The application notes the use of what it describes as a “white box” model to calculate future energy uses, but there are no details as to how the model operates. Without detailed information as to the model, neither the public nor CARB can understand, analyze, or replicate the model results. The calculations of the model should be substantiated and illustrated to meet the standards of such for CEQA, offset protocols, and stationary source emissions reduction credits.

F. The Applicant Has Failed to Submit the Required Application to the Air Resources Board

AB 987 requires that the Air Resources Board, pursuant to Division 25.5 of the Health and Safety Code, separately determine that the project does not result in any net additional emission of greenhouse gases.²⁴ AB 987 encourages CARB to make its determination no later than 120 calendar days *after receiving an application* for review of the methodology and calculations of the project’s greenhouse gas emissions.²⁵ While the applicant has described (inaccurately in our opinion) how it intends to achieve no net additional emission of greenhouse gases in its application for certification to the Governor, there is no indication that it has properly submitted any application to CARB as required by AB 987.

CARB has issued guidance on what steps an applicant should take to fulfill its obligation to submit an application for the evaluation of greenhouse gas methodologies and documentation for AB 900 projects. The language in AB 987 related to this topic is identical to that in AB 900 and OPR confirms its “Guidelines [for AB 900] apply to projects requesting certification for streamlined judicial review . . . Assembly Bill 987 (Chapter 961, Statutes of 2018) to the extent

²⁴ Pub. Resources Code § 21168.6.8(b)(3).

²⁵ *Id* (emphasis added).

that the Guidelines are applicable and do not conflict with the language contained within those statutes.”²⁶

CARB guidance prescribes eleven steps an applicant take before CARB will issue a certification:

1. Applicant meets with the lead agency to discuss the proposed project including emission quantification methodologies and potential mitigation measures.
2. Applicant makes any adjustments to the project, emission quantification methodologies, or mitigation measures per direction from the lead agency.
3. Applicant sends ARB an email indicating its intent to submit proposed GHG methodologies and documentation along with a simple description of the proposed project as well as the lead agency contact so that ARB can assign the appropriate technical staff to respond.
4. ARB contacts the lead agency for the proposed project to discuss their perspective on the emission quantification methodologies and any mitigation measures.
5. ARB holds a pre-submittal meeting with the applicant regarding the project in an effort to provide direction on the submittal and associated process.
6. Based on the applicable facts the ARB will: 1) encourage the applicant to proceed with submitting GHG methodologies and documentation; 2) recommend that the applicant follow-up with the lead agency on outstanding questions before submitting GHG methodologies and documentation; or 3) schedule a coordination meeting that includes the lead agency and applicant prior to submitting GHG methodologies and documentation.
7. Applicant submits its GHG methodologies and documentation to ARB.
8. ARB evaluates the submittal in consultation with the lead agency.
9. ARB drafts its evaluation and shares it with lead agency.
10. ARB finalizes its determination and transmits it to the Governor’s Office.
11. The above steps apply provided the lead agency is available to work within the schedule established for ARB under the Act. If this is not possible, ARB may

²⁶ See California Jobs, AB 900, *available at* <http://opr.ca.gov/ceqa/california-jobs.html>.

seek additional time as provided for under the Act or proceed with finalizing its evaluation and determination under the Act.²⁷

There is no indication that the applicant undertook any of these steps prior to submitting its application to the Governor. If the applicant had, we anticipate CARB would have identified the many flaws in the application's methodology for establishing its supposed net-zero emissions claim and meeting AB 987 requirements, and likely rejected the application as incomplete. CARB should do so now.

AB 987 encourages CARB to make its determination within 120 days after receiving an application for review of the methodology and calculations of the project's greenhouse gas emissions.²⁸ Because the applicant has not submitted its GHG analysis to CARB consistent with CARB's adopted procedures, CARB should not be restrained by the recommended time period for review.

And the public must be provided any supplemental application materials and time to review and respond to such submissions.

III. THE TRANSPORTATION DEMAND MANAGEMENT PROGRAM LACKS EVIDENTIARY SUPPORT AND DOES NOT MEET AB 987'S REQUIREMENTS

AB 987 "requires a transportation demand management program that, upon full implementation, will achieve and maintain a 15-percent reduction in the number of vehicle trips, collectively, by attendees, employees, visitors, and customers as compared to operations absent the transportation demand management program."²⁹ (

AB 987 requires the TDM program to include "a *specific program* of strategies, incentives, and tools...with specific annual status reporting obligations..."³⁰ The "15-percent reduction in vehicle trips shall be achieved and maintained *as soon as feasible*, but not later than January 1, 2030."³¹ At a minimum, not less than 7.5% reduction in vehicle trips is to be achieved and maintained by the end of the first NBA season.

Based on a review of the applicant's proposed TDM program, it is clear that the project's TDM program is likely to never achieve a 15% reduction and certainly will not achieve a 7.5% reduction by the end of the first NBA season that the arena is operational. The application fails

²⁷ Process for Greenhouse Gas Methodologies and Documentation Submittal to the California Air Resources Board, *available at* <https://www.arb.ca.gov/html/ab900.htm>.

²⁸ Pub. Resources Code § 21168.6.8(b)(3).

²⁹ Pub. Resources Code § 21168.6.8(a)(3)(B)(i).

³⁰ Pub. Resources Code § 21168.6.8(a)(6) (emphasis added).

³¹ Pub. Resources Code § 21168.6.8(B)(iii).

to demonstrate that the project's TDM program will reduce vehicle trips by 15% "as soon as feasible" or that it is ever feasible to achieve a 15% reduction.

As detailed below, the TDM program relies on incorrect or unsubstantiated data, does not contain a plan detailing how results will be verified, and relies on optimistic trip reduction assumptions that have never been achieved. Without additional data and substantiation, the Governor cannot certify that the project will reduce trips as AB 987 requires. Moreover, the precedential impact of certifying a TDM program without essential detail and that is based on faulty assumptions will mean that other projects could well also similarly seek to avoid a rigorous analysis.

On a macro level, it is easy to see why the project's TDM program will not work.

First, the TDM program must work for all events and all project elements, not just Clippers basketball games. With respect to the arena alone, the applicant is projecting over 243 annual events, including concerts and other events. Clippers basketball games only account for approximately 49 of these 243 events. People who only visit the arena once or twice a year will fill approximately 200 of the project's events. However, the applicant's TDM program assumes that concert attendees as well as basketball game attendees have the same travel patterns. Transportation data suggests exactly the opposite and indicates that few one-time attendees to a concert at the arena will use transit.

Second, the Clippers are moving from high-density urban downtown Los Angeles to a suburban area typified by relatively low-density single-family homes and low-rise multifamily homes. Within the downtown area of Staples Center today, there are over 43,000 residential units, 90 million square feet of commercial space and thousands of hotel rooms. Directly adjacent to Staples Center and the Los Angeles Convention Center is a light rail transit stop with Blue and Expo Line access, numerous bus transit lines (with a dedicated bus lane), and the Red Line and Purple Line subway station is a ten-minute walk. There are dozens of restaurants, bars and other entertainment facilities within only a few blocks. Comparatively, there is virtually no significant office development today within miles of the project site nor is there high density residential development. There is no rail transit stop next to the project, as there is today at Staples Center, and there are few bus transit options adjacent to the proposed project site.

The applicant states (without supporting empirical data) that currently 80% of attendees to Clippers' basketball games at Staples Center arrive by car, with 20% arriving by walking, rail, transit buses (Metro, Foothill, Big Blue), shuttles, or "shared mobility (as discussed below). Thus, although Staples Center is located in Los Angeles' downtown residential and business core (arguably where a significant percentage of basketball and concert attendees might work and live), in an area with over 200,000 people within a one mile radius, and an area rich with rail and bus transit, only 20% of the basketball game attendees arrive by rail, bus, walking, or "shared

mobility” (i.e., Uber and Lyft, which are still cars, should not be included in the transit category and, in fact increase, overall trips, as discussed below).³²

The applicant assumes that its poorly defined TDM program, which relies almost entirely on shuttle buses to connect to under construction light rail stations, will reduce the number of attendees to basketball games and concerts arriving by private car by 34%, with the balance using buses or “shared mobility.”

There is no support in the application for the assumption that 34% of attendees to all Inglewood arena events will arrive by transit. This assumption that the Clippers will not only maintain its current 20% of attendees coming by means other than personal car, but increase it to 34% (an increase of 70%) over Staples downtown location is particularly flawed in light of the facts and perhaps more importantly the extensive testimony by the applicant and legislators that Inglewood is “transit starved.” There is not the office density or residential density in the area of the project to support the notion that people will walk to the arena from adjacent areas or that there would be a system of extensive transit buses or shuttles from offices and residences in the area. The project’s assertion of 34% alternative transit is wholly without support based on the applicant’s own precedent at Staples Center, the reality of the project site’s built environment, and published data.

A. The TDM Program Cannot Achieve a 15% Reduction by the End of the First NBA Season and Thus Cannot Meet AB 987’s Net-Zero GHG Requirement

The project’s application predicts a 15.151% trip reduction by 2030 and also relies on such a reduction after the first year of the arena’s operation to achieve AB 987’s net-zero GHG requirement.

The applicant relies on this purported 15% trip reduction to meet not only AB 987’s trip reduction requirement but also to meet AB 987’s net-zero GHG requirement. Under AB 987, the project must be net-zero during its first year of operation. Therefore, under the applicant’s GHG reduction assumptions, the project must achieve 15% trip reduction even in its first year of operation.³³ To certify compliance with AB 987, the Governor must find that the TDM program will achieve a 15% trip reduction in the first year of operation to credit the related GHG reductions the applicant assumes as part of the application. This level of reduction is simply not achievable in the first, second, third, or tenth year of operation. Nor is the 7.5% reduction achievable in its first year of operation. As a result, the Governor cannot certify the project under AB 987.

³² Shared mobility is usually just another car trip, if not two trips. Recent data suggest that Uber/Lyft increases traffic, VMT, and GHGs. (See EXHIBIT 2, Attachment A.)

³³ See Application, Table 3, at p. 21 (assuming reductions from TDM program in summarizing net-zero GHG conclusions); see Application, Attachment G, Greenhouse Gas Analysis, Table 8, at 21 (explaining that operational emissions with local GHG reduction measures “includes reductions association with implementation of TDM Program...”).

B. The Trip Generation Assumptions Have Numerous Errors

The TDM program rests on assumptions regarding the number of trips a particular project use generates. The application's assumptions and data contain many errors. As a result, the number of trips is underestimated and it is clear that the TDM program will not achieve 15% reduction in its first year of operation as assumed in the GHG reduction program (nor will it meet 7.5% in its first year of operation as assumed in the TDM program).

- The Wrong ITE trip rate is applied to the Sports Medicine Clinic. The Institute of Transportation Engineer's ("ITE") published rate for a Sports Medicine Clinic is 38.16 trips per thousand square feet.³⁴ The TDM program applies the incorrect rate of 30.18 trips per thousand square feet. This is a 20% underestimation. Using the application's assumption that the Sports Medicine Clinic would not operate on weekends (which should of course be an enforceable covenant to substantiate that assumption) and based on 260 weekdays per year, this error results in an underestimation of annual trips by 51,870.
- Clippers employee trips are dramatically understated. The 275 Clippers Management and Operations employees are assumed to generate 1.13 trips per employee. This is less than 50% of the ITE's trip rate of 2.31 trips per employee for corporate headquarters office buildings, which is an appropriate classification. The rate used by the Clippers, which is not supported by any evidence, rather dubiously assumes that for every two employees, one is not driving to work, that no employees leave the site during the day, and that the office receives no deliveries. Using the correct ITE trip generation rate adds 71,377 additional annual trips.
- No trips are assigned to Clippers employees on weekends. The study assumes that Clippers Management and Operations employees and Practice and Training Facility employees never work on weekends. No trips are assigned to weekends. This is an unreasonable assumption based on the Clippers' schedule alone and must be corrected to reflect the project's total trips accurately.
- Trips generated by Uber & Lyft vehicles are understated by 100%. An attendee or employee arriving in a private vehicle who then leaves at the end of the day or event generates two trips – one arriving and one leaving. In contrast, usage of Uber or Lyft generates four trips – two drop-off trips (one arriving to drop off the passenger and one leaving after dropping off the passenger) and two pick-up trips (one arriving to pick up the passenger and one leaving with the passenger in the car). Thus, the TDM program's assumption that ten percent of employees and

³⁴ The Institute of Transportation Engineer's ("ITE") is the leader in trip generation data. ITE generates trip generation rates for specific uses based on thousands of voluntary study submissions and its data is routinely used to estimate the number of trips a development project will generate.

visitors will use Uber & Lyft type services must also account for twice the number of trips these services generate. It does not.

When these four errors are corrected, the total number of trips the project will generate significantly increase. Just using the correct ITE rate for the Sports Medicine Clinic and the Clippers Management and Operations employees drops the TDM program's efficacy below 15%. When additional corrections are made to reflect higher employee trips during weekends, to account for the correct number of Uber and Lyft trips, and to reflect reasonable transit use assumptions the program is forecast to achieve only a 7.13% reduction in the total number of project trips.³⁵ The problems with the applicant's TDM program go well beyond just these trip generation errors.

C. The TDM Program's Assumptions Regarding Transit Riders Are Unsupported

Rail transit is the backbone of the TDM program. The Trip Generation Memorandum admits that "without shuttle service to and from the IBEC Project Site, it is unlikely that [event attendees] would take advantage of the existing and future rail services."³⁶ This is because the existing and planned rail facilities are between 0.8 and 2.0 miles away and because rail riders would need to transfer to a public bus and then still walk farther to the arena site. Moreover, the application concludes that "the streets that surround the Project Site lack pedestrian friendly sidewalks that would encourage walking." Accordingly, under baseline conditions, the Trip Generation Memorandum assumes that no employees or attendees to the project would use Metro rail service.³⁷

With event-day shuttle service, however, the Trip Generation Memorandum assumes that up to 10% of all attendees for basketball games and concerts would use existing and future rail services.³⁸ There is no support for this conclusion. Based the applicants' own data, it is clearly wrong and the Governor cannot certify the project under AB 987.

1. Rail Transit Usage At Existing Los Angeles Sports Facilities Shows the 10% Estimate is Unsupported

Staples Center is located about a block away from a Blue Line and Expo Line rail station on Flower Street and a short walk from the 7th Street/Metro Center, where the Red and Purple Lines stop. Despite this immediate proximity to multiple heavy and light rail transit lines and stations, the applicant reports (again, without supporting empirical data) that only 11% of

³⁵ EXHIBIT 2, at p. 4.

³⁶ Application, Attachment D, at p. 9.

³⁷ *Id.*

³⁸ *Id.*, at p. 13. Note that the applicant has not committed to providing electric shuttle or bus service.

attendees to a Clippers' basketball game take rail transit.³⁹ The downtown Los Angeles core also has one of the highest bus line concentrations in the region, is home to the region's largest workday population (over 74,000 people), and has over 43,000 residential units. Even with all of these factors, the application states that Clippers only achieve an 11% rail transit usage at Staples Center.

In fact, this 11% transit usage figure may be inflated. A recent data collection effort at a sold out Clippers basketball game at Staples Center found that only 2.6% of attendees arrived by way of Metro train and only 1.8% left by train. Data was collected on January 18, 2019, for two hours before and after the event and conservatively assumed that every transit rider leaving the station was going to the Staples Center event.⁴⁰

Despite this low usage of transit, data from a recent event suggest that number is overstated by three times. The applicant then forecasts essentially the same, likely overstated, rail transit usage (10%) of the transit advantaged Staples Center location for a suburban arena that lacks the office and residential density and pedestrian amenities of the Staples Center, that is up to two miles from rail stations that will require attendees to exit the rail station and then get on a shuttle to the arena. The applicant's reliance on a 10% rail ridership assumption is completely without foundation.

The applicant also predicts that *only* 66% of attendees to the entire project will come by personal car. The balance coming by transit/shuttles, park and ride buses and Uber/Lyft. This is an astounding number when compared to Clippers games at Staples Center, where, per the application, 80% arrive by personal car.⁴¹

Compare the applicant's assumptions to the assumptions contained in the report prepared for the new Los Angeles Football Club (LAFC) soccer stadium in Exposition Park and immediately adjacent to downtown Los Angeles, USC, and the Los Angeles Memorial Coliseum. There, with the LAFC stadium adjacent to transit and the downtown core, the analysis projected that 75% of attendees would arrive by personal car – nearly 10% more than the 66% the applicant predicts for its suburban site.

The Los Angeles Dodgers' free shuttle from Union Station in downtown Los Angeles further illustrates how the Trip Generation Memorandum's and TDM program's assumptions are without foundation and completely specious. Union Station, is located in downtown Los Angeles and well connected to all parts of downtown by rail, bus, and shuttles, is approximately 1.8 miles from Dodger Stadium. Union Station is a major hub for the City's railway system, receiving Metrolink, Metro, and Amtrak trains and bus service from across the region. It is the center of Southern California's mass transit hub.

³⁹ *Id.*, at p. 10.

⁴⁰ *See* EXHIBIT 2, at pp. 5-6.

⁴¹ Application, Attachment D, at 10.

The Dodgers' game day shuttle operates 90 minutes before game time and 45 minutes after the final out or 20 minutes after post-game events. The Dodgers shuttle uses a dedicated bus lane on Sunset Boulevard to expedite travel time.

During the 2017 season, Metro reported ridership of 278,623 attendees using the shuttle from Union Station for all regular and playoff games at Dodger Stadium.⁴² The Dodgers reported attendance of 3,765,856 during the 2017 regular season.⁴³ Thus, even if attendance figures from playoff and World Series games are excluded from total attendance, only 7.39% of attendees arrived at Dodger Stadium using the free shuttle from Union Station. If attendees from playoff and World Series games are included in the total attendance figure, the percentage of attendees using the shuttle was even less than 7.39%.

With the Dodgers' shuttle operating from the region's transit hub, Union Station, and having dedicated bus lanes, the Dodgers achieved a season ridership of 7.39% of attendees. The applicant, on the other hand is predicting that a full 10% of attendees to basketball games *and* concerts (and 5% at other events at the arena) will arrive solely by Metro's light rail system and then use the applicant's shuttle buses to travel the final two miles to the arena, beginning on the first day of arena operations. The applicant provides no data to support the conclusion that it can achieve 35% more transit usage than the Dodgers. The applicant's numbers are inflated and unlikely to ever be achieved.

The applicant should have substantiated this critical assumption with data. The applicant likely has data regarding the home addresses of season ticketholders and many other ticket purchasers. The applicant could have used this data to calculate average distance to a Metro rail transit line serving the project area (i.e., Metro Green or Crenshaw Line). With this data, the applicant could better predict how many basketball game attendees are likely to use rail transit based on proximity to their homes (or their office if the Clippers have reliable data as to office locations for season ticket holders). The percentage of concert attendees would be even less as one time or irregular users of a venue are much less likely to use transit than attendees to athletic events who are more likely to attend multiple events per year.⁴⁴

The Governor should request that the applicant provide data showing how many anticipated attendees live close enough to stations on the Green or Crenshaw Lines to substantiate its unsupported assumptions regarding rail ridership.

2. Even a Rail Transit Stop At the Arena Would Not Meet the Applicant's Projected Rail Ridership

In arguing for consistency with the 2016 RTP/SCS, the application notes that a "fixed light rail system with a station adjacent to the IBEC Project Site is currently in the planning

⁴² See Metro Transit-to-Parks Case Study, at p. 17, *available at* http://media.metro.net/projects_studies/sustainability/images/t2p_case_studies_2018-0301.pdf.

⁴³ See <https://www.baseball-reference.com/leagues/MLB/2017-misc.shtml>.

⁴⁴ EXHIBIT 2, at p. 8-9.

phase...”⁴⁵ The applicant apparently is referring to a proposal that Inglewood has named the “Inglewood Transit Connector.”⁴⁶ If constructed, the Inglewood Transit Connector (an elevated rail line) would travel between an Inglewood station along Metro’s under construction Crenshaw Line to the intersection of Century Boulevard and Prairie Avenue with multiple stops along the way. To suggest that this rail connector is in the “planning stages” misleads, as the City has only just released the Notice of Preparation and Initial Study for the line’s EIR. No agency has approved the rail interconnector, it is not part of any approved local or regional plan, and, to the best of our knowledge, it is not funded and the applicant has not agreed to fund it (estimated to be in excess of \$600 million).

Metro studied such a connector and rejected an interlined option (i.e., where the line allowed a one seat trip on the Crenshaw Line) as “infeasible due to its cost and complexity.” Metro forecast the costs of four independent alignment options (such as the one being studied by Inglewood) as between \$614.4 million and \$769.2 million.⁴⁷ Inglewood’s locally preferred alternative is initially projected to cost \$614.4 million for its 1.8-mile route, or \$341.3 million per mile.

Inglewood’s own forecasted ridership estimates for the Inglewood Transit Connector show that the applicant’s ridership estimates for a rail station that is up to 2 miles away from the proposed project are unrealistic and without foundation. The City’s report estimates that the locally preferred alternative for the Inglewood Transit Connector (the Market-Manchester Alignment) would have ridership for a Clippers’ game of 1,209 riders for an attendance of 12,000 and 2,557 for an attendance of 18,500. This equates to between 10% and 13.8%, respectively, of attendees to a Clippers game arriving by rail transit with a train stop immediately adjacent to the project site assuming there was a transit connector (monorail or street car) costing \$614 million.⁴⁸

In contrast, the applicant forecasts that 10% of attendees will take rail transit to concert and basketball events at the project site that is up to two miles away from the rail station.⁴⁹ and use a shuttle bus taking 30 to 60 minutes to get to the arena in congested traffic. The applicant has provided no support for the assumption that roughly the same number of attendees will arrive by rail transit to a station up to two miles away that requires a shuttle connection as are projected to use a \$600 million monorail or street car connector to the project’s front door.

⁴⁵ Application, at p. 14.

⁴⁶ The Inglewood Transit Connector, *available at* <http://envisioninglewood.org/transportation-solutions/inglewood-transit-connector/>.

⁴⁷ Envision Inglewood, April 2018, at p. 71, *available at* <http://envisioninglewood.org/wp-content/uploads/2018/07/Envision-Inglewood-Locally-Preferred-Alternative-Report.pdf>.

⁴⁸ *Id.*, at p. 68.

⁴⁹ Application, at p. 13.

3. Transit Ridership Is Experiencing Declines

The applicant's Trip Generation Memorandum ignores the fact that public transit usage on the whole is falling. From 2016 to 2018, Metro saw ridership drop by nearly 3.5 million boardings.⁵⁰ This was a more than three percent decline from 2016 to 2018. In 2017, ridership on Metro's trains and buses fell to 383 million trips, a 3.4% decrease from 2017 **and a 19.7% drop over five years.**⁵¹ The backbone of the applicant's TDM program is public transit in an era where usage of public transit is falling with people shifting to private vehicles.^{52 53}

4. Travel Time Far Exceeds What Would Be Needed For An Effective Shuttle Program

Even in the unlikely event the forecasted ridership exists, the TDM program would likely never be able to move that many people from the rail stations to project events. The City's own consultant on the project has described the streets surrounding the project site as follows:

- "The existing transportation infrastructure and circulation system is outdated..."
- "Capacity should be increased as major arterials streets and highways are highly congested..."
- "[T]here remains no direct connection from the Countywide Metro Rail System to the newly completed, under construction, and future activity centers."
- "[T]he City's Circulation Element from the City's General Plan has not been updated since 1992."⁵⁴

In Metro's analysis of a transit connection from the Crenshaw/LAX light rail to the Inglewood NFL stadium and Hollywood Park mixed-use development, Metro only studied grade

⁵⁰ Metro Ridership Year Over Year, *available at* <http://isotp.metro.net/MetroRidership/YearOverYear.aspx>.

⁵¹ *LA Weighs Charging Drivers by the Mile, Adding Freeway Tolls to Cut Congestion*, January 22, 2019, LA Times, *available at* <https://www.latimes.com/local/lanow/la-me-ln-pay-to-drive-20190122-story.html>.

⁵² See EXHIBIT 2, at p. 6.

⁵³ Another factor not considered in the TDM program and underlying data is that ridership levels on existing Metro lines are significantly higher than ridership projections for the forthcoming Crenshaw line. Metro projects an average daily ridership of 13,148 on the Crenshaw line in 2030. The 2018 average daily ridership levels were 26,326 on the Green line, 54,904 on the Blue line, and 837,937 on the Red line.

⁵⁴ EXHIBIT 4, at p. 6, Trifiletti Consulting, Inc. proposal to City of Inglewood "project management, strategic environmental consulting and coordination services for the Inglewood Basketball and Entertainment Center."

separated options because “other alternatives, which could be considerably less costly, were not studied because of the City’s concern that congestion during peak periods at the entertainment/stadium district could create conflicts with at-grade, fixed guideway transit service, degrading transit service.”⁵⁵

It is into this congested and outdated roadway system that the applicant proposes to ferry thousands of attendees by shuttle bus from Metro’s rail lines to the project on a near daily basis (250 large events forecast per year). The applicant has provided no data to suggest that this is physically achievable.

Gibson Transportation Consulting, Inc. collected travel times for the proposed shuttle routes during a recent event at the Forum.⁵⁶ Gibson Transportation’s empirical analysis found that shuttle travel times between a rail station and the project would be between 30 and 60 minutes, and potentially longer.⁵⁷

The 30 to 60 minute shuttle bus time needs to be considered as part of a far longer trip for public transit riders. The standard trip for a transit rider to an arena event likely looks something like this:

1. Car ride from business/home to Green Line or Crenshaw Line station.
2. Crenshaw Line or Green Line travel to Inglewood train station.
3. Shuttle bus from Inglewood train station to arena.

This three-leg ride will need to be repeated after an event, for a total of six independent travel legs.

Another potential transit/shuttle rider scenario would be an attendee to a Clippers game or a concert who works in downtown Los Angeles. Today, that attendee could either use any one of the many transit options (trains, buses, shuttle, etc.) in downtown Los Angeles to reach Staples Center, walk, or drive a short distance. Under the applicant’s proposal, attendee’s trip to Inglewood would entail the following:

1. Arrive at Expo Line station by transit, car, or foot.

⁵⁵ Metro’s August 8, 2017 Letter to Inglewood Director of Public Works, *available at* [http://envisioninglewood.org/wp-content/uploads/2018/06/Envision-Inglewood-Locally-Preferred-Alternative-Report-\(LPA\)-Technical-Appendices.pdf](http://envisioninglewood.org/wp-content/uploads/2018/06/Envision-Inglewood-Locally-Preferred-Alternative-Report-(LPA)-Technical-Appendices.pdf), at p. 120.

⁵⁶ Note that these are existing travel times. They are not even influenced by the under construction new NFL stadium or Hollywood Park development that includes 2,995 new homes and over one million square feet of commercial development.

⁵⁷ See EXHIBIT 2, at pp. 6-9.

2. Travel on Expo Line and then transfer from Expo Line to Crenshaw Line at the Expo Line's Crenshaw station.
3. Crenshaw Line travel to Inglewood train station.
4. Shuttle bus from Inglewood train station to arena.

This would be a four-leg one way trip to the arena and potentially a five-leg return trip home (for a total of 9 travel legs) because the attendee would potentially need to get from the Expo Line station in downtown Los Angeles back to their car and then drive back home.

Using Metro's published schedules for the Expo Line and Green Line and projected travel times for the Crenshaw Line, travel times on rail were estimated. For example, a transit rider coming from Downtown Santa Monica would travel to the Expo Line station and park, board an Expo Line train, travel 27 minutes on the Expo Line, transfer at the Crenshaw station to the Crenshaw Line and then travel approximately 14 minutes to Inglewood station, then board the Clippers shuttle bus to get to the arena. Assuming a 10-minute travel time to get to the Expo Station, no wait for an Expo Line train, 5-minute wait for the train at the Crenshaw Line station, this is, at best, a 46-minute rail trip, which is then followed by a shuttle ride of between 30 and 60 minutes for a total trip time of between 86 minutes and 116 minutes. A transit rider from downtown Los Angeles would take 5-minute walk to a transit station downtown, experience an approximately 40-minute train ride (20 minutes from downtown Los Angeles to Crenshaw, 5-minute wait for Crenshaw line, 14-minute train on Crenshaw line) then a shuttle ride of between 30 and 60 minutes for a total trip time of 75 minutes to 110 minutes.

Either one of the above scenarios is typical of a transit rider's journey to the proposed arena. When compared to average projected drive times⁵⁸, it is not reasonable to conclude that the applicant's assumption that 12% of attendees to basketball games and concerts will arrive by rail (10%) and public bus (2%) transit. Moreover, there is no basis to assume that basketball, concert attendees, trade show attendees, or other event attendees will behave the same with respect to transit usage. To the contrary, concert attendees, unlike basketball game attendees, are generally one time or irregular users and, therefore, much less likely to use transit than attendees to athletic events who are more likely to attend multiple events per year.⁵⁹

D. No Support for the Application's "Charter Coaches" Assumptions

The IBEC Trip Generation Memorandum predicts that a staggering 11% of total attendees to concerts and Clippers games and other arena events will use a Charter Coach to go

⁵⁸ Per the applicant, 18% of season ticket holders are within a 30-45 minute drive during the PM peak period and nearly 50% of season ticket holders are within a 50-75 minute drive during the PM peak hour. (Application, Attachment D, at p. 12 [IBEC Trip Generation Memorandum].) 10% of attendees are forecasted to arrive by rail transit and 2% by bus.

⁵⁹ EXHIBIT 2, at pp. 9-10.

to a project event. No attendees to a Clippers basketball game currently use “Charter Coaches.”⁶⁰

There is no information regarding this undefined program and no data to support this conclusion. Where are these park and ride facilities throughout the region linked to the Charter Coaches? How are the locations proximate to where arena attendees live or work? What is the projected travel distance and time? Data supporting the use of “Charter Coaches” to sports events at arenas in urban areas must be provided to substantiate this assumption. This program has no definition and no empirical support.

Moreover, the Charter Coach program’s own figures do not withstand the least scrutiny. To move the projected 1,980 people with 45 buses would require every seat on 44 of the buses to be full. If the buses are 75% full, then 60 buses would be required to move 1,980 people. As the TDM program only calls for 45 buses, if the buses are less than 100% full this would require some buses to make two round trips to the park-and-ride location. Depending on the park-and-ride location, which is likely more than the average attendee’s 21.59 miles home location from the project, two round trips is likely not feasible given the hours before events that the buses will have to run due to area traffic. In fact, a full 25% of all Clippers ticket sales occur outside of the Southern California region, making it unlikely that any of these 25% attendees would attend games via “charter coaches.”⁶¹ Adjusting for the fact that 25% of attendees are not within Southern California, the true percentage of Southern California attendees using Charter Coaches is predicted to be 15%. This figure is even more unsupported.

E. The TDM Program Is Not Verifiable & No Implementation Plan Is Provided

AB 987 requires that the TDM program contain “specific annual status reporting obligations”⁶² and that the “applicant shall verify achievement [of the 15% reduction] to the lead agency and the Office of Planning and Research.”⁶³

The “IBEC Project Transportation Demand Management Program,” presented in a total of only four pages (Application, Attachment C), does not explain how the reporting obligations can be met or how achievement could be verified. Without an implementation plan to verify results, the TDM plan does not meet AB 987’s requirements and the Governor cannot certify the project.

F. Average Vehicle Occupancy Is Unsupported

The applicant states that average vehicle occupancy without the TDM program is 2.3 attendees per vehicle on weekdays and 2.5 attendees per vehicle on weekends. The applicant

⁶⁰ Application, Attachment D, at p. 10.

⁶¹ *Id.* at 12.

⁶² Pub. Resources Code, § 21168.6.8(a)(6).

⁶³ Pub. Resources Code, § 21168.6.8(a)(B)(iii).

cites to a report prepared for the new LAFC stadium in Exposition Park in downtown Los Angeles.⁶⁴ These figures are found nowhere in the cited report.

It is critical for the applicant to gather information from its current operations at Staples Center for average vehicle occupancy (as well as other data). Such real world data, while suboptimal given the very different location types of Staples Center and the project (urban versus suburban), would be helpful in evaluating the reasonableness of the application's average vehicle ridership prediction. This data is easily available and the applicant should be asked to provide current data as to average vehicle ridership. It is baffling why the applicant has failed to provide empirical data to OPR to support these assumptions.

The application also cites the LAFC stadium study to support its position that its TDM program's effort to encourage carpooling would increase average vehicle occupancy to 2.7 attendees on weekdays and 3.0 attendees on weekends.⁶⁵ The cited report does not explain how the 2.7 and 3.0 rates were calculated so the potential applicability to the project cannot be determined. Given the central location of the LAFC stadium, it is not clear that the rates are transferable to the project's location far from downtown Los Angeles and far from transit. Again, the applicant should provide a comprehensive survey of Clippers ridership for weekday and weekend games so that the State and the public can assess the accuracy of many of these assumptions.

G. The Application Wrongly Scopes Out Analysis of the "West Century Boulevard Pedestrian Bridge Variant"

The application includes a "West Century Boulevard Pedestrian Bridge Variant" that would provide a pedestrian bridge across West Century Boulevard, touching down north of West Century Boulevard. The application is wrong when it simply states that the number of trips generated by the "West Century Boulevard Pedestrian Bridge Variant" would essentially be the same as the project.⁶⁶ This land area which would be connected by the pedestrian bridge directly across from the proposed project, is currently vacant and can be readily graded to provide additional parking areas for the arena. If this area is to be graded to provide additional parking for the applicant's project, the information is important to the TDM program's analysis.

With the construction of the NFL project at Hollywood Park, this variant also would provide the project access to thousands of parking spaces serving the NFL stadium. Access to several thousand additional parking spaces for the project attendees is a significant issue in evaluating the effectiveness of the project's proposed TDM program.

These questions are critical to the evaluation of the TDM program. By providing access to these additional thousands of parking spaces, project attendees will be encouraged to use their private vehicles to travel to the project, reducing the TDM program's effectiveness. Improved

⁶⁴ Application, Attachment D, at 11, fn. 7.

⁶⁵ *Id.* at 11, fn. 8.

⁶⁶ Application, at 3.

access from parking outside of the project area is not accounted for in the project's TDM program. Nor does the applicant provide any discussion of parking pricing and its impact on the TDM program. Parking pricing or restricted parking supply can significantly increase the effectiveness of TDM programs. This additional information and analysis must be provided.

IV. THE PROJECT IS NOT CONSISTENT WITH AN RTP/SCS THAT MEETS CARB'S EMISSIONS REDUCTION TARGETS

The project is within the region covered by the Southern California Association of Governments 2016-2040 Regional Transportation Plan/Sustainable Community Strategy (RTP/SCS): A Plan for Mobility, Accessibility, Sustainability and a High Quality of Life.

AB 987 requires that the project be consistent with the an RTP/SCS that meets CARB's targets for reducing Greenhouse Gas emissions. The project is not consistent with the 2016 RTP/SCS for at least three reasons.

First, the 2016 RTP/SCS would not, if implemented, achieve CARB's greenhouse gas emission reduction target.

Second, the project will not reduce vehicle miles traveled ("VMT"). The application contains no VMT calculations. In fact, the project will likely increase VMT. The project's VMT must be calculated and provided for the application to be deemed complete and for it to be reviewed for consistency with the 2016 RTP/SCS. Once provided, we believe, as discussed below, the VMT analysis will show that the project will increase VMT and, therefore, is inconsistent with the 2016 RTP/SCS. The scant data provided by the application seems to directly support the notion that the project will increase VMT.

Third, the project is not consistent with the general use designation, density, building intensity, and applicable policies for the project's area, as set forth in the 2016 RTP/SCS.

A. The 2016 RTP/SCS Does Not Meet CARB's GHG Emission Reduction Targets

Section 21168.6.8 requires that the project be "consistent with...[a] sustainable communities strategy...for which the State Air Resources Board...has accepted a metropolitan planning organization's determination that the sustainable communities strategy...would, if implemented, achieve the greenhouse gas emission reduction targets."

The 2016 RTP/SCS does not achieve CARB's emission reduction targets for the SCAG region.

On March 22, 2018, CARB adopted Resolution 18-12 – Proposed Update to Senate Bill 375 Greenhouse Gas Emission Reduction Targets.⁶⁷ Resolution 18-12 increases the emission target for SCAG from 18% for 2035 to 19% for 2035.⁶⁸ The 2016 RTP/SCS does not achieve this 19% greenhouse gas emission reduction target. The 2016 RTP/SCS only would, if implemented, achieve the 18% greenhouse emission reduction target previously adopted by CARB. SCAG is forecasted to adopt a new RTP in April 2020.⁶⁹ Thus, while the 2016 RTP/SCS was previously determined to be consistent with CARB’s prior target it is not consistent with CARB’s current “greenhouse gas emission reduction targets” established in 2018 (before the adoption of AB 987) for SCAG.

It is especially important that the 2016 RTP/SCS be judged against CARB’s current “greenhouse has emission reduction targets” because CARB found that “[s]tronger SB 375 GHG emissions reduction targets will enable to State to make significant progress toward the Scoping Plan Update goals, but alone will not provide of the reductions needed” since “the full reduction needed to meet our climate goals is on the order of a 25 percent reduction in statewide per capita GHG emissions by 2035.”⁷⁰ In light of this, OPR has concluded that “consistency with RTP/SCSs does not necessarily lead to a less-than-significant VMT impact.”⁷¹

Until SCAG adopts an RTP/SCS that is consistent with CARB’s 19% emission reduction target, it is difficult to understand how the Governor could legally find that the project is consistent with an RTP/SCS that meets CARB’s emission reduction target, as required by Section 21168.6.8. Such a finding would directly undermine CARB’s Resolution 18-12 and related proceedings involving this matter.

B. The Project Is Not Consistent With the 2016 RTP/SCS’s Goal of Reducing Vehicle Miles Traveled

Setting aside the issue of compliance with CARB’s March 22, 2018 Resolution establishing a 19% requirement for SCAG, which is a fatal flaw in the application, a key component of the 2016 RTP/SCS as adopted by SCAG is the “focus on reducing the number of

⁶⁷ Proposed Update to Senate Bill 375 Greenhouse Gas Emissions Reduction Targets, *available at* https://www.arb.ca.gov/cc/sb375/finalres18-12.pdf?_ga=2.184341926.1236776461.1547160254-1005937483.1501549482.

⁶⁸ Appendix A, MPO Target Recommendations and CARB Staff Recommendations, *available at* https://www.arb.ca.gov/cc/sb375/appendix_a_feb2018.pdf?_ga=2.172308515.1236776461.1547160254-1005937483.1501549482.

⁶⁹ Appendix D, MPO RTP Update Schedule, *available at* https://www.arb.ca.gov/cc/sb375/appendix_d_feb2018.pdf?_ga=2.79484564.1236776461.1547160254-1005937483.1501549482.

⁷⁰ 2017 Scoping Plan Update, at p. 75, *available at* https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf.

⁷¹ Office of Planning and Research, Technical Advisory on Evaluating Transportation Impacts in CEQA, at p. 11, *available at* <http://opr.ca.gov/ceqa/updates/sb-743/>.

drive-alone trips and overall vehicle miles traveled” through transportation demand management.⁷² Under the 2016 RTP/SCS, the “number of VMT per capita would be reduced by more than seven percent and Vehicle Hours Traveled per capita by 17 percent...as a result of more location efficient land use patterns and improved transit service.”⁷³

Remarkably, the project application under AB 987 does not even calculate the project’s VMT, which is a key requirement for the Governor’s certification. In fact, based on the analysis discussed herein, it is very likely that the project will actually increase VMT as compared to existing conditions because it will relocate uses from downtown Los Angeles, probably the best location for an arena from a VMT perspective, to an area in Inglewood that the project’s proponents repeatedly referred to as “transit starved” to obtain deviations from AB 900’s standards.⁷⁴ They cannot take the opposite position now and overstate the viability of transit alternatives to try to meet the VMT requirements.

- “People have asked, ‘Why can’t AB 900 work for this process?’ There are essentially two primary things. One is that under AB 900, it requires a 15% reduction in vehicle trips to the facility within the first year of the operation of the facility. *As we’ve discussed, this is a transit starved, disadvantaged community.*” (Joe Lang Testimony, June 26, 2018, Senate Judiciary Committee.)
- “Because we are a *transit starved community* we know that, that standard could not be met within the first year, and as a result we have asked for a longer period of time to comply with that standard. (Joe Lang Testimony, June 26, 2018, Senate Judiciary Committee.)
- “*Given the fact that we have a transit starved community* and we’re still focusing on the 15% emissions reduction that would have to be met well before as we’ve stated, it could be in this instance given this community.” (Sen. Kamlager-Dove Testimony, June 26, 2018, Senate Judiciary Committee.)
- “We’re happy to have the 15% vehicle trip production standard in the bill, but *because we are transit starved* we need a few more years to comply with that standard.” (Joe Lang Testimony, June 20, 2018, Senate Environmental Quality.)

⁷² 2016 RTP/SCS, at p. 6, *available at* <http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS.pdf>.

⁷³ *Id.*, at p. 9.

⁷⁴ Surprisingly, while repeatedly describing the project’s location as “transit starved” in pursuit of legislation providing extraordinary judicial relief, the applicant now frames the project location as “currently developed with access to high quality transit.” (Application, at p. 4.) Which one is it? Is the area “transit starved,” as stated before legislative committees or “currently developed with access to high quality transit”?

Staples Center on the other hand, where the Clippers currently play, is in downtown Los Angeles. Downtown Los Angeles is anything but “transit starved.”

First, because downtown Los Angeles is Southern California’s major employment center, many event attendees to Staples are likely already in downtown Los Angeles prior to attending a Clippers game or other event at Staples Center. Given downtown Los Angeles’ well-developed transit systems, including DASH, private shuttles, multiple bus lines and rail lines, many attendees to Staples coming from the office and homes in downtown likely generate no VMT to attend an event.

Second, Staples Center is well-served by existing rail and bus lines. Staples Center is a few hundred feet from a fixed rail station that is served by two light rail lines (Metro’s Blue Line and Metro’s Expo Line) and within walking distance to the 7th Street/Metro Center, which is served by Metro’s Red Line and Purple Line, which connect to Union Station. And numerous Metro Rapid bus lines also serve the downtown area.

Thus, while the application cherry-picks a couple of strategies that the project claims to be consistent with, it misses the forest for the trees and deprives the Governor, OPR, and CARB of critical information needed to determine whether the project is in fact consistent with the 2016 RTP/SCS – a VMT analysis.⁷⁵ Before any consistency finding can be made with the 2016 RTP/SCS, the applicant must actually calculate its VMT and show how the project in a “transit starved” area will reduce VMT consistent with the 2016 RTP/SCS’s goal of doing so to reduce GHG emissions.

In fact, the application *admits* that the average trip length for attendees *will increase by over two miles*. (Application, Attachment G, at pp. 11, 18 [trip length for attendees based on ZIP Code data of ticket purchasers is 19.38 miles from Staples Center and 21.59 miles from the project site].) There is no attempt to calculate the aggregate amount of VMT that either Staples Center or the project will generate. Further, the average “trip length” of 19.38 miles for attendees to Staples Center is very likely inflated because it does not account for the fact that many attendees are already in downtown Los Angeles or close to it for work. As a result, these attendees, even if they drive, are traveling a far shorter distance than whatever number was used to calculate the “average trip distance” of 19.38 miles. As a result, the average increase in trip distance is likely much larger than the over two miles the applicant assumes.

⁷⁵ This data is also critical to the greenhouse gas emission assessment prepared for the project. The increase in vehicle miles traveled as a result of the project’s location does not appear to be accounted for in the application’s “Greenhouse Gas Analysis.” (See Greenhouse Gas Analysis, Attachment G, at p. 11.) There is no indication that the increased vehicle miles traveled as a result of moving events from a centralized location well-served by transit to an area outside of downtown Los Angeles that is “transit starved” has been accounted for in the GHG inventory for the project

Empirical analysis by Gibson Transportation Consultants concludes that the assertion that VMT will be reduced “is not supported by the statistics.”⁷⁶ Gibson Transportation analyzed the project using a SCAG model and found that every trip to the project as compared to a trip to Staples would have a higher VMT.⁷⁷

Requiring accurate and complete VMT data be provided is entirely consistent with what projects applying under the California Jobs Act (AB 900) have provided to establish consistency with applicable sustainable community strategies.⁷⁸ As AB 987 was modeled after AB 900 and was designed to impose even higher standards, the applicant here must provide the project’s VMT data as well, and it is important to also fully assess the project’s GHG inventory and to determine consistency with the 2016 RTP/SCS.

C. The Project Is Not Consistent With the General Use Designation, Density, or Building Intensity in the 2016 RTP/SCS

AB 987 requires the Governor to find the project is “consistent with the general use designation, density, building intensity, and applicable policies in a sustainable communities strategy.”⁷⁹ The 2016 RTP/SCS was adopted in April 2016. The project was proposed in mid-2017 and AB 987 became law in 2019. As such, the applicant was fully aware of these land use consistency requirements and of the content of the 2016 RTP/SCS when the project was proposed and AB 987 was adopted.

The project is largely concentrated at the southwest corner of Century Boulevard and Prairie Avenue in the City of Inglewood. The project area is immediately adjacent to a residential neighborhood comprised of single family homes and one- to two-story multi-family apartment buildings. The immediately adjacent residential community is largely a lower income, minority community. Within the project area are two residential properties and a series of commercial properties.⁸⁰

⁷⁶ EXHIBIT 2, at p. 13.

⁷⁷ *Id.*, at p. 14.

⁷⁸ See 3333 California Street Project Application, Transportation Efficiency Exhibit [assessing trip generation and VMT], available at http://opr.ca.gov/docs/20180824-AB900_3333_California_Street-5_Attach_C_Transportation_Assessment.pdf; Potrero Power Station Mixed-use Project Application, at p. 11 [calculating project’s VMT], available at http://opr.ca.gov/docs/20180718-180713_PPS_AB900_Application_Exhibits.pdf; Hollywood Center Project Application, Exhibit 4, ELDP Traffic Memorandum for Hollywood Center Project, available at http://opr.ca.gov/docs/20180502-Hollywood_Center_Exhibit_1-8.pdf; 10 South Van Ness Mixed-use Project Application, at p. 10, available at http://opr.ca.gov/docs/10SVN_AB_900_Application_and_Attachments.pdf.

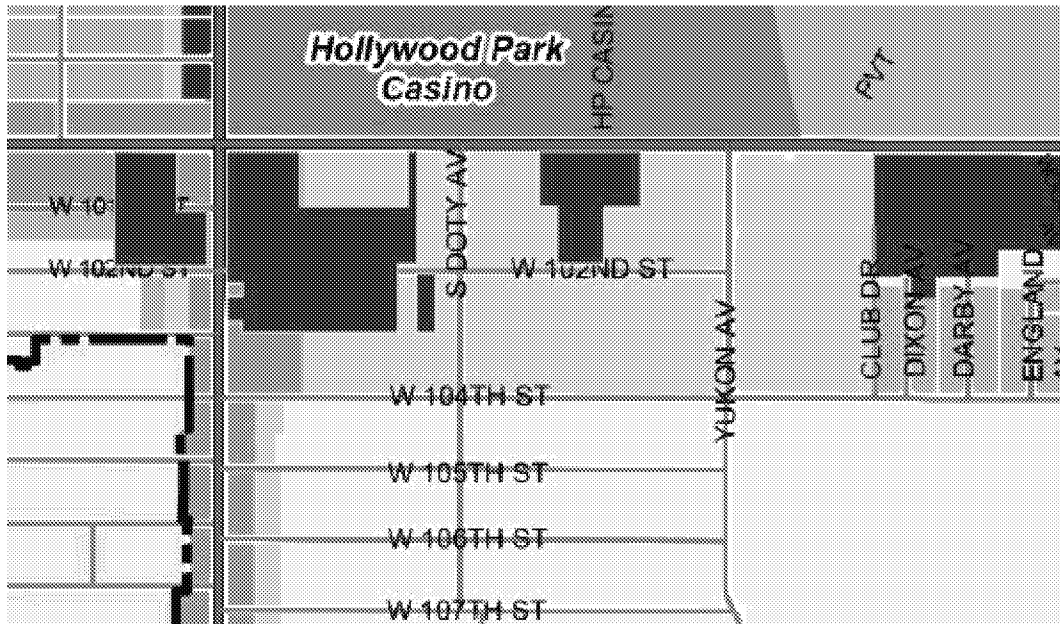
⁷⁹ Pub. Resources Code, § 21168.6.8(a)(3)(D).

⁸⁰ See EXHIBIT 5, photographs of properties surrounding and within the Project area and residents of the same.

SCAG developed the 2016 RTP/SCS, in part, based on Inglewood’s General Plan and zoning. Inglewood’s General Plan Land Use Map designates most of the project area as “Industrial” (which is shown in gray) with some small slivers of “Commercial” (which is shown in red). Here is the project area overlain in dark blue on the City’s general plan land use map.



Under the Inglewood Zoning Code, the project area is zoned various categories: Residential Multiple Family (R-4) (dark brown), Residential Limited Multi Family (R-2) (light brown), Airport Commercial (C-2A) (pink), and Limited Manufacturing (M-1L) (light blue). Here is the project area overlain in dark blue on the City’s zoning map.



Arenas are not permitted in any of the zones applicable to the project site. Arenas are solely permitted in the C-R zone.⁸¹ Thus, the project is inconsistent with the site’s existing zoning and General Plan land use designations.

More importantly, the project also is flatly inconsistent with SCAG’s general use designation, density, and building intensity for the project site.

The City’s General Plan and Zoning Map designations informed the land use maps SCAG generated as part of the 2016 RTP/SCS process. The 2016 RTP/SCS general use designation, density, and building intensity for the project area classifies the project area’s land uses as including “Single Family Residential” (yellow), “Multi-Family Residential” (beige), “Industrial” (blue) and “Commercial and Services” (red).

Below is a SCAG’s “Existing Land Use (Year 2016)” map and map index for the project area.⁸² The project site is outlined in black.

⁸¹ See Inglewood Municipal Code Sec. 12-27(3) for zoning uses permitted in the C-R zone [permitting “Athletic events (professional and amateur) including, but not limited to, football, baseball, track, tennis, soccer, wrestling, boxing, skating (ice or roller), golf, hockey, rodeos, and basketball.”].

⁸² See EXHIBIT 6, the complete SCAG Existing Land Use (Year 2016).



Under SCAG’s General Plan Land Use Codes, the project area was then designated “Industrial” (blue) and “Commercial and Services” (red). Here is the project site outlined in black on SCAG’s General Plan Land Use map of the area.⁸³



⁸³ See EXHIBIT 7, the complete SCAG General Plan Land Use Map.

The project is not an industrial use project. It contains an arena, ancillary office, retail, medical, and hotel uses. Therefore, it is inconsistent with the 2016 RTP/SCS's general use designation.

The information in the above maps and additional information provided to SCAG from Inglewood and other jurisdictions in SCAG's region was used to develop maps forecasting the Regional Development Types.⁸⁴ These SCAG maps illustrate the three Land Development Categories that SCAG developed for purposes of mapping future growth and predicting future growth studied and assumed within the 2016 RTP/SCS. The three Land Development Categories are Urban, Compact Walkable, and Standard Suburban.

As shown in the attached SCAG maps, the project area is designated Standard Suburban on both the Forecasted Regional Development Types (2012) and Forecasted Regional Development Types (2040) maps.⁸⁵ Both of these designations are inconsistent with the project's proposed dense arena development.

Arenas are consistent with an Urban designation, which are "[o]ften found within and directly adjacent to moderate and high density urban centers" and are "supported by high levels of regional and local transit service."⁸⁶ In contrast, Standard Suburban areas are lower density and generally not well served by regional transit service and most trips are made via automobile.⁸⁷ As the project area is low density and not well served by transit, it is characteristic of SCAG's definition of Standard Suburban areas.

Standard Suburban areas mapped "Industrial" on SCAG's General Plan Land Use map have structures that are typically one to two stories tall with a floor area ratio of 0.5 to 1.⁸⁸ In contrast, Urban Mixed Use districts have buildings that are between 10 and 40 plus stories tall.⁸⁹

Because the project is inconsistent with Inglewood's General Plan and zoning, inconsistent with SCAG's general plan designation, and inconsistent with SCAG's proposed density, and building intensity, the project cannot be certified as consistent with the RTP/SCS as AB 987 requires.

Accordingly, the Governor cannot certify the project as "consistent with the general use designation, density, building intensity, and applicable policies in a sustainable communities strategy." If the Governor makes such a finding in this circumstance when the nature and extent

⁸⁴ See Sustainable Communities Strategy Background Documentation, Appendix, *available at* http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS_SCSBackgroundDocumentation.pdf.

⁸⁵ See EXHIBIT 8.

⁸⁶ See Sustainable Communities Strategy Background Documentation, at p. 43, *available at* http://scagrtpscs.net/Documents/2016/final/f2016RTPSCS_SCSBackgroundDocumentation.pdf.

⁸⁷ *Id.*

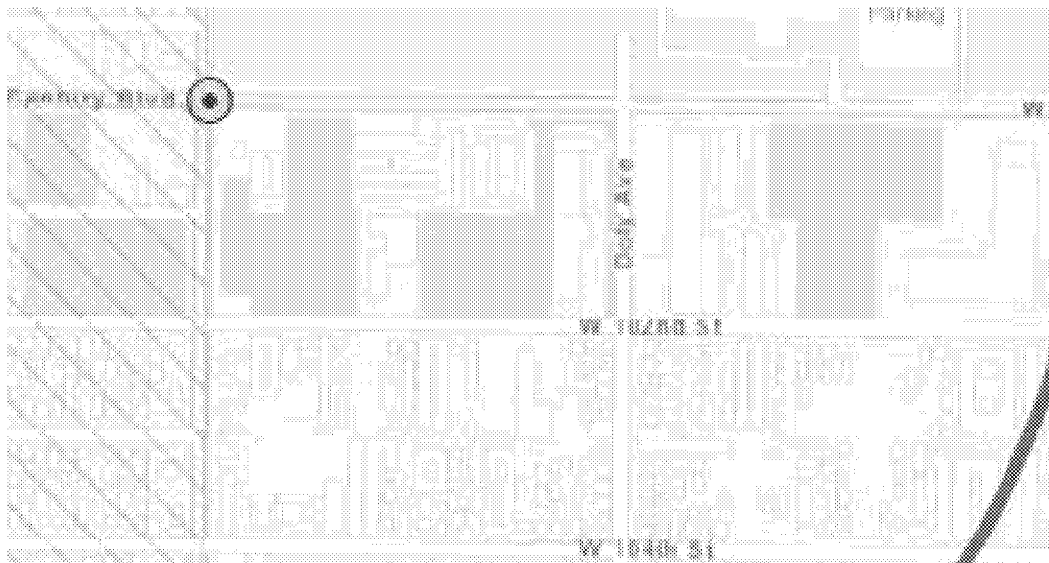
⁸⁸ EXHIBIT 9, SCAG's Urban Footprint Place Types.

⁸⁹ *Id.*, at p. 1.

of the inconsistency is clear and unambiguous, the ramifications for other required consistency determinations statewide relating to the RTP/SCS is significant.

D. The Project Area is not in a “High Quality Transit Area” or Accessible to Transit

The applicant states that the project is consistent with the 2016 RTP/SCS’s strategy to “encourage development in High Quality Transit Areas (HQTAs) and along ‘Livable Corridors.’”⁹⁰ The applicant also states that the project is consistent with the 2016 RTP/SCS’s goal of “encouraging compact growth in areas accessible to transit.”⁹¹ Both statements are incorrect. The project is not in an HQTA.⁹² Below is a section of the SCAG map attached at Exhibit 8 showing that the arena, hotel, retail, and other habitable project buildings are not in an HQTA and not forecast to be in one in 2040. The map’s cross-hatching denotes HQTAs. The dot shows the intersection of Century Boulevard and Prairie Avenue. The area to the southeast is the project area and is not cross-hatched, which means it is not an HQTA.



- ⊙ Intersection of W. Century Blvd. and S. Prairie Ave.
- ⊞ One-Half Mile Radius Around the Intersection
- ▨ High Quality Transit Areas (2040)
- ▧ Transit Priority Areas (2040)

⁹⁰ Application, at p. 13.

⁹¹ *Id.*

⁹² See EXHIBIT 8, SCAG HQTA maps for 2012 and 2040. Only one of the project’s parking structures is located within an HQTA. The arena, sports medicine clinic, offices, and hotel are outside of the HQTA. It is wrong for the application to state that the project is in an HQTA.

The applicant admits that the project is not accessible to transit.⁹³ Given that the project is not in an HQT, is not along a “livable corridor,” and not accessible to transit, it is not consistent with even those limited 2016 RTP/SCS policies with which the applicant selectively claims consistency.⁹⁴

V. NO BASIS TO FIND THAT PROJECT QUALIFIES FOR LEED GOLD CERTIFICATION

Public Resources Code Section 21168.6.8 requires that the Governor find that the project will qualify for LEED Gold certification within one year of construction.⁹⁵ Insufficient information is provided to permit the Governor to make this conclusion. Moreover, based on the information that is provided, it does not appear that the project could ever meet the LEED Gold standard.

To be LEED Gold, the project must earn between 60 and 79 points under LEED’s point schedule. The two scorecards provided⁹⁶ predict that the project would receive either 62 or 61 points. The project loses one point for Variant One, which includes the demolition of two residential properties.

A mere two pages of very limited narrative is offered to support the scorecard’s conclusions. This information is not adequate to find that the scorecard was properly completed and the project will qualify for LEED Gold. Based on the limited information provided, it is hard to understand how a determination can be made to certify that the project will be LEED Gold. It is more than clear, based on the information provided, that the project does not meet the LEED Gold standard. At the very least, the Governor needs additional information and analysis to evaluate the issue.

A. The Project’s LEED Scorecard Inaccurately Credits the “Transit Starved” Project Area

The project’s LEED scorecard credits six points for “access to quality transit.” As discussed in section IV.B above, during the legislative process, the applicant and AB 987’s author repeatedly characterized the area as “transit starved” in arguing for additional time to implement the required TDM program. It is beyond understanding given the number of times

⁹³ See *supra*, Section IV.B (applicant’s characterization of project area as “transit starved”).

⁹⁴ EcoTierra, an environmental consulting firm, evaluated the project for consistency with the 2016 RTP/SCS and found that it was inconsistent with it. See EXHIBIT 1, at pp. 8-13.

⁹⁵ Pub. Resources Code § 21168.6.8(a)(3)(A).

⁹⁶ Application, Attachment B.

the applicant asserted that Inglewood and the project area are transit starved, that the applicant can now claim it has access to quality transit.⁹⁷

Now the project applicant argues that “access to high quality transit” is valued at six points on the LEED scorecard.⁹⁸ In fact, the project is nearly one mile from the closest existing fixed guideway transit stop (Hawthorne/Lennox Metro Green Line station 0.8 miles) and between 1.6 and 2.0 miles from under construction stations.⁹⁹

Given the distance from the fixed railways and the applicant’s repeated acknowledgment that the area is “transit starved,” it is wrong for the scorecard to award six points for “access to high quality transit.” Elimination of these points causes the project’s score to fall below the threshold for LEED Gold and AB 987 certification.

B. No Information Provided Regarding the Project’s So-Called “Reduced Parking Footprint”

No information is provided regarding how many parking spaces will be provided. Without this information it is impossible to understand how there could be a “reduced parking footprint.” The application depicts at least two structured parking lots and one surface lot. No information is provided as to whether any subterranean parking will be provided. No information is provided as to how many stalls will be in each structure or lot. No information is provided as to how the “parking footprint” is reduced.

Moreover, there is a proposal for an aerial walkway to the Hollywood Park property to the north and its parking lots. Facilitating pedestrian travel between parking at the Hollywood Park property and the project will encourage the use of private vehicle travel and effectively expands the parking footprint.

C. No Support for “Optimized Energy Performance”

The LEED scorecard awards 18 points, *nearly a full one third of the total*, for what is termed “optimized energy performance.” The narrative devotes only six lines to this important concept and only broadly references photovoltaic panels, light emitting diode lighting, high-efficiency HVAC “strategies,” and the purchase of carbon offsets. There is no explanation how these activities “optimize” energy performance or how they can equate to 18 points on the scorecard. The “purchase of carbon offsets” does not “optimize energy performance.” Again,

⁹⁷ See EXHIBIT 10 (KTUA Memorandum finding that only two points should be awarded for access to transit)

⁹⁸ *Id.*

⁹⁹ The statement that the project site has “access to high quality transit” is also wrong under SCAG’s mapping of High Quality Transit Areas and Transit Priority Areas. Under both 2012 existing conditions and forecasted 2040 conditions, the project is outside of both High Quality Transit Areas and Transit Priority Areas. See EXHIBIT 8, SCAG High Quality Transit Areas and Transit Priority Areas maps.

more information and support must be provided for the any determination to be made that the project will be LEED Gold, as AB 987 requires.

D. The Project Description Is So Sparse That The LEED Findings Cannot Be Credited

The application broadly describes the project by listing the proposed uses and the square footage of some of the uses. A rudimentary site plan is also provided. (See Application, Attachment A.) No information is provided regarding project height, the amount of digital and other signage, the number of parking spaces, or the amount of open space and permeable surfaces, for example. Compare this lack of detail to the very detailed information provided for numerous projects that have applied for streamlining under AB 900. Many include detailed project drawings and renderings.¹⁰⁰ Only the barest of information about the project is provided here, certainly not enough to make a determination as to its LEED status.

Despite this lack of basic information, the LEED scorecard takes credits for very detailed project components. For example, a credit is taken for “light pollution reduction.” What is this based on? Per the application, “[t]he majority of parcels that comprise the Project Site are currently vacant or underdeveloped.” How is the introduction of well over one million square feet of development replete with lighting and presumably large illuminated signs going to reduce light pollution? How many signs are proposed? Will they be digital? Where will they be located? Will they face the neighboring residential community? Will there be any controls on the brightness of the project lighting, including signs? None of this information is provided as part of the project description and without the information it is completely unclear how the project can be awarded points for “light pollution reduction.”

Similarly, the application states that electric vehicle charging stations will be provided at eight percent of the parking spaces. (Application, at p. 5.) However, without knowing how many parking spaces are proposed, one does not know how many charging stations are actually going to be provided and, in all events, providing charging stations at eight percent is hardly emblematic of green building under today’s green building standards.

The LEED scorecard awards two points for the “protect[ion] and restor[ation of] habitat.” What “habitat” is being protected or restored? The project site, adjacent to homes, is partially vacant. There do not appear to be any habitat areas on the vacant areas of the site. The portions of the site that are not vacant are fully developed with homes and businesses? Are there sensitive species or habitats on site? If so, what are they and how will they be protected or restored? If not, how is the project protecting or restoring habitat? No information is provided.

¹⁰⁰ See, e.g., 3333 California Street Project AB 900 Application (providing detailed drawings and renderings with application), *available at* http://opr.ca.gov/docs/20180824-AB900_3333_California_Street-3_Attach_A_Drawings.pdf; Hollywood Center Project AB 900 Application (same), *available at* http://opr.ca.gov/docs/20180502-Hollywood_Center_Exhibit_1-8.pdf; Potero Power Station Mixed-use Project AB 900 Application (same), *available at* http://opr.ca.gov/docs/20180718-180713_PPS_AB900_Application_Exhibits.pdf.

Without additional information, awarding points for protecting and restoring habitat appears specious at best.

VI. AB 987'S BASIC REQUIREMENTS ARE NOT MET OR ADEQUATELY SUBSTANTIATED

For certification under AB 987, the Governor must find, among other things, that: (1) the project will result in a minimum investment of \$100,000,000; (2) the project will pay prevailing wages to construction and permanent employees; (3) the applicant has entered into a binding agreement regarding environmental measures; and (4) the applicant will pay court costs and the costs of preparing the record of proceedings.

The applicant has provided no information for the Governor to find compliance with any of these requirements. There must be some factual basis upon which the Governor is to make his findings. These findings are meaningful but have been treated by the applicant as a layup without any evidence.

A. The Project Fails To Meet Its Economic Investment Obligations

AB 987 requires that the project create “high-wage, highly skilled jobs that pay prevailing wages and living wages... and permanent jobs for Californians.”¹⁰¹ The application is bereft of information as to how this standard will be met. No information on the number of permanent jobs to be created is provided. No information as to the job types, their classifications, or their numbers is provided.

1. The Application Ignores The Project's “Living Wage” Obligations

There is no evidence provided that the project will pay living wages. The applicant does not state what wages it will pay its employees. Although the applicant does not provide any breakdown as to what jobs are provided, it is reasonable to assume that the overwhelming majority of jobs will be part time concession, maintenance service, and security jobs at the arena, hotel, and retail stores. AB 987 requires that employees of the project receive “prevailing wages and living wages.”

While CEQA does not define “living wage”¹⁰², the Massachusetts Institute of Technology defines a “living wage” as the “hourly rate that an individual must earn to support their family.”¹⁰³ The Massachusetts Institute of Technology calculated the 2017 living wage for Los Angeles County was \$13.54 per hour for a single adult and \$29.25 per hour for one adult

¹⁰¹ Pub. Resources Code, § 21168.6.8(b)(2)(A)(i).

¹⁰² AB 987 defines “jobs that pay prevailing wages” (Pub. Resources Code, § 21168.6.8(b)(2)), but does not define “living wage.” The two are separate concepts. “[J]obs that pay prevailing wages” applies to construction workers. “Living wages” apply to permanent employees and non-construction workers.

¹⁰³ See Living Wage Calculation for California, *available at* <http://livingwage.mit.edu/states/06>.

with one child.¹⁰⁴ The applicant has provided no commitment or evidence that it will provide a “living wage” to the project’s permanent employees. Absent information, and any commitment to defined pay levels, it hard to understand how the finding required under section 21168.6.8(b)(2)(A)(i) that the project will pay “living wages” can be made.

2. The Project Will Not Create New “Highly Skilled Jobs”

AB 987 requires that the project create “highly skilled jobs.” The applicant has not provided any information as to what permanent highly skilled jobs are being created. In fact, since the Clippers organization is a going concern, as the application admits, it is merely moving from one office to another.¹⁰⁵ There is no evidence that this move will create any new highly skilled jobs. The applicant must detail how moving from existing facilities will create new highly skilled jobs beyond temporary construction positions. Absent this information, it is unclear how a finding can be made that the project will create highly skilled jobs under AB 987.

B. There is no evidence the applicant has entered into a project labor agreement.

The applicant states that it has entered into a project labor agreement. Presumably this agreement covers the construction workers to be employed on the project. However, no project labor agreement is provided with the application. While the applicant has summarily stated that it “has already entered into a project labor agreement,” it is unclear how that can be the case. Under Public Resources Code section 21168.6.8(b)(2)(ii) a “‘project labor agreement’ has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.” In turn, Public Contract Code section 2500 defines “project labor agreement” as “a prehire collective bargaining agreement that establishes terms and conditions of employment for a specific construction project or projects and is an agreement described in Section 158(f) of Title 29 of the United States Code.”

Section 158(f) of Title 29 of the United States Code defines “project labor agreement” as between “an employer engaged primarily in the building and construction industry” and a “labor organization of which building and construction employees are members.”

The applicant here is Murphy’s Bowl LLC, a Delaware corporation. Murphy’s Bowl is not an “employer engaged primarily in the building and construction industry.” To the best of

¹⁰⁴ *Id.*

¹⁰⁵ The applicants’ GHG analysis credits its existing operations against the emissions that the project will generate. While we disagree with this approach and believe it is fundamentally incorrect under CEQA and inconsistent with CARB’s goals of reducing GHGs and AB 987’s intent, if the applicant treats existing operations as a “baseline” for purposes of GHG, then those existing operations are the “baseline” for purposes of job creation. Thus, beyond construction labor, there is no indication that any new “highly skilled jobs” will be created. Per the applicant and consistent with its position in calculating GHG emissions, existing jobs are merely going to move from Los Angeles to Inglewood. Therefore, these jobs should not be credited as “new.”

our knowledge, Murphy’s Bowl LLC does not have a general contractor’s license issued by the State of California. Murphy’s Bowl LLC’s Form LLC-12 dated August 7, 2017, states its business is “real estate development.”¹⁰⁶ As Murphy’s Bowl LLC is not “engaged primarily in the building and construction industry,” then it is precluded from entering into a project labor agreement under section 158(f) of Title 29 of the United States Code.

Since Murphy’s Bowl cannot legally enter into a project labor agreement, we are unclear how the assertion that it already has can be true.

C. No evidence of a \$100,000,000 investment

The applicant summarily states that “Project costs would far exceed the \$100 million minimum investment requirement of AB 987.”¹⁰⁷ While this may be so, no evidence, in the form of a pro forma or otherwise, is provided to support this conclusion. The applicant merely reiterates the project’s scope and then states the applicant’s conclusion. This is inadequate when compared to what applicants under AB 900 have provided to prove the minimum investment is met.¹⁰⁸

VII. NO EVIDENCE THE PROJECT WILL MEET RIGOROUS SOLID WASTE RECYCLING MANDATES

AB 987 requires the project to meet California’s strict waste reduction and recycling standards.¹⁰⁹ () However, the applicant does not include sufficient information to establish that the project’s construction and demolition waste recycling will meet City and State diversion targets.

The applicant claims, without evidence, that the project would achieve 75 percent recycling of demolition materials. In its Construction and Demolition Permit Application,¹¹⁰ the City of Inglewood notes that “The State of California requires that 50% of construction and demolition debris from covered projects, and 100% of land-clearing debris (from nonresidential, newly constructed buildings), be diverted from land filling. “Covered projects” are defined to include, among others, “all new construction (residential, commercial and industrial).” There appears to be no mechanism for the City to require or enforce a diversion rate for construction or demolition debris that exceeds 50 percent. Moreover, the applicant provides no information to

¹⁰⁶ See Murphy’s Bowl LLC Form LLC-12, *available at* <https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=201716710170-22721105>.

¹⁰⁷ Application, at 16.

¹⁰⁸ See Economic and Fiscal Impact Report for the Hollywood Center Project, Exhibit 5, *available at* http://opr.ca.gov/docs/20180502-Hollywood_Center_Exhibit_1-8.pdf.

¹⁰⁹ Pub. Resources Code § 21168.6.8(b)(4).

¹¹⁰ Inglewood Construction and Demolition Permit, *available at* <https://www.cityofinglewood.org/DocumentCenter/View/187/Construction-and-Demolition-Permit-Application-PDF?bidId=>.

indicate how the suggested 75 percent diversion rate nor the 100 percent diversion of land-clearing debris would be achieved. Accordingly, insufficient information has been provided in the Application to demonstrate that the project would comply with Division 30, Chapter 12.8 (commencing with Section 42649) of the Public Resources Code.

The applicant does not include sufficient information to establish that the project will comply with Division 30, Chapter 12.9 (commencing with Section 42649.8) of the Public Resources Code regarding organic waste recycling.

The City of Inglewood does not appear to have established an “organic waste recycling program” as required by Public Resources Code section 42649.82. A review of the City Department of Public Works, Environmental Services Division website¹¹¹ identifies the following Recycling Programs of the City:

- Bottle & Can Recycling Centers
- Business & Recycling
- Green Waste
- Household Hazardous Waste
- Recycling Household Batteries
- Sharps Recycling Program
- Thrift Shops
- Weekly Hazardous Waste Roundups

Under “Business & Recycling,” the City provides information and advice to City businesses regarding recycling. In addition, the City provides a flyer dated February 27, 2017 that sets forth recycling requirements for commercial businesses and multi-family complexes operating in the City of Inglewood that meet the requirements of Public Resource Code sections 42649 et seq.¹¹²

Under “Green Waste,” the City addresses “yard trimmings, such as leaves, grass, thatch, chipped brush and plant cuttings.”

None of the recycling topics specifically addresses the area of organics recycling, which includes “food waste” and “food-soiled paper waste that is mixed in with food waste” per Public Resource Code Section 42649.8(c). The proposed arena component of the project would be expected to generate substantial quantities of such waste.

¹¹¹ City of Inglewood Recycling Programs, *available at* <https://www.cityofinglewood.org/279/Recycling-Programs>.

¹¹² City of Inglewood Recycling Requirements Flyer for Commercial Businesses and Multi-Family Complexes, *available at* <https://www.cityofinglewood.org/DocumentCenter/View/11479/Commercial-And-Multi-Family-Recycling-Requirements?bidId=>.

The applicant claims that the project will comply with Sections 42649.8 et seq. by “subscribing to a municipal solid waste collection service that is approved by the City.” The current solid waste franchise holder in the City of Inglewood is Consolidated Disposal Service (CDS), a Republic Services Company.¹¹³ According to Republic Services’ website,¹¹⁴ the services provided to assist customers in complying with AB 1826 (which enacted Public Resource Code 42649.8 et seq.) include “waste audits” and “educational programs and materials.” Neither of these services provides any assurances that the project would be able to meet organic waste diversion requirements as set forth in Public Resource Code section 42649.81(a)(3) (“On and after January 1, 2019, a business that generates four cubic yards or more of commercial solid waste, . . . , per week, shall arrange for recycling services specifically for organic waste.”) Moreover, the cited website¹¹⁵ specifically identifies food waste as an “Unacceptable” material for placement in CDS’ recycling containers. Although the site also references “organic containers for a fee, posters and additional tools,” no evidence of the availability of disposal services is provided.

Accordingly, insufficient information has been provided in the Application to demonstrate that the project would comply with Public Resource Code Division 30, Chapter 12.9 (commencing with Section 42649.8).

¹¹³ City of Inglewood Waste Collection, *available at* <https://www.cityofinglewood.org/353/Waste-Collection>.

¹¹⁴ Commercial Organics Legislation, *available at* <http://local.republicservices.com/site/los-angeles-ca/resources#organics>.

¹¹⁵ Republic Services, City of Inglewood, *available at* <http://local.republicservices.com/site/los-angeles-ca/inglewood>.