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Via Email (CStokes@dpw.lacounty.gov)

Cliff Stokes

Projects Manager

County of Los Angeles Department of Public Works

900 South Fremont Ave., 5th Floor

Alhambra, CA 91803

Re: Comments on Draft EIR for Rancho Los Amigos South Campus Project;
SCH No. 2017081017

Dear Mr. Stokes:

On behalf of the Los Angeles Conservancy, we provide these comments regarding the draft environmental impact report (“DEIR”) for the proposed Rancho Los Amigos South Campus Project (“Project”). The Project site is currently occupied by the California Register-listed Rancho Los Amigos Historic District. This important resource is associated with Los Angeles County’s turn-of-the-century treatment of indigent population and later health care for County residents with chronic mental and physical illnesses. It is a rare remaining example of such a large facility, charting the transition of the site’s transformation from a Poor Farm to a rehabilitative care facility. Instead of reflecting the care and consideration that should be provided such a significant resource, the County has for years failed in its legal duties to act as steward of this historic district, allowing some deterioration to take place. The County now attempts to use the years of neglect it has shown these resources as a basis for nearly wholesale demolition of the district, when new construction is proposed for only a portion of the site.

The DEIR is legally inadequate in its description of existing conditions, failing to support claims regarding the condition of existing resources or disclose its legal duty to protect those resources. The County attempts to use the DEIR as a post hoc rationalization for its predetermination that nearly the entirety of the Rancho Los Amigos Historic District should be demolished. The DEIR should instead have considered

feasible alternatives that incorporate a mix of new construction and adaptive reuse of many of the buildings that are contributing resources to the historic district. The Los Angeles Conservancy has advocated for this win-win approach for a number of years, but the County has yet to take the necessary hard look at this proposal, in violation of the requirements of the California Environmental Quality Act (“CEQA”).

I. The DEIR’s Impact Analysis is Inadequate.

CEQA serves two basic, interrelated functions: ensuring environmental protection and encouraging governmental transparency. (*Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal. 3d 553, 564.) CEQA requires full disclosure of a project’s significant environmental effects so that decision-makers and the public are informed of these consequences before the project is approved, to ensure that government officials are held accountable for these consequences. (*Laurel Heights Improvement Ass’n of San Francisco v. Regents of the University of California* (1988) 47 Cal.3d 376, 392.) The environmental impact report process is the “heart of CEQA” and is the chief mechanism to effectuate its statutory purposes. (*In Re Bay-Delta Programmatic EIR Coordinated Proceedings* (2008) 43 Cal. 4th 1143, 1162.) We are concerned that the DEIR fails to adequately and accurately disclose, analyze, and mitigate the Project’s significant adverse environmental impacts on the Rancho Los Amigos Historic District.

A. The EIR Includes a Misleading and Unsupported Description of Existing Conditions.

“To decide whether a given project's environmental effects are likely to be significant, the agency must use some measure of the environment's state absent the project, a measure sometimes referred to as the 'baseline' for environmental analysis.” (*Communities For A Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 315.) Without an accurate baseline description, “analysis of impacts, mitigation measures and project alternatives becomes impossible.” (*County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 953.)

Here, the DEIR has failed to provided a complete and supported description of the status of the contributing resources in the Rancho Los Amigos Historic District. The DEIR claims the majority of these historic resources are in poor condition, resulting in hazardous conditions that need to be rectified through their demolition. First, the DEIR fails to provide documentation to support its claims regarding the poor condition of the existing resources. Moreover, under the County Code, the owner of an historic district,

here the County, is prohibited from neglecting such resources in a manner that causes severe deterioration. (Los Angeles County Code 22.14.080 - H.) The DEIR admits that the County has left these resources unsecured. (DEIR p. 2-15.) Absent the proposed Project, as the steward of these resources, the County is required to provide maintenance and repair. Any failure to have done so prior to consideration of this project is a legal violation by the County.

Further, the DEIR claims that the resources present an existing safety hazard because they contain asbestos containing materials and lead based paint. However, this claim fails to acknowledge that until these materials are disturbed, they do not present a public safety hazard. Thus, under existing conditions, the resources are not a safety hazard.

B. The EIR Fails to Meet CEQA's Informational Requirements in the Analysis of Cultural Resources.

An EIR must be sufficient as an informational document to be found legal valid. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 935; *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.) Depriving the public of a full understanding of environmental issues is a prejudicial informational defect, requiring reversal of an agency's approval of a project. (*Ibid.*) Additionally, the EIR itself must contain an adequate analysis of impacts; an agency cannot cure an EIR's informational defects by relying upon information or evidence that is not contained in the EIR.

As discussed above, the DEIR's discussion of Rancho Los Amigos Historic District is misleading and unsupported in its claims regarding the condition and safety hazards present in these resources. The DEIR's assumption that historic resources must be demolished to avoid impacts does not fully disclose the Project's historic resource impacts. This does not provide the necessary information disclosure required by CEQA.

The DEIR's analysis of cultural resource impacts is also informationally deficient because it fails to include a referenced memorandum that identifies the character-defining features of the contributing resources to the Rancho Los Amigos Historic District. Until this week, the Conservancy was unable to review memorandum. To the Conservancy's knowledge, no other parties have been able to review the memorandum. Failing to include the memorandum in the DEIR, or otherwise make it available to the public,

deprives the public of a full understanding of the Project's impacts on this historic district.

II. The EIR's Alternatives Analysis is Inadequate.

The purpose of an alternatives analysis is to determine if feasible alternatives or feasible mitigation measures would substantially lessen a project's significant environmental effects. (Pub. Resources Code § 21002.) For this reason, the alternatives analysis is the "core of the EIR." (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal 3d 553, 564.) "One of [an EIR's] major functions . . . is to ensure that *all reasonable alternatives* to proposed projects are thoroughly assessed by the responsible official." (*Laurel Heights Improvement Ass'n. v. Regents of the University of California* (1988) 47 Cal. 3d 376, 400.) Further, "Under CEQA, the public agency bears the burden of affirmatively demonstrating that...the agency's approval of the proposed project followed meaningful consideration of alternatives and mitigation measures." (*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 134.)

Here, the Project would have several significant impacts the DEIR considers to be unavoidable: shade and shadow; NOx emissions; cultural resource impacts to an historic district and individual resources; greenhouse gas emissions; construction noise; and traffic. The County can only approve the Project with its significant and unavoidable impacts if "there is no feasible way to lessen or avoid the significant effect[s]." (CEQA Guidelines § 15043.) When an agency seeks to approve a project despite the significant impacts the project would have on the environment, the agency must adopt a statement of overriding considerations. (Pub. Res. Code § 21081.) A statement of overriding considerations must include specific finding, supported by substantial evidence, that "[t]here is no feasible way to lessen or avoid the significant effect..." (CEQA Guidelines §§ 15043, 15093(b).) Although a statement of overriding considerations is a policy statement, it must still be supported by substantial evidence. (*Woodward Park Homeowners, supra*, 150 Cal. App. 4th at 718.) A less impactful alternative can only be rejected if it is "truly infeasible." (*City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, 369.)

The DEIR's analysis of alternatives fails to demonstrate that less impactful alternatives are infeasible. Additionally, "[o]ne of [an EIR's] major functions . . . is to ensure that all reasonable alternatives to proposed projects are thoroughly assessed by the responsible official." (*Wildlife Alive v. Chickering* (1976) 17 Cal.3d 190, 197.) Here, the DEIR has attempted to design the presented alternatives to fail to meet the project

objectives, providing straw men instead of including slight revisions of these viable alternatives suggested by the Conservancy that would allow them to more fully meet project objectives.

A. The Partial Preservation Alternative is a Less Impactful and Feasible Alternative.

The DEIR includes a Partial Preservation Alternative that includes two scenarios, one in which demolition of the primary and secondary contributing resources to the Rancho Los Amigos Historic District would be averted and a second wherein only primary resources would be saved from demolition. Instead of taking the logical step and proposing repurposing of these contributing resources for adaptive reuse by other County departments and services (or public-serving uses such as a visitor/historic center, a fitness center, a café, a dining hall, a daycare facility, a farmers' market, a conference center or other commercial endeavors) the DEIR proposes to mothball the contributing resources. The Partial Preservation Alternative would also still include the same amount of new construction, including a County office building, parking structure, Internal Services Department Headquarters and Probation Headquarters. These new buildings would be constructed on the southwest portion of the large project site under this alternative and two contributing resources would need to be relocated to allow for the new construction.

The Partial Preservation Alternative would eliminate or substantially lessen several of the Project's significant adverse impacts. It would eliminate the Project's shade and shadow impacts on existing residential development located east of the Project site. Adverse impacts to the Rancho Los Amigos Historic District and individually significant historic resources on the Project site would be substantially lessened by this Project's preservation of the district's primary and secondary contributing resources. Construction noise impacts would also be reduced. Additionally, this alternative would not result in any new or more significant impacts as compared to the proposed Project.

The DEIR does not provide any information to support a claim that the Partial Preservation Alternative would be economically infeasible. Construction costs may be reduced because the new buildings would be located in closer proximity to each other. Additionally, many of the demolition costs associated with the proposed Project would be eliminated. Based on the information provided, the Partial Preservation Alternative is economically feasible.

The DEIR further acknowledges that the Partial Preservation Alternative would meet the majority of project objectives, albeit claiming some to a lesser extent than the Project. It is well settled that “[i]f there are feasible alternatives or feasible mitigation measures that would accomplish *most* of the objectives of a project and substantially lessen the significant environmental effects of a project subject to CEQA, the project may not be approved without incorporating those measures.” (*Center for Biological Diversity, Inc. v. FPL Group, Inc.* (2008) 166 Cal.App.4th 1349, 1371 fn 19, citation to (Pub. Resources Code §§ 21000(g), 21002, CEQA Guidelines § 15091); see also CEQA Guidelines § 15126.6(b).) Alternatives are not required to meet all project objectives, and in reality it “is virtually a given that the alternatives to a project will not attain all of the project’s objectives.” (*Watsonville Pilots Ass’n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087.)

The DEIR claims that the Partial Preservation Alternative would not meet objectives “to provide proximity to other surrounding County facilities, an attractive, uncluttered visible gateway to the South Campus from Imperial Highway, or establish a common character and tone for the South Campus as it would bring office uses in proximity to residential uses south of the Project Site.” The County cannot reject less impactful alternatives for failing to meet the exact design of the proposed Project; to do so would be reliance on improperly narrow project objectives to dictate what constitutes a feasible project alternative. (*Preservation Action Council v City of San Jose* (2006) 141 Cal App. 4th 1336, 1355. “[A] lead agency may not give a project's purpose an artificially narrow definition” and thereby circumscribe the alternatives analysis. (*In re Bay Delta Prog. Environmental Impact Report Coord. Proceedings* (2008) 43 Cal. 4th 1143, 1166.) That the Partial Preservation Alternative does not meet the exact design specifications of the proposed Project is an invalid basis for rejecting this alternative.

The DEIR also faults the Partial Preservation Alternative for including the mothballing of the remaining contributing resources, however, there is no basis for requiring mothballing instead of offering these resources for adaptive reuse as discussed above. The County cannot provide alternatives “designed to fail” in order to favor the proposed Project. This is a cynical use of the EIR process and a legally invalid method of analyzing alternatives, one that fails to comply with the County’s responsibility under CEQA. The Adaptive Reuse/Reduce Project Alternative makes clear that adaptive reuse of a number of the most significant historic resources on the site is feasible.

Because the Partial Preservation Alternative would meet the majority of the project objectives and is legally, economically, and technically feasible, the County lacks the necessary evidentiary support to reject this less impactful alternatives as infeasible.

B. The Reduced Demolition Alternative is a Less Impactful and Feasible Alternative

The Reduced Demolition Alternative also proposes to reduce the number of contributing resources to the Rancho Los Amigos Historic District that are demolished. It would include the construction of the County office building, parking structure, Internal Services Department Headquarters and Probation Headquarters in approximately the same location as the proposed Project, but would not demolish the historic resources located outside of the development footprint. Instead, as with the Partial Preservation Alternative, the Reduced Demolition Alternative proposes to mothball the remaining resources.

The Reduced Demolition Alternative would substantially lessen the Project's significant cultural resource impacts. It would also not result in any new or more significant adverse impacts. Thus, it is less impactful than the proposed Project.

The DEIR claims the mothballing process would be expensive, but fails to provide any evidentiary support for this claim, let alone the necessary comparative economic analysis required to claim an alternative it economically infeasible. (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal. App. 4th 587, 599.) Further, the "fact that an alternative may be more expensive or less profitable is not sufficient to show that the alternative is financially infeasible. What is required is evidence that the additional costs or lost profitability are sufficiently severe as to render it impractical to proceed with the project." (*Citizens of Goleta Valley v. Board of Supervisors* (1988) 197 Cal.App.3d 1167, 1181.) No such showing has been made and thus any claim of economic infeasibility is unsupported.

As with the Partial Preservation Alternative, designing the Reduced Demolition Alternative to include mothballing of remaining resources instead of adaptive reuse is an invalid basis for rejecting this alternative. The DEIR lacks any analysis of the ability to reuse the remaining contributor buildings for other County or public serving uses. For all of these reasons, the County lacks the necessary evidentiary support to claim the Reduced Demolition Alternative is infeasible.

C. The Adaptive Reuse/Reduced Project Alternative is Less Impactful and Feasible.

The Adaptive Reuse/Reduced Project Alternative provides for the adaptive reuse of existing contributing resource buildings for the Project's County uses instead of constructing new buildings. The DEIR's analysis of this alternative states that it would reduce the square footage available for relocating County uses, thus requiring some employees to remain in the facilities where they are currently located. All primary and secondary contributing resources would be preserved, while the tertiary and non-contributors would be demolished.

This alternative was determined to be the environmentally superior alternative—the alternative with the fewest adverse environmental impacts. This is because it would eliminate or substantially lessen the proposed Project's aesthetic, air quality, cultural resource, greenhouse gas, noise and traffic impacts.

As discussed above, the DEIR fails to provide any cost analysis to support a claim of economic infeasibility of this alternative. The Adaptive Reuse/Reduced Project Alternative eliminates the expense of new construction, which must be compared to the costs associated with rehabilitation of historic resources. The County should also consider whether costs of rehabilitation can be reduced under California's recently approved State Historic Tax Credit bill. This bill would provide tax credits for expenses associated with qualifying rehabilitation of historic resources.

The Adaptive Reuse/Reduced Project Alternative would meet the majority of the project objectives, making it a feasible alternative. The main contention in the DEIR regarding this alternative is that it does not provide the same amount of new space as the proposed Project. This is a self-imposed design flaw for the alternative, not a showing of infeasibility. The Adaptive Reuse/Reduced Project Alternative includes the removal of tertiary contributors and non-contributor buildings, leaving large areas of the southwest Project site and along the east side of Erickson Avenue open for new construction. If additional space is required for County office, new construction could contain it in these cleared areas. Central to accomplishing CEQA's substantive goals of public participation and lessening adverse environmental impacts is that the development, analysis, and thorough assessment of alternatives reflect "an objective, good-faith effort to comply [with CEQA]." (*Residents Ad Hoc Stadium Com. v. Board of Trustees* (1979) 89


Cal.App.3d 274, 287.) Designing alternatives to fail is not a good faith effort at CEQA compliance.

D. The County Must Consider a Hybrid Adaptive Reuse/New Construction Alternative.

As discussed above, instead of manufacturing alternatives with components the County considers to be fatal flaws, the DEIR should consider an alternative that includes both new construction and adaptive reuse. Failure to do so is a failure to consider the necessary range of alternatives since an EIR “must consider a reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation.” (*Save Round Valley Alliance v. County of Inyo* (2007) 157 Cal.App.4th 1437, 1456.) The County cannot reject consideration of this feasible and less impactful alternative without an “explanation [] sufficient to enable meaningful public participation and criticism.” (*Ibid.*)

Conclusion

Thank you for your consideration in this matter. We look forward to reviewing your responses to our comments.

Sincerely,

Amy Minter