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July 25, 2018

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DRAFT  
via electronic mail

Re: PAUSD Comments on Recirculated Portions of Draft EIR (SCH# 2017012022)  
for Stanford University 2018 General Use Permit

Dear Mr. Rader:

Our firm represents the Palo Alto Unified School District (PAUSD) in connection with the Environmental Impact Report (EIR) for Stanford University's 2018 General Use Permit application.

As stated in the February 1, 2018 letter from PAUSD Interim Superintendent of Schools Karen Hendricks regarding the Draft EIR, the entirety of which is incorporated by reference as though fully set forth in this letter, PAUSD is one of the premier school districts in the United States, and it values both its ongoing partnership with Stanford University and also its role in serving Palo Alto, the Stanford University Campus, and portions of Los Altos hills and Portola Valley by providing high-quality K-12 education for the community's children.

To that end, PAUSD appreciates that the County has provided opportunities to comment on the original Draft EIR for Stanford's project and the recirculated portions of the Draft EIR, which were revised in response to public comments and concerns regarding the project and the original Draft EIR (Recirculated Draft EIR).

Unfortunately, the revisions discussed in the Recirculated Draft EIR do not correctly identify the scope of the project's potential impacts, properly mitigate the project's impacts, or fully inform the public and public agencies like PAUSD about the project's potential environmental effects. As more fully explained below, the Draft EIR, as revised and partially recirculated, remains legally inadequate. Accordingly, PAUSD requests that the County revise the Draft EIR to identify and mitigate all of the project's environmental impacts and that the County recirculate the entire Draft EIR so that the public has the opportunity to understand and meaningfully comment on the project's environmental effects.

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**I. New Impact 5-17 obfuscates the Project's scale and impacts.**

When "significant new information" is added to an EIR after the draft document is circulated, the California Environmental Quality Act (CEQA) requires the lead agency to recirculate the Draft EIR. (CEQA Guidelines § 15088.5(a).) "Significant new information" requiring recirculation includes the identification of new significant environmental impacts or when the draft EIR is "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded." (*Id.* at § 15088.5(a)(1)-(4).) When revisions only affect one portion of an EIR, the lead agency is only required to recirculate the portions of the draft that are affected by the revisions. (*Id.* at 15088.5(c).)

One of the reasons the County determined to recirculate portions of the Draft EIR is because it identified a new, previously undisclosed significant impact. Starting on page 2-7, the recirculated Draft EIR describes a new Environmental Impact related to the "Environmental Consequences of Stanford Providing Off-Campus Housing under the Proposed Project." Impact 5.17-1, which is identified as significant and unavoidable, simply concludes that "the construction and/or operation of off-site housing would result in off-site environmental impacts." (Recirculated Draft EIR, p. 2-7.)

The Recirculated Draft EIR says that Stanford proposes to develop some unspecified amount of affordable housing within one-half mile of "any major transit stop . . . in the Bay Area," concluding that the impacts associated with this development would most directly and "disproportionally" affect Palo Alto, Menlo Park, and Mountain View. (*Id.*) Despite acknowledging this fact, the Recirculated Draft EIR makes no effort to quantify the effect this planned housing would have on any of the three identified communities. In the place of analysis, the Recirculated Draft EIR recites policies and impacts from the three cities' recent general plan updates. (*Id.* pp. 2-8 to 2-12.)

This approach precludes any meaningful form of public review or comment on the scope of the impacts, and is "so fundamentally and basically inadequate and conclusory in nature" that the Recirculated Draft EIR must be revised and recirculated in its entirety. (CEQA Guidelines § 15088.5(a)(4).) Identifying that Stanford's project would result in "environmental impacts" is not a substitute for disclosing and analyzing those impacts themselves. The Recirculated Draft EIR leaves readers to guess how much housing is actually proposed under the project, where such housing would be developed, and what effect such housing would have on the sixteen environmental impact areas discussed in the Draft EIR.

In essence, Impact 5.17-1 modifies the project description, because it changes the nature, scope, and scale of the project; however, it does so without providing any detail as to what are those precise changes. This approach violates CEQA's requirement that every EIR include a reasonably definite project description. "An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient

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EIR." (*Washoe Meadows Community v. Department of Parks and Recreation* (2017) 17 Cal.App.5th 277, 287; citing *County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193.) Without an adequate project description and corresponding analysis of the specific environmental impacts of a project, the EIR fails to include relevant information and "precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." (*Washoe Meadows Community* 17 Cal.App.5th at 290.)

Therefore, to comply with CEQA, the County must revise the Draft EIR so that it discloses more details regarding Stanford's plan for off-campus housing in the project description. Then those details must be used as the basis for updated environmental analysis throughout the EIR, and the full document should be recirculated for public review.

## **II. Mitigation Measure 5.17-1 is vague and unenforceable.**

The Recirculated Draft EIR adds a new mitigation measure

Even if Impact 5.17-1 were a legitimate category of impact to discuss, the mitigation offered is so vague and indefinite that it amounts to improperly deferred mitigation. Any mitigation measures included in an EIR must be "fully enforceable through permit conditions, agreements, or other measures" to reduce the significance of an impact. (*Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal. App. 4th 1252, 1261.) Mitigation Measure 5-17.1 does not include any of these mechanisms to ensure it is enforceable. Instead, it says other local governments "can and should" mitigate the impacts caused by the project's off-campus housing development. This amounts to an improper deferral of mitigation, and an abdication of the responsibility to identify and incorporate feasible mitigation that would reduce a project's impacts in an EIR.

Mitigation Measure 5.17-1 should be replaced with some definite action or actions that the County or Stanford can take that are enforceable and would reduce the severity of the project's impacts related to off-campus housing development, and the EIR should be recirculated.

## **III. The two new alternatives distract from the public's ability to comment on the Project and Stanford's development plans.**

In addition to discussing Impact 5.17-1, the Recirculated Draft EIR introduces two new alternatives: an increased on-campus housing option and an increased off-campus housing option. As discussed above, the project itself has not been revised to specify what level of off-campus development is associated with the project, so it is unclear how to evaluate how these two alternatives compare with the project itself.

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By providing hundreds of pages of new information on alternatives, but not fully describing the project itself, the Recirculated Draft EIR improperly "presents the public with a moving target and requires a commenter to offer input on a wide range of alternatives that may not be in any way germane to the project ultimately approved." (*Washoe Meadows Community* 17 Cal.App.5th at 288.)

When the EIR is revised and recirculated as requested above, it should be clearer about what development scenarios are feasible and acceptable to Stanford so that it is not necessary to review different sets of impacts, requiring different mitigation measures, for projects with vastly different approaches and development footprints that may never come to fruition.

**IV. The EIR understates current and future school enrollment impacts.**

The Recirculated Draft EIR makes the same mistake the Draft EIR made by relying on outdated student generation rates to project future PAUSD school enrollment demand created by Stanford's development. (Recirculated Draft EIR p. 2-161.) As discussed in PAUSD's February 1, 2018 letter regarding the Draft EIR, current student generation rates range from 0.66 to 0.98 students per household, depending on the type of housing being developed.

Because the housing proposed as part of the project and the alternatives in the Recirculated Draft EIR focus on graduate student, faculty, and staff housing (groups that tend to have school age children), it is appropriate to use the 0.98 student generation rate, which would provide a conservative estimate of the extent of the environmental impacts. At a minimum, a student generation rate of 0.66 should be used, although this could cause environmental impacts to be undisclosed or understated. The Recirculated Draft EIR uses an even lower figure: a student generation rate of 0.5. (Recirculated Draft EIR p. 2-161.) This lower figure understates future enrollment demand by almost 50 percent, and every attendant impact – from the need to new facilities to the traffic associated with taking twice as many students to school – is also correspondingly understated.

Accordingly, the EIR should be revised to disclose the project's and the alternatives' actual impact on PAUSD facilities and related impacts using more recent and accurate enrollment projection data.

**V. The EIR does not attempt to fully mitigate impacts related to school operations.**

Throughout the Draft EIR and the Recirculated Draft EIR, analysis of school impacts are dismissed as being less than significant because Stanford would commit to paying the school impact fees required by Government Code section 65996. (*See, e.g.*, Recirculated Draft EIR pp. 2-160 to 2-162 and 2-363 to 2-366.) It is correct that the

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Government Code caps development fees, and that the collection of such fees is adequate mitigation for CEQA purposes regarding impacts on school facilities and the need to develop new school facilities. However, the EIR must still examine environmental impacts that affect school operations but are not directly related to the need for new school facilities. (*See Chawanakee Unified School Dist. v. County of Madera* (2011) 196 Cal.App.4th 1016, 1029.)

For example, the two schools that would serve development on Stanford campus, Escondido Elementary and Nixon Elementary, have capacities of 595 and 460 students, respectively. For the 2017-2018 PAUSD academic year, Escondido Elementary enrolled 537 students, and Nixon Elementary enrolled 441 students. Potentially, new students could be accommodated at Barron Park Elementary, which has capacity for 380 students and a current enrollment of 255 students. However, sending students from the Stanford campus to Barron Park Elementary would require students to cross Page Mill Road, exacerbating traffic impacts (and the attendant noise, greenhouse gas, and air quality impacts) and creating safety concerns by increasing the potential for traffic accidents involving pedestrians. The Recirculated Draft EIR makes no effort to address these secondary impacts, even though case law makes clear that "these types of impacts to the nonschool physical environment are caused *indirectly* by the project and should be considered in the EIR." (*Chawanakee Unified School Dist.* 196 Cal.App.4th at 1029.)

Similarly, the Recirculated Draft EIR makes no effort to address how development fees would be used or analyze the environmental effects associated with developing new PAUSD facilities that would be required to serve Stanford's development. In order to maintain PAUSD neighborhood enrollment standards, for every 400-500 new elementary students generated by Stanford, PAUSD would need to construct an additional neighborhood school, with each school requiring a three to four-acre site. New schools would need to be carefully sited to ensure they serve neighborhoods where they are needed and maintain effective classroom sizes, but their development would be sure to influence traffic patterns, increasing vehicle miles traveled throughout the City and associated impacts such as greenhouse gas emissions and air quality. However the Recirculated Draft EIR ignores the secondary potential environmental impacts associated with this new development that would be needed as a direct result of Stanford's development.

In addition to failing to discuss the indirect environmental effects of the project or the alternatives, the Recirculated Draft EIR ignores Stanford's impact on PAUSD's ongoing operations. Using the conservative student generation rate of 0.98 discussed above, the 2,892 additional units created under Additional Housing Alternative A would result in 2,834 additional students enrolling in PAUSD (nearly twice as much as the Recirculated Draft EIR discloses). The cost of educating these additional students generated by Stanford's development would exceed \$51 million per year, maintaining PAUSD's current expenditure per student. PAUSD is a "basic aid" school district that gets no

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state funding; its operations are funded directly by property taxes in Palo Alto. Much of Stanford's development is on land that is exempt from paying property tax, yet the EIR and other project documentation is silent regarding how PAUSD and the people of Palo Alto can be expected to educate the incoming students created by Stanford's development while maintaining the level of excellence for which PAUSD is known.

Therefore, the EIR must be revised to include analysis of the project's environmental effects and recirculated so that the public has the opportunity to consider and comment on the development's full range impacts.

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As demonstrated throughout this letter, the Recirculated Draft EIR does not yet provide a legally adequate analysis of the project's or the alternatives' environmental effects. The EIR must be revised to clarify what Stanford intends to develop, disclose the full nature of the project's impacts, and include legally adequate mitigation for those impacts.

We hope that the EIR can be revised to address these concerns and recirculated so that decision-makers and the public can understand the true impacts of the Stanford's proposal before deciding to support its approval.

Thank you for your consideration.

Very truly yours,

KAREN M. TIEDEMANN