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San Diego County Board of Supervisors

Supervisor Greg Cox

Supervisor Dianne Jacob

Supervisor Kristin Gaspar

Supervisor Nathan Fletcher

Supervisor Jim Desmond

RE: Appeal and Protest of the Planning Commission's Granting of a Major Use Permit and adoption of the proposed Environmental Findings and Mitigated Negative Declaration on September 18, 2020 of the Literacy First Charter Schools, Inc. Application
Record ID: PDS2015-MUP-15-027
Environmental Log No.: PDS2015-ER-15-14-010
Project Title: Liberty Charter High School

Dear Supervisors:

This firm represents appellants and stakeholders Steve Dillingham and Save Our Students – Safety Over Sorry (“SOS²”). This letter its exhibits, including the pre-recorded PowerPoint presented to the Planning Commission at the September 18, 2020 hearing sets forth the appeal justification and are submitted on behalf of Steve Dillingham. individually and as President of Save Our Students – Safety Over Sorry, as authorized by its 853 members (collectively referred to hereafter as “SOS²”).

SOS² appeals and protests the Planning Commission's granting of a Major Use Permit and adoption of the proposed Environmental Findings and Mitigated Negative Declaration for the reasons stated in the accompanying PDS-125 and as further detailed below and supported by the attached evidence, the accompanying PowerPoint and the Record. **SOS² respectfully requests the Board of Supervisors REVERSE and SET ASIDE (or the equivalent thereof) the Planning Commission's approval of the First Literacy Charter Schools, Inc.'s application for a major use permit, granting of a major use permit, adoption of the proposed Environmental Findings, and adoption of the proposed Mitigated Negative Declaration, and instead DENY Literacy First Charter Schools, Inc.'s application for a major use permit and REJECT and not adopt the proposed Environmental Findings and Mitigated Negative Declaration.**

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As discussed below, the Project will destroy eight acres of rural, undeveloped land currently home to protected wildlife and replace it with unmitigable and life-threatening traffic dangers and congestion; greenhouse gas emissions; a 48,000 square foot two-story building that exceeds height standards; insufficient parking; disruptive noise nuisance all hours of the day and days of the week; invasive and transient lighting; curious teens next to a liquor store, vape shop, hookah lounge, and massage parlor; and permanently destroy the quiet and scenic rural community of Rancho San Diego. Despite the fact that Literacy Charter Schools, Inc. (“LFCS”) is funded by taxpayer money, it intends to import the majority of its students from Lemon Grove and other communities miles away from the site and exclude the local community from the Project. In other words, the local community bears all the burden of the significant negative impacts of the Project and gets none of the benefit.

SOS² wishes to be very clear that it does not oppose Liberty Charter High School (“LCHS”) or its building of a new high school in the El Cajon area – but that Chase Avenue and Jamacha Road is not a safe or viable location for another high school and the significant negative impacts of the Project at that location unnecessarily puts at risk public resources and the lives of students, their families, and the Rancho San Diego community – especially when there is an equally-close available lot that offers safe ingress and egress and would be a win/win for the school and the community.

It shocks the conscience that the Staff Report recommended approval of the Project and the Planning Commission granted the MUP application on a mitigated negative declaration (“MND”). **In our research, since the California Environmental Quality Act (“CEQA”) was enacted, no high school has been allowed to be built in San Diego County without a full environmental impact report** – this charter school must go through the same CEQA process as every other proposed high school!

Among other things discussed in more detail below, SOS² appeals and protests the approval of the Project for the following primary reasons:

- The Planning Commission’s granting of the MUP and adoption of the proposed Environmental Findings and MND violate CEQA;
- the Project, the process, the proposed MND, and the proposed Findings do not comply with CEQA;
- the Project and MND rely upon outdated and inaccurate traffic data in disregard of the Department of Transportation’s directives;

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- the Project fails to comply with the water conservation recommendations of the Otay Water District and the Governor¹;
- the Project's Initial Study is flawed and deficient;
- the proposed Mitigated Negative Declaration ("MND") fails to mitigate all the significant negative impacts of the proposed Project;
- the Staff Report, proposed Environmental Findings and proposed MND² rely upon faulty assumptions inconsistent with the substantial evidence;
- the Project fails to comply with recent legislative prohibitions under the Charter School Act and is inconsistent with the General Plan; and
- County staff were repeatedly made aware of problems with inadequate public notice and comment by the local planning group and more than 100 surrounding neighbors, but ignored the due process violation and refused to give an extension or continuance of the public comment period, depriving meaningful public participation.

1. The Valle De Oro Community Planning Group Unanimously Voted To Deny The Project.

The proposed project site is within the Valle de Oro Community Planning Group ("VDOCPG") Planning Area. The VDOCPG is comprised of members *elected* at-large from the community and, at the time of its vote on the Project, included a registered a civil engineer who worked on SR54 and is intimately familiar with the Jamacha/Chase intersection and a certified AICP planning consultant, among other highly educated individuals. Since March 1978, the VDOCPG has reviewed proposed projects for consistency and compliance with the VDO General Plan and the VDO Community Plan Goals and Objectives adopted in January 1976, as amended from time to time and officially advised the Planning Commission and Board of Supervisors on all projects affecting the Valley de Oro Community Planning Area. The VDOCPG's stated objective is to retain a unique balance of urban, semi-rural, agricultural, and open space land uses; to ensure that new

¹ The Otay Water District "strongly encouraged [LFCS] to adopt water conservation measures" yet the Project intends to put in a full football field when it does not even have a team. (Staff Report 1-440-401).

² Because the deficiencies and errors in the Staff Report carry forward the erroneous analysis to the proposed Environmental Findings and proposed Mitigated Negative Declaration, to avoid repetition throughout this appeal and protest justification, when SOS2 refers to deficiencies and errors in the "Staff Report," it also means those deficiencies and errors are in the proposed Environmental Findings and proposed Mitigated Negative Declaration.

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development conserves the natural resources and topography; and to provide a pleasant and safe environment for present and future residents of the VDO area.

After months of in-depth study of the Project, several meetings with the Project Proponent, and conducting public hearings, the VDOCPG **unanimously voted to require a full environmental impact report (“EIR”) on the Project and to deny the Project on an MND.** (See Exs. A-118 and A-84). The County of San Diego Planning Commission Hearing Report (“Staff Report”) substantially mischaracterizes and understates the VDOCPG’s public hearings and public comments, as well as the VDOCPG’s analysis and reasons for **unanimously** voting to deny the Project. (Compare Staff Report 1-356 – 1-358; 1-362-1-379; 1-381; Exs. A-116-118 to Staff Report at G, p. 1-19 – 1-20).

2. Save Our Students – Safety Over Sorry (SOS²).

SOS² is a local Rancho San Diego/El Cajon community association of more than 850 members who know first-hand the daily dangers and hazards of the Chase Avenue and Jamacha Road intersection. (Ex. D-203-D-267; Ex. Q). Rancho San Diego/El Cajon is a special rural residential neighborhood. People choose to live here for its natural, rural, and quiet environment. The site of the proposed project currently offers a field of California native grasses where the red fox plays, eucalyptus and palm trees where the red-tailed hawks and their babies nest each spring, a 100 year old majestic oak tree with a little rope swing invites one to ponder, and other wildlife that make this field their home.

The SOS² members aligned to oppose the Project on its many significant negative impacts of the Project, but their over-arching objective is safety and the negative impact on public resources. It is in that vein that SOS² pleads to the Board of Supervisors to look beyond the unsupported conclusions and “calculations” that are based on flawed assumptions, question the obvious stretches and data manipulations to force the Project to look feasible on paper, and listen to the people who know and live the realities of that intersection – and will be permanently, significantly, and negatively impacted by the tragedies (both life, public resources, and ecological) that will result if this Project is built at the proposed site. We implore the Board of Supervisors to not repeat the same mistakes that tragically and unnecessarily took the young lives of Julian Friare and Ryan Willweber – students killed in car accidents at Steele Canyon High School and West Hills High School, respectively. In both cases, neighbors warned of the traffic dangers of the proposed sites for those high schools, but their pleas fell on deaf ears because the planning engineers “made it work on paper.” There are many alternative sites in El

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Cajon available that are safer and better suited for a high school – Chase and Jamacha is **not** one of them.

3. The Project Is Opposed By More Than 1,000 Neighbors.

The Staff Report *grossly* understates the local community’s opposition to this Project being built at the proposed site of Chase and Jamacha. To be clear, this letter represents *the opposition of more than 850 SOS² members*. (Ex. Q). and the Grossmont Mt. Helix Improvement Association, which also opposed the Project for its failure to comply with CEQA and require a full EIR, represents 1100 members. These neighbors are extremely impassioned in their opposition to *any* school being built at the dangerous and overburdened site of Chase Avenue and Jamacha Road.

As discussed below, inadequate notice of the Project was provided to the neighbors who will be negatively impacted by the Project. In fact, as County Staff heard from the standing-room-only outcries of more than 100 neighbors at the January 7, 2020 VDOCPG meeting, the **ONLY** reason any neighbors found out about the Project was because a few very committed VDOCPG board members went door to door up and down the very steep and hilly surrounding neighborhood to notify the neighbors personally because they had learned that no one impacted by the Project had actual notice of it or the upcoming VDOCPG community meeting. With just three days’ notice, more than 100 neighbors showed up to protest the deficient notice and oppose the Project.

Although County Staff was present at that VDO meeting and heard nearly two hours of public outrage for the lack of adequate notice and substantial opposition with very personal and tragic stories concerning the traffic problems and other negative impacts on the proposed site, the Staff Report summarily glosses over the opposition at that meeting and omits material information to the point that it blatantly misrepresents the magnitude and scope of the local community’s opposition.

Equally as telling of the impermissibly biased review of the Project and lack of neutrality,³ the Staff Report horribly mischaracterizes the level of support for the Project versus the level of opposition. To wit, the Staff Report states that it received 116 comment letters during the public review period of the proposed MND with

³ It is also concerning that LCHS Vice Principal perceives this Planning Commission and the County Staff to be co-advocates of the Project and adversaries to SOS²: “*we* need to be prepared to defend the traffic study” and “we need to be prepared to defend our MND” and “*we* need to be prepared to address traffic and CEQA.” (Staff Report 1-394).

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most of the comments in support of the project and only 27 comments in opposition. (Staff Report at H. p. 1-20).

First, LFCS had years of notice and had all their students' parents' email addresses to easily and directly solicit supportive public comments. In contrast, the neighbors negatively impacted by the Project had less than two weeks' notice to digest thousands of pages of complex studies and documents and prepare meaningful public comment, no means to notify each other outside of walking door to door in very rural and hilly neighborhoods, and no one to explain to them the public comment process or importance.

Second, of the 89 comments the County represents were "in support of the Project," nearly all of those comments were merely in support of *the school* – NOT the Project. Only a handful of those comments were actually supportive of moving the project "to El Cajon." In fact, NONE of the comments were in support of expanding and moving the high school to the very dangerous intersection of Chase and Jamacha. And, some of the school's parents even stated they *opposed* moving the school to El Cajon. (See, e.g., Staff Report at 1-351.)

Third, in contrast to the pro-school comments, the caliber of public comments opposed to the Project is omitted from the Staff Report, yet represents substantial evidence of the first-hand accounts of negative impacts the Project would have on safety, traffic, environment, culture, aesthetics, viewsheds, noise, lighting, local businesses, and public resources.

4. The Neighbors Were Given Inadequate Public Notice.

Tellingly, LFCS states no less than four times in its Board minutes that it was communicating and working with the neighbors "to pitch the idea of a school and to alleviate fears and address concerns". (See Exs. M-586, M-600, M-609, M-645). That simply was not true. No neighbor ever received any notice, flyer, or other communication from LFCS to discuss the Project and its significant negative impacts on surrounding neighbors, the environment, the wildlife, and the adjacent businesses. Indeed, the *only* communication of any kind from LCHS in the last five years came in February 2020 in the form of environmentally-unfriendly junk mail solicitations to attend LCHS.⁴

LCHS was required to post a notice – the only sign posted is a little old faded "no trespassing: sign on the vacant lot. (Ex. D-225).

⁴ And yet, LFCS has repeatedly stated that it will not pull students away from the already underpopulated Valhalla High School.

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Because the surrounding area of the Project is rural open space and the Project site is currently a vacant field, a 300 foot perimeter of the site barely generates the minimum required 20 property owner addresses for notice. Indeed, Cajon Valley School District, the California Department of Transportation, and Literacy First Charter Issuer, LLC own nearly all the land in the 300 foot perimeter of the site. Therefore, the 300 foot perimeter included only 27 neighbors. Moreover, at least three of those 27 property owners are certain they never received any notice in 2015 or in 2020, rendering the Staff Report inaccurate as it states that a total of 27 property owners *received* notices. These notices may have been mailed, but curiously none appear to have been *received*.

County Staff and the VDO Board were repeatedly made aware, through public outcry and expressed frustration, both in writing and at the VDO January 2020 and February 2020 meetings, that public notice was deficient. Even with this knowledge and their obligation to ensure and protect constitutional due process rights, under Public Resources Code section 15105, the County had the discretion to extend the public comment period. However, it took no action to do so, benefitting LFCS to the detriment of the opposing neighbors and deriding public participation in the review process.

5. CEQA Requirements.

This is not a determination to be based upon whether the LCHS is liked or disliked or LFCS operates good schools. ***This decision must be made on whether this Project is consistent with the General Plan and complies with CEQA.*** In evaluating the significance of environmental effects under CEQA, “the lead agency ***shall*** consider direct physical changes to the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.”⁵ The reasonably foreseeable impacts of a project can only be understood and evaluated with a CEQA Initial Study that accurately identifies ***all*** affected environmental factors and the completion of an Environmental Impact Report (“EIR”), which must adequately consider all potential impacts and alternatives for the proposed project.

CEQA only excuses the preparation of an EIR and allows the preparation of a negative declaration in its place in two very narrow instances:

- (1) When the initial study identifies potentially significant effects on the environment:

⁵ 14 Code of California Regulations (“CCR”) § 15064(d).

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- a. But revisions in the project plans would avoid the effects or mitigate the effects **to a point where clearly no significant effect on the environment would occur: and,**
 - b. **There is no substantial evidence that the project, as revised may have a significant effect on the environment.**⁶
- (2) When the initial study shows there is no substantial evidence that the project may have a significant effect on the environment.⁷

Here, both prongs of this test fail. The Initial Study acknowledges that the proposed project would result in significant impacts in the areas of Biological Resources, Utilities & Service Systems and Air Quality, but it incorrectly states that those impacts are mitigable. The evidence demonstrates that these significant impacts are not and cannot be mitigated to a level of insignificance –as mandated by law.

Further, substantial evidence proves that the Initial Study fails to identify all the environmental factors significantly impacted by the Project, including Aesthetics, Noise, Recreation, Greenhouse Gas Emissions, Land Use & Planning, Transportation, and Public Services. Because the Initial Study fails to accurately identify these impacted environmental factors, the proposed Environmental Findings are deficient and inaccurate and all these significant impacts are not mitigated in the proposed MND.

Additionally, the offered mitigation for the significant traffic impact is wholly insufficient and relies upon faulty assumption, outdated data and ignores CalTrans' directives. In fact, there is no viable mitigation of the significant traffic impact, so the MND requires LCHS to pay a fee into the States Transportation Impact Fee fund.

Courts have not hesitated to reject an MND and require an EIR when the requirements of CEQA are not met.⁸ In determining whether an EIR is needed,

⁶ Public Resources Code (“PRC”) § 21064.5; 14 CCR § 15064(f)(2); 14 CCR § 15070.

⁷ 14 CCR § 15070.

⁸ See, e.g. *Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322 (rejecting MND based on evidence of possible impacts to wildlife and traffic hazards); *Chamberlin v. City of Palo Alto* (1986) 186 Cal.App.3d 181 (rejecting MND where neighborhood traffic control plan might increase vehicle pollution and noise, limit effectiveness of policy and fire protection, etc.); *Friends of “B” Street v. Hayward* (1980) 106 Cal.App.3d 988, 1003 (rejected MND where project would lead to vehicle emissions, business disruption, loss of wildlife habitat, increased traffic, noise, parking problems, and loss of neighborhood character of area.).

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there is “a low threshold for initial preparation of an EIR.”⁹ “Since the preparation of an EIR is the key to environmental protection under CEQA, accomplishment of the high objectives of that Act require the preparation of an EIR whenever it can be “fairly argued” on the basis of substantial evidence that the project may have significant environmental impact.”¹⁰

“A ‘significant effect on the environment’ means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.”¹¹

Substantial evidence as used in CEQA means facts, a reasonable assumption predicated upon facts, or expert opinion supported by facts.¹² Substantial evidence means enough relevant information, and reasonable inferences from this information that a fair argument can be made to support a conclusion that there may be a significant effect on the environment, even though other conclusions might be reached.¹³ Expert testimony or evidence is not required, **statements by members of the public may constitute substantial evidence if based on relevant personal observations on non-technical subjects where special expertise is not required.**¹⁴

Under the “fair argument” standard, the County is not to weigh competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact, as the County’s job is not to resolve conflicts in the evidence but to determine only whether substantial evidence exists to support the fair argument being made.¹⁵ Even if the County can point to substantial evidence supporting a determination that no significant impact will occur, ***a negative declaration will not be upheld if the record contains other substantial evidence to the contrary.***¹⁶

The California Supreme Court has stressed “the importance of preparing an EIR in cases ... in which the determination of a project’s environmental effect turns

⁹ *Architectural Heritage Ass’n v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1110.

¹⁰ *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75.

¹¹ 14 CCR § 15382.

¹² PRC § 2080(e).

¹³ 14 CCR § 15384(a).

¹⁴ *Citizens Ass’n for Sensible Dev. v. County of Inyo* (1985) 172 Cal.App.3d 151, 173 (owner of adjacent property may, based on personal observations, testify to existing traffic conditions).

¹⁵ *Id.*

¹⁶ *Friends of “B” Street v. Hayward* (1980) 106 Cal.App.3d 988, 1002; *Architectural Heritage Ass’n v. County of Monterey* (2004) 122 Cal.App.4th 1095, 1110.

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upon the resolution of controverted issues of fact and forms the subject of intense public concern.¹⁷ At the Valle de Oro Community Planning Group meetings held on January 7, 2020 and February 4, 2020, the residents of Rancho San Diego/El Cajon, in a packed, standing-room only meeting hall expressed overwhelming and intense concern about the many negative impacts this Project would cause. These residents gave real life observations of how (1) their views and peaceful enjoyment of their homes will be destroyed by a large stucco building exceeding the allowable height requirement, field and parking lights shining through their windows and ruining their enjoyment of the rural night sky, and disruptive noise from the school's outdoor PA system and (2) Chase and Jamacha are already overburdened and dangerous with traffic that backs up more than a quarter of a mile every morning and every night and turns into a raceway in the evenings with traffic accidents almost a daily occurrence. Several of these accidents have been fatal and others caused a complete shutdown of Chase Avenue, which is the only thoroughfare of this community to Interstate 8 W. (Staff Report 1-356 – 1-358; 1-362-1-379; 1-381; Exs. A-116-118). For these reasons, as well as many others detailed in public comments, the County's record, the LFCS Board Minutes (Staff Report; Exs. A, F, H-O) and this eComment and supporting evidence (Exs. A-P), there is a confirmed statutory preference for resolving doubts in favor of the preparation of an EIR.¹⁸

As presented in this appeal and protest, there is a fair argument, based on substantial evidence (See Staff Report and Exhibits A -O), that the following environmental factors will be significantly and negatively impacted by the Project that have not been mitigated or have not been mitigated to a level of insignificance by the proposed MND:

- | | |
|-----------------------------------|--------------------------------------|
| ➤ <i>Transportation/Traffic</i> | ➤ <i>Protected Raptors</i> |
| ➤ <i>Greenhouse Gas Emissions</i> | ➤ <i>Protected natural resources</i> |
| ➤ <i>Aesthetics</i> | ➤ <i>Geology/Soils</i> |
| ➤ <i>Noise</i> | ➤ <i>Water Conservation</i> |
| ➤ <i>Light</i> | ➤ <i>Public Resources</i> |

¹⁷ *Architectural Heritage Ass'n v. County of Monterey* (2004) 122 Cal.App.4th 1095, 11122.

¹⁸ *Id.*

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6. The Staff Report, Proposed Environmental Findings, And Proposed Mitigated Negative Declaration Are All Based On Flawed, Inaccurate Or Deficient Data And Information And Fail To Consider Substantial Evidence Demonstrating The Project Violates CEQA And AB1505, And Is Inconsistent With The General Plan.

SOS² finds many problems in the Initial Study¹⁹, Staff Report, proposed Environmental Findings and proposed MND, as well as the whole planning and development review process. (See for example the deficiencies and omissions of material information in the Staff Report and the staff record.) (Staff Report; Exs. H-L.) This appeal and protest tries to address many of these deficiencies, errors, bad and outdated data, and flawed assumptions, but because there are so many and the limited appeal period, addressing them all proves impossible.²⁰

Substantial evidence demonstrates that the Project violates the California Environmental Quality Act and will have a significant negative impact on safety; traffic; environment; greenhouse gas and hot spot emissions; community historical culture, viewsheds, visual inconsistencies with community; parking; lighting nuisance; noise nuisance; public resources; and surrounding business. This evidence is omitted, discounted, ignored, or acknowledged superficially by the County in preparing its Staff Report, proposed Environmental Findings, proposed Major Use Permit Decision, and proposed Mitigated Negative Declaration. It is telling that even the County Staff is uncertain in its unsupportable recommendation: “Base on staff’s analysis, staff *thinks* the required findings can be made” (Staff Report 1-2).

7. The Staff Report Is Deficient And Flawed Because It Relies Upon An Inaccurate, Deficient, And Flawed Traffic Impact Study And Outdated Estimated Data.

A. The Traffic Study Data Is Outdated And Fails To Comply With The Department Of Transportation’s Directives.

In November 2015, the Department of Transportation was very clear: “*The data used in the TIS should not be more than 2 years old.*” (Staff Report 1-331). When that directive was not heeded, the DOT repeated it on January 16,

¹⁹ SOS² challenges that the Initial Study was flawed by failing to adequately assess and identify that the Project will have a significant negative impact on each of the ten CEQA factors identified above, thereby failing to adequately evaluate the negative environmental impacts on each.

²⁰ SOS² reserves the right to challenge the material deficiencies, omissions, inaccuracies, flawed assumptions, lack of due process, use of bad or outdated data, and reliance of data or information inconsistent with better or more accurate data or analysis in later appeals.

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2020: ***“The data used in the TIS should not be more than 2 years old.”*** (Staff Report 1-330). It was still not complied with so again, on April 9, 2020 the DOT criticized: ***“Only a one-day traffic count was provided, and the data was more than 4 years old.”*** (Staff Report 1-384-385). The DOT went on to further criticize and require: ***“A one-day count is not a good representation of actual traffic movements. Provide more recent traffic counts which include minimum three-day mid-week traffic counts.”*** (Id.) The DOT also directed they “provide traffic analysis for the Horizon year without Project (Cumulative) and Horizon year with Project (Cumulative) to verify if there were any traffic impacts to any of the State’s facilities.

1. All The Traffic Data Relied Upon Is More Than Two Years Old – Making The Proposed Findings And MND Deficient And Erroneous.

Ignoring the DOT’s directives, the Staff Report went on to make its recommendation using outdated and erroneous data. First, the Staff Report relies on CalTrans 2002 data. Not only is it 18 years old, but it is based upon estimations made from snapshot data collected at temporary milestone locations collectors and then annualized using standardized seasonal fluctuations. It is not actual real-time data.

Second, the Staff Report explains that it intentionally did not comply with the DOT’s directives to use data less than 2 years old because the 2016 SANDAG traffic counts were lower than the 2014 observed Traffic Impact Study data. (Staff Report 1-7). The defect with that explanation is that the 2016 SANDAG traffic counts were not actually 2016 traffic counts! Rather, traffic has not been counted on Chase at Jamacha or on Jamacha since before 2011. (Ex. H, noting “N” for “previous year’s count carried forward.”) Additionally, by using this very old and understated data, the Staff Report inaccurately analyzes the traffic impact by reporting lower projections to justify their unlawful failure to prepare the required EIR. By using the substantially understated data, it also results in flawed analysis and Findings that conceal the unmitigable negative traffic impact, and the fact that the current LOS F will remain a LOS F and in fact get worse by the Project at all points along Chase. It also allows them to assert that Jamacha is currently a LOS D. SOS² challenges that Jamacha’s LOS at Chase Avenue is much higher than the LOS D (which we understand actually comes from 2002 estimated data).

Third, although the Traffic Impact Study is dated 2018, it actually relies upon a memorandum *drafted* in 2018 but relies on and cites to old and outdated

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traffic data from 2016 and earlier. In fact, all the traffic data it relies upon is more than two years old:

- March 19, 2013 County traffic data (Traffic Impact Study);
- October 7, 2014 – observed one day traffic data collection at Chase and Jamacha (Staff Report 1-176; Traffic Impact Study);
- November 19, 2014 – observed traffic data collected at Palm Street (Staff Report 1-11; Traffic Impact Study);
- February 5, 2015 – observed Valhalla traffic and Jamacha and Hillsdale (Traffic Impact Study); and
- September 9, 2016 – observed and record one hour of data at proposed entrance to Project for gap study. (Traffic Impact Study).

Finally, SOS² conducted its own traffic counts in the morning peak hours of March 5, 2020 and the afternoon peak hours of March 6, 2020. During these counts, more than 20,000 cars were observed passing through the Chase and Jamacha intersection, nearly 3,000 more cars since the Traffic Impact Study's data collection. (Ex. F).

2. No Horizon Year With And Without Project (Cumulative) Was Analyzed – Which Is A Material Defect.

The DOT directed the Traffic Impact Study provide traffic analysis for the Horizon year with and without the Project. Presumably, the omission was purposeful. Currently, the VDO area is inundated with growth projects, including Fuerte Estates (37 new homes on Fuerte Drive – the main feeder surface street to Chase Avenue), Ivanhoe Ranch (approximately 119 new homes proposed), a large sand mine quarry (which will add dozens of double-trailer haul trucks daily to the Jamacha/Chase intersection to make their way to Interstate 8 West or 125 N), and a conversion of dedicated open-space to a retirement community. (Ex. A -0001 – A-0127). Given that the Rancho San Diego and North El Cajon communities use Chase as their connector to Interstate 8 West and 125 N, the omission and refusal to provide the Horizon year cumulative data is material to show the cumulative impacts of these projects on what is already a LOS F Chase Avenue.

B. Traffic At The Proposed Location Is LOS F And Very Dangerous.

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It is undisputed that Chase Avenue west of Jamacha Road is currently at the worst Level of Service – an LOS F.²¹ Indeed, the school’s leaders admit that traffic at Chase and Jamacha is “a mess” and nonchalantly responded that their school’s traffic impact is “a cost the community will have to endure.” They need to take their blinders off because students’ lives will be the cost.

Chase and Jamacha are deadly thoroughfares. Just one month ago, a pedestrian was killed by a speeding car on Jamacha near Chase Avenue. In the last year alone, four people have been killed in car accidents on Chase Avenue or Jamacha Road near the proposed site. And, that doesn’t account for the 31 year-old clerk shot dead in a robbery at the nearby Jamacha 7-Eleven in March 2020.

▪	November 8, 2019	58-year-old man killed in hit and run crash on Chase Avenue.
▪	November 29, 2019	Pedestrian killed on East Chase Avenue on Thanksgiving.
▪	June 7, 2020	Fatal crash on Chase Avenue
▪	August 5, 2020	Pedestrian killed on Jamacha Road near Chase Avenue

In just the past five years, there have been more than 90 police-reported car accidents at Chase Avenue and Jamacha Road. (Ex. G). Additionally, public comments to the County and statements to the VDOCPG detail stories of the hundreds of unreported accidents at or near that intersection and the near-misses that raise the hair on neighbors’ necks daily from the screeching of tires as it echoes up the canyon-like hills of the surrounding neighborhoods. (Staff Report 1-356 – 1-358; 1-362-1-379; 1-381; Exs. A-116-118; see also D-241-D247). It is well known that Chase Avenue and Jamacha Road are mini-speedways, where cars race in excess of 80 and 90 miles per hour constantly. (Id.)

C. The Staff Report Is Deficient Because It Fails To Recognize That Expanding And Moving The LCHS To El Cajon Leaves Lemon Grove Students Without Any High School, Increasing VMT To El Cajon, Greenhouse Gas Emissions, And Additional Daily Trips.

²¹ SOS2 challenges the assumption that Jamacha Road at Chase Avenue is an LOS D. We understand that determination relies upon *estimated* data from 2002. CalTrans’ PeMS has no current LOS data for that location as it stops tracking LOS for Jamacha (SR54) west of Rancho San Diego and SANDAG’s traffic counts rely on annualized estimations that date back before 2011. (Exhibit H – noting that SANDAG counts for Chase Avenue at Jamacha and Jamacha at Chase have not been counted since before 2011).

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According to Mark Linman, the Project Proponent's spokesperson, the majority of LCHS's current population reside in Lemon Grove – approximately 8.0 miles from the proposed El Cajon site. Mr. Linman further represented that only 4% of the current student population come from the VDO area. The Staff Report analysis and the Traffic Impact Study are materially flawed because neither considered these two extremely important data points. In fact, to cover up the intentional omission of these data points in the analysis, the Staff Report goes out of its way to misleadingly describe that most of the current Liberty Charter High School students “live in the East County area.” (Staff Report at 1-14.)

1. Approximately 300 Lemon Grove LCHS Students Will Be Displaced, Negatively Impacting Public Resources.

According to Mr. Linman's representations to the VDOCPG and at the January 7, 2020 VDOCPG meeting of the current LCHS population's zip codes, an estimated 300 of their current students reside in Lemon Grove. There is no public high school in Lemon Grove. In fact, LCHS is the *only* high school in Lemon Grove. If it expands and moves to El Cajon, it will leave Lemon Grove without any high school for its high school-aged population. That will have a significant negative impact on the public resources for the Lemon Grove community and the surrounding communities that will have to absorb those students.

2. The Staff Report And Traffic Impact Study Failed To Consider The VMT, LOS Or Traffic Pattern Impacts Of Displacing These 300 Lemon Grove Students.

Based upon all the praise from the School's parents, students, and alumni, it appears likely that the current 300 LCHS Lemon Grove students (and their siblings and other future high schoolers) will continue to attend LCHS in El Cajon, especially since there will be no high school in Lemon Grove for them to attend. But the Staff Report and Traffic Impact Study rely upon flawed assumptions that the majority of the LCHS students will come from the northern areas of El Cajon. They completely fail to analyze the many negative impacts of the 300 students who probably walk to school now, but would have to commute eight miles from Lemon Grove to Chase and Jamacha.

There is no analysis of the route they will travel and the impact on the DOT facilities from those additional VMT or the surface streets. Indeed, the most direct route from Lemon Grove to Jamacha and Chase is east on Highway 94, south on Avocado (through one of the worst elementary traffic congestions in the VDO area), east on Fuerte Drive (past another horrible elementary traffic congestion and into

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all the Valhalla and Hillsdale traffic) and then east on Chase.²² That commute would be horrendous on so many levels. Further, for the Lemon Grove students who do not have their own vehicle (and as discussed below there is not enough parking for them all to drive anyway), the additional VMTs for their parents – who likely work downtown or in the UTC or Carmel Valley area – will double because they will be back-tracking every day.

Moreover, there is no greenhouse gas emissions analysis for all this extra VMT and the additional idling greenhouse gas from the several congested areas they will have to pass through just to get to Chase and Jamacha. There is most certainly going to be a significant negative greenhouse gas emissions impact. The climate action plan policies require greenhouse gas emissions impacts be fully analyzed, especially in this case where County Staff already challenged the Projects purported greenhouse gas mitigations. (Ex. M-852 at B2).

D. The Staff Report And Traffic Impact Study Both Under-Project The Additional Daily Trips That Will Be Caused By The Project.

In its original Traffic Impact Study, Kimley Horn projected the Project would result in 585 additional daily trips (“ADT”). It arrived at that projection using old March 2013 CalTrans data. In 2018, Kimley Horn corrected itself, and using November 19, 2014 data, it projected the Project would result in 854 additional daily trips – a 46% increase in just the 1.5 years from CalTrans’ 2013 data to Kimley Horns observed 2014 data. One can only extrapolate from that what a six year increase would be!

Acknowledging that Kimley Horn corrected and used a more current ADT projection - for no clear reason except to fallaciously process the Project’s MUP application on an MND when it clearly requires a full EIR - the Staff Report intentionally used the lower projected 585 ADT in its analysis and conclusions. Consequently, none of the analysis or the proposed Findings are accurate and should be rejected.

Moreover, both the Staff Report’s outdated ADT and Kimley Horn’s 2014 ADT are significantly understated and inaccurate. Both projections rely upon the flawed assumption that the Project will generate the same amount of traffic in El Cajon that it does in Lemon Grove. In fact, with the majority of its current student population living in Lemon Grove – within walking distance of the school –the CalTrans 2013 data and the Kimley Horn 2014 observed data must be adjusted to

²² As the County knows, there is also poor on-ramp and circulation along Avocado and Highway 94.

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account for the additional traffic that will result from the 300 displaced Lemon Grove students. Figuring in these additional drivers significantly increases the projected number of ADT and will result in significant negative traffic impacts not analyzed or considered in the Staff Report.

E. The Staff Report Fails To Consider That A Significant Number Of The Drivers That Travel The Dangerous Chase/Jamacha Corridor Are Inexperienced Teen Drivers.

According to the CDC, in 2015 the United States death toll for teens in motor accidents was more than 235,845. In 2016, teen drivers were involved in more than one million police-reported crashes, resulting in more than 3200 deaths. (National Highway Traffic Safety Administration Fatality Analysis Reporting System). In California, teen driver fatalities are the leading cause of death among teenagers in the state. In fact, California's Office of Traffic Safety reported 204 teen driver fatalities in 2018, which is nearly double the 110 teen driver fatalities in 2016.

No one knows the pain of these teen fatalities more than the Grossmont Unified High School District community. We are still grieving the tragic loss of Julian Friare – a Steele Canyon High School student killed in a head-on collision on his way to school. He was in the traffic corridor that the community warned the planning department was dangerous when that high school was going through this process. We are also still grieving the death of Ryan Willweber, who was killed pulling out of West Hills High School onto Mast Boulevard – again, a known problem traffic area that the community warned was too dangerous for a high school. And, we are still grieving the death of Will Burton – a star student athlete who was killed driving home from school on a rural, windy road in East County – much like Chase Avenue at the proposed site of this Project.

The Board of Supervisors has an obligation to consider these traffic and safety factors. Not only is the Chase corridor from Avocado to Valhalla High School the main commuter thoroughfare, it is a corridor heavily traveled by teen-drivers going to Valhalla, Steele Canyon, Granite Hills, Christian, Grossmont, and Cuyumaca Community College.

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F. The MND Calls For Narrowing Chase Avenue Lanes From 17 Feet To 12 Feet Wide, But Fails To Consider That Doing So Will Make It Exponentially More Dangerous, Or Analyze The Fact That Chase Avenue Is A Major Thoroughfare For Large, Oversized Vehicles.

The Staff Report fails to consider that Chase Avenue is a major thoroughfare for large, oversized vehicles. On a daily basis, Superior Ready Mix sends at least 34 double-trailer haul trucks through the Chase/Jamacha intersection and west on Chase every day. The majority of those trucks pass through this intersection several times between 7:00 and 9:00 a.m. and again between 3:30 and 5:00 p.m., which are the peak hours of the Project. In fact, this intersection stays busy all day with these double-trailer haul trucks, semi-cargo carriers, hazardous gasoline tankers, Asplundh Construction Company trucks, school busses, special needs busses, transit busses, garbage trucks, and other quarry and over-sized vehicles. (Exs. D-203-267).

Additionally, it is also well known that Western Truck School is located in Rancho San Diego and uses Jamacha Road, Chase Avenue, and Hillsdale Road as its driving course. Additionally, the Department of Motor Vehicles Industry Business Center (for commercial license testing center) is just one-half mile south of the proposed site. It too uses Jamacha and Chase as part of their testing route.

Further, there is currently a proposed project application under review for a sand-quarry at the old Cottonwood Golf Course location – just one mile south of the Chase/Jamacha intersection. All those oversized quarry haul trucks and trailers will travel Jamacha and Chase, just like the Superior Ready Mix Trucks. Yet, the Staff Report makes no mention of such Horizon year or future cumulative impacts of this Project and other projects being reviewed or recently approved, or the increased dangers of exponentially increasing the volume of oversized quarry haul trucks with flying sand and rock debris.

Completely ignoring the substantial evidence of all the negative impacts the Project will have in the context of the present and future volume of these oversized vehicles, the proposed MND conditions approval of the Project on the NARROWING of the traffic lanes on Chase Avenue by five feet each lane! While the width of the current lanes is 17 feet each, the MND calls for them to be narrowed to 12 feet and the school's dedicated left-turn entrance lane will only be 10 feet wide. While this might meet standard traffic guidelines, there was no consideration for the amount of oversized vehicles that traffic this LOS F corridor. In fact, the Superior Ready Mix haul trucks are 11.5 feet wide – that leaves just six inches. The narrowing of

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these lanes by this Project will significantly increase the dangerousness of this already deadly intersection. Moreover, as discussed above, it puts inexperienced teen drivers in narrow lanes, and forces bicyclists, skateboarders, the Valhalla cross-country track team, joggers, and zippy motorcyclists next to these large, oversized vehicles and unnecessarily in harm's way.

G. The Staff Report Incorrectly Concludes That Chase Avenue's LOS F Will Decrease With The Widening Of Chase Lane.

The Staff Report states that that the current LOS on Chase Avenue between Jamacha Road and Brayton Lane is a LOS of F. Photographs verify that throughout the day, and especially during Peak Hours, eastbound traffic backs up on Chase Avenue all the way to Fuerte Drive. (Ex. D-203-217). That's more than ¼ of a mile and many times it will back up nearly a half-mile to Chase Lane.

The MND calls for Chase Lane to be restriped from the School's proposed entrance driveway (DWY 1) to Jamacha Road. (Ex. J). As depicted in the Revised Conceptual Striping Plan, the plan is to re-stripe eastbound Chase to be one 12 foot traffic lane and one bicycle lane, with a no travel zone directly in front of the school²³ from DWY 1 to the School's proposed exist driveway (DWY 2). (Ex. J). It also proposes to restripe eastbound Chase into a bike lane and three traffic lanes (left turn, right turn, and throughfare) from DWY 2 to Jamacha Road. (Ex. J). The Staff Report asserts that Chase Avenue is a current LOS F west of DWY 1 and will remain a LOS F without significant impact from the Project. It also asserts that Chase Avenue will become a LOS D with the minor widening and restriping of Chase. (Staff Report 1-177). It was further misrepresented that the LOS would be decreased to a LOS C during the Planning Commission hearing. The neighbors have repeatedly informed the County staff that their analysis and conclusions are wrong.

In fact, restriping eastbound Chase will have significant negative impact on Chase's eastbound LOS because even though current striping is only for one lane west of the easterly point of the Property, the drivers naturally split into two lanes at or about Brayton Way and then split into three lanes about midway between DWY 1 and DWY 2. (D-204-205). By restriping between DWY 1 and DWY 2 to a single traffic lane, all the cars that are currently split into 2 and 3 lanes will be bottlenecked into one lane – imagine if two to three lanes of traffic extend nearly one-half mile, how far back they will extend if forced into a single lane! Not only will the LOS F west of DWY 1 be exponentially worsened by the Project, but the

²³ In the Staff Report, it now claims this area will be an unquantifiable number of parking spaces – even though the MND requires the school post no parking signs on both sides of Chase Avenue. (Staff Report 1-7).

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level of greenhouse gas emissions by all the idling cars will be substantial. However, this was never analyzed. Instead, it was merely assumed there would be no greenhouse gas emission impact at all.

Moreover, with traffic now bottlenecked into one eastbound lane, Fuerte Drive, Chase Lane, Brayton Lane, and all Chase Avenue resident's driveways will be blocked with gridlocked idling traffic. (Ex. E). A significant portion of Valhalla High School and Hillsdale Middle School's population live in the Hidden Mesa neighborhood up Fuerte Drive. Their only way to get to school is down Fuerte to Chase Avenue.

The significant negative impact of the MDN's restriping westbound Chase Avenue into one lane is similarly insurmountable. East of Jamacha, Chase's westbound traffic is two lanes and always congested. (Exs. D-220, 228-230.) Additionally, Jamacha northbound has two dedicated westbound turn-lanes that are always busy. (Exs. D-231, D-256). Currently, these two lanes of traffic have approximately 700 – 800 feet to merge into one lane that is about 25 feet wide. (Exs. D-210-219; 230; 233). The MND calls for these two lanes of heavy traffic to merge into one lane in less than 300 feet from the Jamacha intersection. That is a recipe for disaster. (Ex. E).

Additionally, the LCHS Vice-Principal states that in the afternoons parents arrive early and queue for pickup, even before school lets out. (Staff Report 1-381-383). That may work well in Lemon Grove where their current site is surrounded by open space and an LOS A surface street, but there is nowhere to queue on Chase and Jamacha – where posted speeds are 45 and 50 miles per hour, respectively. Further, the School's parking lot only provides for 700 linear feet of queuing – that accommodates only about 27 vehicles. (Ex. E). That leaves the other 250+ cars to stage west of DWY 1 in Chase's eastbound single lane and block all the Chase residents' driveways and likely Fuerte Drive. (Id). Or, if the parents are coming from the other direction, they could stage in the left turn lane dedicated to the School's DWY 1. (Id.) But, that lane is only 300 feet in length and will only accommodate about eight queuing cars. The rest of the queuing cars will back up Chase to and through the Jamacha intersection, blocking the westbound throughfare lane. (Ex. E). And, according to the School's future population assumptions, a substantial portion of the cars will come southbound on Jamacha to turn westbound on Chase. With that traffic pattern, it is highly likely that those cars turning west onto Chase will be backed up to Jamacha or blocked by northbound Jamacha traffic turning west or westbound Chase traffic, leaving queuing cars backed up into Jamacha – the site of the majority of accidents at that intersection.

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With all this gridlock and no safe or fast option, two things will happen: 1) parents will try to bypass the gridlock by pulling into and dropping the students off in the 7-Eleven parking lot then exiting back onto Jamacha near the KinderCare; or 2) go through the Chase/Jamacha intersection and pull into and drop the students off in the El Cajon Center parking lot. Either option has significant negative impacts on traffic, the businesses located in those centers, and the safety of the students, including the KinderCare preschoolers who are being dropped off and picked up at the same time. Moreover, every parent who has ever had one of “those mornings” knows that when the five-minute bill rings, students will jump out of the car and run like they are in fight or flight mode without concern for anything but not getting detention for a tardy regardless if they are in the northbound double turn lane on Jamacha, the southbound turn lane on Jamacha or the dedicated left-hand turn lane.

H. The MND Restriping And LCHS’s 854+ ADT Will Have A Significant Negative Impact On The Immediate Neighbors.

As demonstrated above, the restriping and additional traffic will cause traffic to back up well over one-half mile. The bottleneck of that traffic jam will be right at the Schools DWY 1 entrance. While the Project’s traffic impact would be negative for any immediate adjacent neighbor, it poses an exceptionally significant negative impact for these neighbors. Omar and Merna are amazing foster parents for special needs children. The bus picks these special needs children up every morning around 8:15 a.m. Exhibit D-262 shows you just how close the School’s proposed DWY 1 entrance is to where Omar and Merna’s special needs foster children wait for their bus. The Project imposes incredible dangers to these children, including not only the likelihood of life-threatening bodily injury, but substantial greenhouse gas emissions inhalation from all the idling cars right at their pick up and drop off spot.

I. The TIF Does Not Mitigate The Significant Negative Impact Of The Project On Traffic.

The Staff Report, the traffic study, the neighbors who live near the Project site – and even the Project Proponent -- admit that there will be a significant negative impact on traffic by the Project. The Staff Report relies on flawed assumptions and inaccurate, outdated data to brush the glaring evidence aside and instead offensively suggests that traffic will be mitigated by a Traffic Impact Fee (“TIF”). First, the TIF will not be dedicated to mitigating the negative impacts of

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the Project on traffic at Chase and Jamacha. Second, LFCS is funded with state funds paid by taxpayers, so the TIF fee is actually the neighbors' tax money being used against them. Third, the proposed TIF is only about \$160,000, which is nowhere near the value of our children's lives who will be at risk unnecessarily by the cavalier suggestion that the TIF could possibly mitigate the negative impacts of traffic.

J. Staff Report And Findings Are Materially Flawed Because Vehicle Miles Traveled And Traffic Counts Will Increase By Displacing All Lemon Grove Students.

The Staff Report and proposed findings are deceptively misleading to suggest an inference that the Project will reduce traffic, VMT, and parking. In fact, relocating and expanding LCHS to the proposed site and increasing its maximum population will result in significantly increased traffic, VMT and parking needs.

First, according to Mark Linman's report to the VDO in January and February 2020, and the published zip codes of the LCHS current population, ***a majority of the current students live in Lemon Grove*** in the surrounding neighborhoods where many can walk to LCHS. As such, using parking utilization data collected for the current site of LCHS to compare to parking needs at the Project fail to account for all the students who currently walk to school, but will have to drive eight miles to attend school in El Cajon.

Second, the parking utilization data is under-reported and not current. The traffic study Staff relies upon to make its proposed findings and recommendation was collected six years ago on November 19, 2014 – a week before Thanksgiving and a time notorious for high school absences by juniors and seniors visiting prospective colleges.

Third, LCHS reported a 2014-2015 school year population of 325 students, but projects expanding to a population of 450 students at the Project. That is a 38.46 % increase since the parking utilization data was collected six years ago. Moreover, neither the project proponent's traffic study nor the Staff Report that relied on the flawed traffic study accounted for changes in behavior as they related to student driving over the past six years or the related increases of parking utilization.

Fourth, as noted above and in the population data of LCHS, a majority of the current students live in Lemon Grove. Lemon Grove has no other high school; therefore, eliminating the only high school in the area will exponentially increase

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the VMT and greenhouse gasses. As one LCHS parent noted in her public comment submitted *in opposition to the Project*, moving LCHS out of Lemon Grove will cause great hardship on her – and all families in Lemon Grove – because all students of high school age who live in Lemon Grove will be forced to commute out of Lemon Grove just to go to high school! The Staff report wholly fails to address that evidence of current data that demonstrates the Project will result in significant negative impact on VMT, global climate (i.e. emissions), traffic, and parking by relocating LCHS to El Cajon – a location that does not need another high school as there are six high schools within a five mile radius of the Project site – and all six are underpopulated presently.

Fifth, in calculating its estimated 854 additional vehicles each day, the traffic study cited in the Staff Report relies on the same flawed assumptions and outdated data making that 854 estimate significantly underrepresented.

Finally, while the Staff Report relies upon the assumptions that the students currently enrolled in the LFCS elementary schools that are presently located in El Cajon and Santee would matriculate to LCHS if relocated and expanded in the El Cajon area, all of those schools are located three or more miles away from the site of the Project. Further, the population analysis of these elementary schools demonstrates that nearly all of the LFCS elementary students live three or more miles away from the site of the Project. As such, VMT will increase, greenhouse gasses will increase, traffic will increase, and parking will increase, causing a significant negative impact.

K. The MND Will Negatively Impact The Local Businesses.

The MND requires the School to post “no parking” signs all along westbound and eastbound Chase. The Staff Report gives no consideration to the fact that the neighboring businesses rely on product deliveries to sustain their businesses. The delivery trucks cannot maneuver into the parking lot and there is no alley lane for deliveries, so they currently put out safety cones and park along Chase Avenue. (Exs. D-250-254). The vehicles depicted in these exhibits are seen regularly on weekday afternoons around 3:00 to 4:30 and are typically there for about one hour. With the restriping and no parking signs, there is nowhere for these delivery trucks to make their deliveries to the local businesses.

L. The Staff Report Fails To Consider The Negative Impact Of These Traffic Problems On Public Resources.

Every Monday morning, Chase Avenue residents line Chase with multiple large garbage cans, and starting in the morning the trash truck meanders down the

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road to pick up trash. Similarly, every afternoon, the mail truck delivers the mail. The Staff Report completely fails to address the hazards and negative impact the School and all its additional traffic will have on these public resources.

Similarly, the School plans for an emergency access driveway as requested by the local fire department, but there is no consideration given to how the restriping with cause Chase Avenue to be so tight that *when* there is an accident there is no access for First Responder vehicles to get around the LOS F traffic jam to get to the scene of the accident!

M. The School's Start Time Of 8:30 A.M. Fails To Heed Kimley Horn's Advice And Will Result In Substantial Negative Impacts.

On September 29, 2016, Kimley Horn conducted a one hour observed gap study from 7:45 a.m. to 8:45 p.m. The data proved that there were very few gaps that cars could turn left into the School's DWY 1 entrance between 8:00 a.m. and 8:30 a.m. Based on the limited data they collected, Kimley Horn advised the School time should start earlier or later to avoid "heavy eastbound traffic volumes that occur on Chase Avenue between 8:00 and 8:30 AM" (Traffic Impact Study at 6-4 and August 17, 2018 Memorandum at p. 6). The MDN ignores that advice and the School is scheduled to begin at 8:30 a.m., meaning that students, faculty, administrators will be arriving to the Project the exact time the Valhalla students are to get to their 8:20 a.m.²⁴ start time and Hillsdale students are trying to get to their 8:15 a.m. start time.

8. The Staff Report And Proposed Findings Grossly Understate The Greenhouse Gas Emissions That Will Result From The Project.

As discussed above, the Initial Study is deficient and inaccurate in several categories – the negative impact of greenhouse gas and emissions is one such category. The project proponent submitted a very superficial global climate study and report that relies upon unsupported assumptions.

For example, there is no analysis or account for all the VMT from Lemon Grove to the Chase/Jamacha site. Additionally, there is no analysis or account for all the VMT from Lemon Grove to all other high school locations within the Grossmont Unified High School District, which will be absolutely necessary if LCHS leaves no high school in Lemon Grove.

²⁴ When the Planning Commission questioned the inconsistencies in the Record as to Valhalla High School's start times, it was inaccurately told that Valhalla's start time was 7:25. In fact, only a few students may attend that zero period and the vast majority of the students begin school at 8:20 a.m.

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Further, there is no analysis of the significant negative impact and cumulative effect of greenhouse gases of the Project in relation to all the recent and future proposed projects in and around the VDO boundaries – including the 36 new homes being built off Fuerte, the 119 projected new homes in Ivanhoe Ranch, the hundreds of increased quarry sand trucks from the Cottonwood sand mind, the increased VMT and traffic caused by the new Skyline Church's retirement residential community.

9. The Parking At The Project Is Ominously Underestimated, Inadequate, And Will Negatively Impact Surrounding Neighbors Because There Is No Overflow Parking Anywhere But On Nearby Surface Streets.

The Staff Report recommends the Project on the flawed analysis that 161 parking spaces will be sufficient. 161 parking spaces will not be sufficient and there is no place for expansion or overflow parking.

First, using the County's Zoning Ordinance minimum requirements, the County staff calculated the required number of parking spaces to equal 160.5 (33 for employees; 15 for visitors; and 113 for students). (Staff Report 1-6-7). The Project plans for 161 parking spaces, the bare minimum. In fact, their calculations are incorrect. As discussed herein, the parking utilization calculations do not take into account that by relocating and expanding the LCHS from Lemon Grove to Chase/Jamacha, it is displacing approximately 300 high school students who live in Lemon Grove and will be left without a high school option near their home. Where these students can presently walk to high school, they will have to drive eight miles to Chase/Jamacha, which will increase the student parking utilization from the 2014 utilization rates.

Second, the Project does not include a cafeteria, but makes no parking accommodations for food trucks or other catering vehicles. There is also no parking for visiting school teams' busses and/or parents for athletic events, musical competitions, mathematic tournaments, or theatre events. The only place for the overflow to go is neighborhood street parking.

Finally, the location allows for no wiggle-room for error in calculation or insufficiency of parking. The nearby businesses already have insufficient parking in their parking lots for their guests and there is no parking – or even the ability to safely park – on Chase or Jamacha. That leaves the nearby neighborhood surface streets as the first available parking overflow. These streets are narrow, steep, windy, and have insufficient curbs to allow street parking. Insufficient parking at

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the Project will result in negative impacts to the neighbors by having their driveways blocked, blind-curves obscured, lines of sight obstructed, and traffic dangers thrust upon pedestrians as well as public loitering, littering, and nuisance. The Staff Report brushes aside these legitimate concerns of neighbors without any substantive or meaningful response or acknowledgment of the reality of the truth of it.

10. The Project Will Have A Negative Impact On Public Resources in Violation of CEQA and Education Code Section 47605.

It has become well documented that Charter Schools in California are having a negative impact on public resources – namely public schools. (Fraud and Waste in California’s Charter Schools. inthepublicinterest.org, March 2018; Research Brief: How charter schools impact public school district budgets. inthepublicinterest.org, Feb. 23, 2018). It is with this documented social science and conflict between charter and public schools that the Legislature and Governor passed AB1505 in 2019. AB1505 amended the Charter School Act of the Education Code and went into effect July 1, 2020. It struck a compromise that recognizes the importance and need for charter schools while at the same time preserves public resources and the public school system. AB1505 made many changes, but of import here is the requirement – just like CEQA – that a charter school may not be allowed to expand into a new location if it will negatively impact public resources. Specifically if the “charter school would duplicate a program currently offered within the school district and the existing program has sufficient capacity for the pupils proposed to be served within the reasonable proximity to where the charter school intends to locate.” (Educ. Code § 47605(a)(4), (c).)

Moving LCHS to the proposed site would negatively impact public resources in violation of CEQA and AB1505. There are five public high schools within four miles of the Jamacha/Chase site. Valhalla High School is less than .75 miles east on Chase Avenue; Grossmont High School is 3 miles west on Chase Avenue; Steele Canyon High School is 4 miles south down Jamacha; Granite Hills High School is 3.4 miles north up Jamacha Road, and El Cajon High School is 3.1 miles northwest. ***Every one of these high schools has open enrollment, serves the same targeted pupils as LCHS, and is underpopulated!*** To the extent that LCHS claims they serve the students who don’t do well in big school environments, both the IDEA Center High School and Chaparral High School are public schools just 6 miles away and serve ***that*** exact student population.²⁵

²⁵ Additionally, the Project will also negatively impact these public schools and the Grossmont Unified High School District by pulling students, state and federal funding, and teaching resources away from public schools.

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Not only does the Staff Report fail to consider the significant negative impact on these public resources, but the Board of Education – the chartering authority for LFCS -- was not even invited to provide advisory comment in this process.

In contrast, moving LCHS out of Lemon Grove leaves all of Lemon Grove without a high school and two existing vacant school buildings. Again, further evidence of significant negative impact on public resources. Additionally, next door La Mesa has an upcoming vacant school building that can more than adequately accommodate all the resources and needs of LCHS, including a cafeteria.

11. The Project Is Inconsistent With California Policy, The VDO General Plan, And The San Diego County General Plan.

Under Title Five of the Education Code, a full analysis of the appropriateness of a school site location is required. Schools are not permitted to be located next to certain types of businesses. Here, the Project is intended to be built adjacent to two bars, one liquor store, a vape shop, a hookah lounge and a message parlor. These are all dangerous attractions to curious teen-agers. It is an ignorant ostrich with its head in the ground to pretend that the LCHS students will not be attracted to these businesses and the easily accessible trash they generate. Indeed, testimony given at the September 18, 2020 Planning Commission hearing admitted that LCHS students engage in the same curiosities as their peers at public high schools and do engage in these types of illegal activities.

Moreover, the MND makes no consideration for the impact on the businesses who hold liquor licenses. The California Department of Alcoholic Beverage Control will not permit a retail liquor license premises within 600 feet of a school. While the ABC cannot revoke or deny renewal of an existing liquor license on that basis, it will not permit the transfer or issuance of a new permit. Therefore, the Project will have a devastating impact on the market value of the current seven businesses with liquor licenses at the intersection of Chase and Jamacha and eventually eliminate the retail of liquor, negatively impacting the surrounding community those businesses service. The Staff Report fails to address or consider those negative impacts of the Project.

12. The Staff Report Fails To Consider Or Analyze Historical Dry-Farming.

According to property records for the site of the Project, the property, and surrounding land, was owned and farmed by Fred P. Click. Mr. Click owned the land from the late 1800's through 1940 when it was transferred to William Abi Ziad, who owned it through 1956. The U.S. Geological Survey history maps indicate that

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the subject property and surrounding lands were likely dry-farmed. However, the Staff Report does not investigate, discuss, or even consider this evidence or the significant negative impact on the environment of disturbing known dry-farming hazardous chemicals without proper remediation. An EIR should be conducted to verify the potential dry-farming and the chemicals used and any necessary remediation.

13. The Staff Report Summarily Dismisses Neighbor's Legitimate Concerns About Significant Negative Impacts To Light, Noise And Views.

Neighbors to the property give first-hand descriptions of how they enjoy the peacefulness of this rural environment and express their legitimate concerns about another high school in this neighborhood bringing even more nuisance with noise, traffic and night lighting. Some comment about how awful it is to live next to Valhalla – but then offensively pass it off as if only teenagers that go to Valhalla make noise and LCHS students are silent and perfect. Teenagers are teenagers. But anytime you put a group of people together outside with night lights and an outdoor PA system, it does not matter who you are, you are going to disrupt the neighbor's peace and enjoyment. The Staff Report admits that both the noise and the transient light levels exceed the allowable standards, but only by a small amount so it is discounted as “mitigated.” First, it has not been adequately mitigated to where the Project does not cause a significant negative impact. Second, the Staff Report fails to analyze or even consider these cumulative negative impacts of the Project with Valhalla High School's proximity, or address any mitigation for, the combined noise and light of the Project and Valhalla.

The Initial Study also inaccurately fails to identify that the proposed site sits in a valley surrounded by neighbors with views of the rural community. These views impact the neighbor's use and enjoyment of their home and their property values. (Exs. 61-64). There is absolutely no honest analysis of the significant negative impact on the neighbors' peaceful and beautiful rural views by eliminating the open field and 100-year-old oak (Ex. D-263 ca. 1950) where red-tail hawks soar above (Ex. D267), nest in the Palms and Eucalyptus, and feed on the rodents in that field and replacing it with a 48,000 square foot, two story, over-height stucco building, noisy and unsightly rooftop HVAC units.

14. There Is A Better And Safer Alternative.

SOS² appreciates that LCHS wants a brand new high school in El Cajon. But it is the duty of the Board of Supervisors to make sure that the location of that high

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school does not cause unmitigable significant negative impacts and is safe! Chase and Jamacha is not it. CEQA requires consideration of alternatives. There is a far superior alternative in the Grossmont Unified High School District. It is an 80-acre parcel of commercial and residential land for sale off Quicker Road in El Cajon. It is equal-distance for their students, offers easy and safe ingress and egress, and would allow all four LFCS to be built on the same campus. There would be plenty of space to build all the classrooms, gymnasiums, sports fields, and play grounds that LFCS want without being spread all over El Cajon and Santee.

15. SOS² Is Concerned At The Lack Of Due Process And Apparent Bias, And Favoritism Through This Process.

Bias, favoritism, backroom deals, and unequal review standards have no place in a county's review of a major use application to build a new high school. As noted above, it is curious that no high school has ever been built without a full EIR. With all the substantial evidence of deficient, erroneous, flawed assumptions, and inadequate analysis as pointed out above, it certainly appears that this charter high school application has been held to a different and lesser threshold than any other high school application.

It becomes more suspect that the LFCS identified the subject property in early 2014 and on May 14, 2014 approved opening escrow to purchase the property "conditional that LFCS has the ability to pull out of escrow at no cost and with a complete refund." (M-551). Yet, on November 11, 2015 – four years before any public comment was solicited and nearly five years before the September 18, 2020 Planning Commission Hearing – the LFCS Chief Financial Officer reported with regards to the Chase/Jamacha property that: "the major use permit was approved." (M-645). With that promise, LFCS ignored the VDOCPG concerns about traffic (M-683) and moved forward to finalize the purchase of the property and close escrow ***without condition***. (M-703). It is even more suspect that LFCS purchased the property for \$4,850,000 in cash (with taxpayer money) – nearly \$4,000,000 more than the sellers paid for the property only a couple years earlier and far over-market for rural residential .5 acres developments in that area.

It is also concerning that SOS² and/or its members have been repeatedly told that this is a "done deal" and not to waste their time. Further, Project supporters were given ample advance notice of the public comment period, opportunity to submit comments to the Planning Commission earlier than the posting of the Agenda, and a special direct email access to the Planning Commission secretary (Ex. P-0972). In contrast, the rest of the public did not receive notice of the public comment period, had to wait until the Planning Commission hearing agenda posted


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to submit an eComment, and had to use the online eComment portal – which repeatedly failed to upload attachments. Further, it appears that the County has stepped out of its neutral reviewer role and aligned to co-advocate for the Project (Staff Report 1-392-394).

CONCLUSION

For the reasons stated herein and supported by the accompanying evidence (Exhibits A-Q), the SOS²'s members' comments during the public comment period, after the public comment period, the eComments submitted, the SOS² pre-recorded presentation to the Planning Commission, and this appeal and protest, SOS² requests the Board of Supervisors **REVERSE and SET ASIDE (or the equivalent thereof) the Planning Commission's approval of the First Literacy Charter Schools, Inc.'s application for a major use permit, granting of a major use permit, adoption of the proposed Environmental Findings, and adoption of the proposed Mitigated Negative Declaration, and instead DENY Literacy First Charter Schools, Inc.'s application for a major use permit and REJECT and not adopt the proposed Environmental Findings and Mitigated Negative Declaration.**

Respectfully submitted,



Marisa Janine Page

Encl.