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November 4, 2010

To the Honorable Mayor Stefan Wolowicz and Members of the City Council of the City of Rancho Palos Verdes, CA

Re : City Council Meeting to be held November 16<sup>th</sup> (as it may be continued from time to time) and the Annenberg Project (Agenda item number unknown at date of writing)

Gentlemen:

I am opposed to the Annenberg Project. This opposition is based upon the following analysis:

**A. The Project is not in compliance with the City's General Plan**

As stated in the DEIR and staff's many reports, Lower Pt. Vicente is designated as Recreational - Passive under the General Plan. The General Plan provides (at Page 94) "Active recreational facilities are highly structured and designed with specific activity areas, such as recreation buildings, tennis courts, baseball fields, children's play apparatus, etc. On the other hand, **passive recreational facilities** are mostly **unstructured** in order to allow natural ecosystems to function with **the least amount of human disturbance**. Passive sites are usually used for nature studies, hiking trails, limited picnicking areas, etc." (emphasis added) Further, at Page 197 the General Plan provides that "Environmental impacts should be low".

While education can have a recreational effect, and while recreational activities can be educational in result, the word **recreational** is not synonymous with the word **educational**. However beneficial the educational components of the Annenberg project may be, they are not, by and large, recreational in nature.

The Annenberg project is anything but passive or recreational. It is highly structured, includes a massive building and attendant parking, will necessitate enormous amounts of human disturbance, and the environmental impacts are not low.

The definition of "Passive Recreation" is set forth in Zoning Code Section 17.96.1520, to wit:

"Passive recreation means **outdoor** recreation activities that are nonstructured in nature such as picnicking, sightseeing, nature study areas, etc."

The entire property is designated Recreational - Passive, not just portions. Therefore, even though some elements of the definition may be present in the project (e.g. picnicking), the remainder of the elements are clearly outside of the definition. A 50,900 square foot building does NOT provide outdoor recreation. Furthermore, the uses to which the proposed building would be put - animal care for dogs and cats, education and adoptions, grievance counseling, theater, classrooms, etc. are not outdoor recreation by any stretch of the imagination.

### **B. The Project is not in compliance with the Land Use Designation**

The Land Use designation for the subject property is Recreational - Passive. As discussed above, land to be used for passive recreation is to be used for outdoor recreational activities, and the Annenberg project is not an outdoor recreational activity project.

### **C. The Project is not in compliance with the Open Space Recreational (OR) Zoning.**

Per RPVMC Section 17.34.010:

"The open space recreation district (OR) provides open space for **outdoor recreation** (emphasis added), including, but not limited to, areas particularly suited for park and recreational purposes, including access to beaches, natural drainage channels and areas which serve as links between major recreation and open space reservations, including utility easements, banks of natural drainage channels, trails and scenic corridors."

Per RPVMC Section 17.34.020.A.3, if land zoned OR is PUBLICLY owned it **may** be used for active recreation. The active aspect of this section does not supersede the foregoing provision that it is to be OUTDOOR recreation.

Since the land use designation, however, is PASSIVE, as is the General Plan designation, those two PASSIVE aspects of the General Plan supersede the ACTIVE zoning permitted (not required) under 17.34.020.A.3.

The Annenberg project is the antithesis of a development that is in compliance with,

much less in keeping with the spirit of, the foregoing provisions of our General Plan and zoning ordinances. It is VERY structured with a very large building (approx. 51,000 sq. feet), approximately 73,000 square feet of hardscape and man made trails, and is anything but “the least amount of human disturbance”. The mental gymnastics that staff and/or Rincon, the environmental consultant, went through to develop, and the creative writing employed to present, its/their flawed analysis to find the project not contrary to the General Plan and compliant with the zoning and land use designations makes for entertaining reading, if nothing else.

**D. The project does not comply with the Program of Utilization (“POU”) and deed restrictions**

Overarching ALL of the General Plan, zoning and land use designation issues are the RESTRICTIONS set forth in the Deed from the United States of America to the County of Los Angeles, which deed recites “...for and in consideration of the perpetual use of the hereinafter described premises as and for public park and public recreation area purpose....It is Agreed and Understood by and between Grantor and Grantee, and the Grantee by its acceptance of this deed, does acknowledge its understanding of the agreement, and does covenant and agree for itself, and its successors and assigns, forever, as follows:

1. This property shall be used and maintained for the public purposes for which it was conveyed in perpetuity as set forth in the program of utilization and plan contained in the application.....
2. The Grantee shall, within 6 months of the date of the deed of conveyance, erect and maintain a permanent sign or marker near the point of principal access to the conveyed area indicating that the property is a park or recreation area...
3. ....continued use and maintenance of the property for public park or public recreational purposes.....”

While a copy of the plan POU does not appear to have been attached to said recorded deed, a document on the City’s website marked Exhibit “C” apparently sets forth the terms of the POU. These terms are also reflected on Page 4.6-6 of the DEIR. The first item shown on both said Exhibit C and on Page 4.6-6 of the DEIR is the following:

“Development of the rifle range portion of the surplus Nike site will provide for **passive recreation** pursuits **closely oriented to the attributes of the Pacific Ocean** and will accommodate individuals as well as groups.” (emphasis added)

The POU constitutes a restriction running with the land and binding on the property in perpetuity, unless amended or terminated by the party imposing the restriction, the Department of the Interior acting through the National Park Service. Thus, even if the property were zoned multi-family, institutional, commercial or whatever, no use that otherwise complied with the City's zoning (and the General Plan and Land Use designation) would be permitted on the property unless it did not violate the terms and provisions of the POU.

The proposed project, which is not a passive recreational use, is likewise not the least bit closely oriented to the attributes of the Pacific Ocean. Its focus is on terrestrial companion animals - dogs and cats. There is no correlation between marine life and companion animals other than the fact that they are living creatures! So, for that matter, are insects, buffalo, horses and cattle, none of which are closely oriented to the ocean!

As you are aware from the letters of September 15, 2010 and October 8, 2010 from the National Park Service ("NPS"), the NPS does not believe that the project, taken as an integrated whole, complies with the deed restrictions or the POU.

Furthermore, the deed prohibits any transfers, including leases, to non-governmental agencies. The property may ONLY be transferred to a governmental agency and ONLY if that agency agrees to continue to use the property for the public park purposes for which it was granted. The Foundation is NOT a governmental agency. While concessions are permitted, the project could not conceivably be considered a concession. Thus, this property cannot be leased to the Foundation pursuant to the terms of the deed from the USA.

To further complicate matters, past improvements at the site (PVIC) were partially funded with grant money from the State of California as part of the Land and Water Conservation Fund. While I have not seen any documentation in connection with this grant, said staff report states on Page 60 that when the funds were granted restrictions were placed on the property limiting uses to outdoor recreation. (emphasis added). Thus, both the NPS and the State Office of Grants and Local Services ("OGALS") need to approve whatever uses are made of the property (see page 60 of the staff report for a full explanation).

The California Coastal Commission also has jurisdiction over the land. The Commission's Coastal Program Analyst has preliminarily expressed concerns, and on page 3 of her September 13, 2010 letter states that "it is debatable whether these uses fit into the policy goals of the Passive Recreation/Open Space Recreation designation."

Thus, I do NOT think the project is in compliance with the POU, the deed restrictions imposed when the grant was made, or the terms of the grant from the State, just as it is not compliant with the General Plan, the designated Land Uses, the zoning or the Coastal Commission's goals.

**E. There is no need in the community for this project**

Based upon my review of the September 15, 2010 and October 8, 2010 letters from the National Park Service, obviously some significant analysis will need to be made of the recreational needs of the community in order to make the case to the DOI/NPS that this project is a need that should be addressed by the use of public land, and that either the POU as written does not prohibit this project, or that the POU should be amended to permit these needs to be satisfied by this project. In doing so, I ask that you be mindful of what community it is you serve. Indeed, let me ask you what community it is you think you serve. Is it just RPV, or is it all of the South Bay or the larger LA basin, or all of Southern California, for that matter? Perhaps you feel that serving a larger community than just RPV is your moral obligation, but I believe your roles as Mayor and City Council members of RPV are limited to looking at the needs of this City only, though the NPS may require a broader perspective.

Now, with respect to whether there is a need for this animal care and adoption facility on the Peninsula, I would like to know how many requests have ever been made of Council that a dog and cat adoption facility and educational center be developed anywhere in the City. The City is attempting to develop Lower Hesse Park and Grandview Park and incorporate into the designs for those parks the various wants and needs of the community that have been expressed during the outreach performed by the City through its 2003 Parks and Recreation and Open Space Community Survey. Nothing in the nature of this project has been requested. The recreational needs of the community that have been identified are: tennis courts, girls' softball field(s), dog park, swimming pool, unstructured playing fields for pick up games, etc. Yet the Council has apparently only entertained the notion of placing the Annenberg project on this site, though no need for it has ever been expressed.

I would also expect you to gather ample data from local shelters, veterinarians and the like as to the number of companion animals from the Peninsula that are abandoned, abused, or euthanized because of behavior problems or rampant breeding resulting from failure of local owners to spay and neuter their pet dogs and cats (and, yes, I am drawing a distinction between a pet cat and a feral one). I am confident that such data gathering will disclose that this is not a problem in this community.

With that said, certainly there are individuals, groups and cultures that abuse animals, force them to engage in dog fights (ala Michael Vick), ritualistically kill them as sacrifice, and the like, and certainly there are a lot of people who purchase a pet for a child's birthday or holiday, only to realize they were not really prepared to take on the financial responsibility or make the time commitment needed to properly care for the animal, and thus give them away or take them to the pound. Of course, education is the best way to address a host of our societal ills, and early childhood education is probably the best hope we will ever have for turning around the terrible problem our society at large faces with animal overpopulation and abuse. But this facility, which is geographically very remote, will not be a major draw for all the people who would most benefit from this education. \$40 million could be spent much more beneficially by hiring several animal trainers and having them, along with their pets, give live demonstrations in classrooms throughout the state and country. Now, it's not my \$40 million, and the Annenberg's are free to decide how they wish to spend it, but a facility that will accommodate a limited number of visitors and only approximately 20 animals at a time will hardly make a dent in the problem in my view. The Foundation should simply purchase a piece of land and build this vision on private property.

As you are aware, there is a large and vocal group of people on the hill, myself being one of them, who desperately want a dog park because we know one would improve the quality of life for our beloved pets. We animal owners and lovers already know how important the human animal bond is and spend vast amounts of time and money on the care, nurturing and feeding of these beloved companions. We don't need to attend class to realize we have a bond or learn how to form one! The expression that a dog is man's best friend has been around how long????? How on earth did all the animal owners before us figure it out without formal instruction?

The bottom line is that there is absolutely no "need" for this project in this community.

#### **F. Use of Public Land to Promote a Questionable Private Agenda and Curriculum is Inappropriate**

This project is the personal vision of Wallis Annenberg. The RPV Coast Vision Plan was suggested by her, prepared by Melendrez, the consultant she recommended, and paid for with her funds. Not surprisingly, the Vision Plan mentions a possible animal education center as a proposed use for Lower Point Vicente, but it does not MANDATE it.

Ms. Annenberg is quoted in an October 2009 Vanity Fair interview stating as follows:

"I want to do the **Mayo Clinic for companion animals**," she continues: "The idea is to

teach people a **reverence for animals** and to tie it in to the local ecology and environment. **After two years of negotiations, we have a magnificent piece of land in Rancho Palos Verdes.**” Officially called the Annenberg Project at Lower Point Vicente, the 20-acre oceanfront site will include a model adoption center for cats and dogs. “I call it my last hurrah, but who knows? My father used to say that about every project he ever did. And it was never his last hurrah.” (emphasis added)

I am extremely concerned about Ms. Wallenberg’s Vanity Fair statement that “we have” a magnificent piece of land in Rancho Palos Verdes. I am confident that she is not a stupid woman. How could she be confused and think she “has” OUR PUBLIC land when she has not purchased it, does not have a lease or license to use it and does not have anything other than approval to seek entitlements with no commitments having been made (per our Council) that such approval will ever be granted? Is it her understanding that by virtue of these “negotiations” to which she refers this is a fait accompli?

Please explain what “negotiations” took place over a two year period. Why does a donation need to be negotiated? Negotiations imply a give and take between two or more parties. What was given by the City in exchange for taking this donation, and what is being taken by Annenberg in exchange for giving this gift?

Please explain how a **Mayo Clinic** for companion animals is a use consistent with an outdoor, passive recreational park!

Further, the following text was taken on October 30, 2010 from the Annenberg Foundation website: **“Working closely with the local community, the Foundation is creating** the Wallis Annenberg Companion Animal Center at Lower Point Vicente, Rancho Palos Verdes. This education center and family destination focuses on the compelling story of animal life on the Peninsula. The project includes: using architecture, art and exhibits to teach about local geology, history, marine ecology, terrestrial animals and habitats; creating a hands-on education center and outdoor exhibits; providing a model companion animal adoption program; giving behavior modification and socialization programs, as well as workshops and counseling related to domestic animals.” (emphasis added) (note: on November 1, 2010 the website had completely reworked and reworded its statement and, in addition to other things, it now reads “...the Foundation is proposing...”):

The statement from the Foundation’s website that “the Foundation IS CREATING the Wallis Annenberg Companion Animal Center at Lower Point Vicente” failed to disclose that this is land owned by the City of Rancho Palos Verdes, failed to disclose that they are in the process of seeking the rights to develop the project, and led a reader to

believe it is well underway, when that is anything but the case. It likewise failed to disclose that there is strong opposition in the community with which she is closely working!

Please explain how Ms. Annenberg can be so confused about the status of this project.

If the project goes forward, who will be responsible for the curriculum and ascertaining the qualifications of the educators? I note that in the Vanity Fair article mentioned above, there is a photograph of Ms. Annenberg's standard poodle sitting on her sofa in the living room of her home. Many dog trainers will advise that it is not appropriate to elevate a dog to the status of a human and that it is important to maintain your role as the alpha of the pack. These trainers will advise that pets should not (i) sit on furniture used by humans, (ii) sleep on the human's bed, (iii) be fed scraps of human food from the table, etc. While not all trainers agree with the foregoing, many if not most do (I have conducted an informal survey of local trainers that suggests the majority concur with the foregoing).

In the October, 2010 issue of Town and Country Magazine, there is an article about Ms. Annenberg's beachfront home in Malibu, in which she tells how her **"dogs adore the beach" and how "in fall and winter the beach becomes their personal playground" and how "in the autumn, when her dogs CHASE AFTER DOLPHINS and HARBOR SEALS churning through the waves, life is good"**. Finally, the article includes a photograph of the steps placed at the foot of her bed that make it easy for her dogs to join her. (emphasis added)

These articles raise several significant issues about the person who will be in control of the property and the curriculum to be advanced at the project.

First, she permits her dogs on her furniture and allows them on her bed. Will she teach children that this is the proper way to treat your dogs? Next, she allows her dogs to chase after dolphins and harbor seals. Does this suggest an appropriate respect for marine life by the person who would be in charge of this coastal bluff property that is being promoted as a place to teach a **reverence for animals?** Indeed, do we really want to teach our children to REVERE animals? Respect them and treat them well, yes, but revere them? I think not. That elevates them to an inappropriate status!! Finally, the fact that her dogs are chasing marine life on the beach indicates that she is permitting them on the public beach where dogs are prohibited (they are free to roam on that portion of the beach which she owns, which is the portion landward of the mean high tide line of the Pacific Ocean. Anything below the mean high tide line is public beach). Further, they are obviously not on leashes, in violation of the leash laws in both the City

of Malibu and the County of Los Angeles (yes, I checked with both). Do we want someone who flagrantly ignores our dog laws to be teaching children about proper animal training and care? I most certainly think not..

If Ms. Annenberg wants to build a shrine to dogs and cats, I suggest she purchase a piece of land and build it herself. It is not appropriate for the City to provide public land for Ms. Annenberg to advance her questionable views and agenda.

Copies of these articles will be distributed to you at the meeting.

### **G. We are merely tenants and stewards for future generations**

It is interesting to note that on page 47 of the General Plan it reads:

“Through careful excavation of archaeological middens (campsites of ancient communities) it can be learned how previous **tenants** lived”. (emphasis added).

Our City’s founders recognized that we are all tenants of this beautiful land. We do not really own it - we are stewards of what God gave us to enjoy, and it is our duty to preserve and protect it for all future generations.

Councilman Long expressed to me his concern that many of those residents who are opposed to development are really motivated by a desire to keep out of our community people from off the hill. While there may be some people in this community who feel that way, I am not one of them, and, nothing could be further from the truth. What could a kid living in the concrete jungle possibly enjoy more than hiking in dirt, grass, weeds and mud SMELLING, FEELING and SEEING nature, instead of being in yet another classroom being “talked at” about it?

I find it compelling that Mr. Aube of the Annenberg Foundation has stated that the Foundation is ONLY interested in completing this project on this specific parcel of precious coastal bluff land (“magnificent piece of land” in Ms. Annenberg’s words) for the precise reason that it is so spectacular and unique. All the more reason to leave it unspoiled.

I note that the argument as to why it MUST be located here is because of the purported tie between the mission of the PVIC (which focuses on marine life) and the mission of this project (terrestrial animals). The Foundation’s newsletters contain lots of notifications about upcoming activities at the PVIC, in an obvious attempt to lead readers to believe there is an existing relationship between the two projects. This looks to me like a deliberate attempt to make a connection between totally unrelated missions as a

justification for requiring this coastal property, and this coastal property only, for the Project (please watch the Jackie Jaakola interview on Channel 33, which you can find on the Annenberg website. It is amusing to watch). While I do not endorse using public property for this project, the dog and cat facility could easily be located across the street at the Upper Point Vicente, as it has no connection whatsoever with the ocean. I anticipate that next the Foundation will make some revisions to the project to add ocean life components in an attempt to strengthen their argument that there is an unseverable connection between it and the PVIC.

#### **H. The Council should not be influenced by the Annenberg donations**

I note that during the City Council meeting of September 2, 2008 Councilman Wolowicz expressed concern about the project being viewed as a "quid pro quo" (his words) for the Annenberg Foundation's donation to the PVLC for the acquisition of the Filiorum property. He is not alone in that concern.

We all know that the Annenberg Foundation has generously made a large donation to the PVP Land Conservancy, has underwritten the cost of the Coast Vision Plan which was developed by Melendrez, the landscape architect hand selected by Annenberg, and has agreed to not only pay for, but also perform the construction of, the parking lot and other improvements at the Pt. Vicente Interpretive Center that were previously approved in February of this year (which approval is suspect, inasmuch as it appears to be a splitting of the project which, if so, would mean the requirements of CEQA have not been met, and a new DEIR may be required. More on that at a future date).

Furthermore, Rincon, the consultant retained for preparation of both the PVIC Negative Declaration and the DEIR, has never been used by the City previously and was no doubt suggested by Annenberg, for whom work had previously been performed. When the dots are connected, it is not unreasonable for someone to question whether the Lower Pt. Vicente project is the quid pro quo for that generosity, particularly given that "two years of negotiations" have resulted in this project's proposal. The City Council must be careful to avoid even the appearance of impropriety.

#### **I. Conclusion**

The whole concept of this project is flawed. It is not the right project. It is not the right property. It is not the right vision.

Let us end this now and stop wasting the time of staff, the Planning Commission, and the Council (as well as the residents who are opposed to it).

For the foregoing reasons, request is hereby made that:

- a. the Council interpret and apply our General Plan, Land Use Designation and Zoning Ordinances as they were intended to be interpreted and applied, and find that this project is not consistent with them,
- b. the Council amend the Coast Vision Plan to delete all depictions of the Annenberg Project on the Lower Point Vicente site and start over again, and
- c. the City Council not pursue any amendments to the General Plan, Land Use designation, zoning classification or the POU and other deed restrictions in order to accommodate this inappropriate project at Lower Point Vicente.

As one speaker at the October 12, 2010 Planning Commission meeting said, quoting the famous song, “you don’t know what you’ve got ‘til it’s gone” and let’s not “take paradise and put up a parking lot”!

Respectfully submitted,

Sharon Yarber