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BY E-MAIL AND OVERNIGHT MAIL

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Re: The Arroyo at Monrovia Specific Plan (SCH 2019050016)

Dear Ms. Bermejo, Mr. Jimenez, and Ms. Atkins:

I am writing on behalf of **Supporters Alliance For Environmental Responsibility ("SAFER")**, regarding The Arroyo at Monrovia Specific Plan (SCH 2019050016), including all actions related or referring to the development of a mixed-use structure to include a 302-unit, six-story apartment complex with 7,080 square feet of retail flex space associated with three live/work units; 5,541 square feet of public space; and a seven-level (six-story) partially underground parking structure with 500 parking spaces, located south of West Evergreen Avenue, west of South Primrose Avenue, east of South Magnolia Avenue, and north of West Pomona Avenue in Monrovia ("Project"). The Project includes, Arroyo at Monrovia Station Specific Plan, Zoning Amendment ZA2019-0005/Ordinance No. 2019-11 (Planning Commission Resolution PCR2019-0016), Specific Plan SP2019-0016 (Planning Commission Resolution PCR2019-0017), Vesting Tentative Tract Map 82517; Conditional Use Permit CUP2019-0016; General Plan Conformity GPC2019-0004; Environmental Impact Report; Planning Commission Resolution 2019-0015. The Project is proposed to be located at: 202, 206, 210, 212, 216, 220, 224, 228, 234, AND 238 West Evergreen Avenue, and 1551 South Primrose Avenue and 1610 South Magnolia Avenue (Assessor's Parcel Numbers [APN] 8507-002-011, -012, -014, -015, -017, -018, -019, -020, -022, -023, -036, -037).

For the reasons explained below, SAFER requests that the City of Monrovia ("City") prepare a Revised Draft Environmental Impact Report ("RDEIR") to analyze and

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mitigate impacts that have not been adequately addressed in the Draft Environmental Impact Report (“DEIR”) that has been circulated. The DEIR identifies only one significant environmental impact after mitigation. In fact, as discussed below, the Project will have significant impact related to indoor air quality, soil contamination, air quality, and other impacts that must be analyzed and mitigated in a RDEIR.

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I. Legal Background

CEQA requires that an agency analyze the potential environmental impacts of its proposed actions in an environmental impact report (“EIR”) (except in certain limited circumstances). (See, e.g., Pub. Res. Code § 21100.) The EIR is the very heart of CEQA. (*Dunn-Edwards v. BAAQMD* (1992) 9 Cal.App.4th 644, 652.) “The ‘foremost principle’ in interpreting CEQA is that the Legislature intended the act to be read so as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Communities for a Better Environment v. Calif. Resources Agency* (2002) 103 Cal. App. 4th 98, 109.)

CEQA has two primary purposes. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 Cal. Code Regs. (“CEQA Guidelines”) § 15002(a)(1).) “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’” (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564) The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.” (*Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal. App. 4th 1344, 1354 (“Berkeley Jets”); *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810)

Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring “environmentally superior” alternatives and all feasible mitigation measures. (CEQA Guidelines § 15002(a)(2) and (3); See also, *Berkeley Jets*, 91 Cal. App. 4th 1344, 1354; *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 564) The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.” (Guidelines §15002(a)(2)) If the project will have a significant effect on the environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment where feasible” and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.” (Pub.Res.Code § 21081; 14 Cal.Code Regs. § 15092(b)(2)(A) & (B)) The lead agency may deem a particular impact to be insignificant only if it produces rigorous analysis and concrete substantial evidence justifying the finding. (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 732 (Cal. App. 5th Dist. 1990)).

While the courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to ‘uncritically rely on every study or analysis presented by a project

proponent in support of its position. A 'clearly inadequate or unsupported study is entitled to no judicial deference.'" (*Berkeley Jets*, 91 Cal. App. 4th 1344, 1355 (emphasis added), quoting, *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal. 3d 376, 391 409, fn. 12 (1988)) As the court stated in *Berkeley Jets*, 91 Cal. App. 4th at 1355:

A prejudicial abuse of discretion occurs "if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 722]; *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal. App. 4th 1109, 1117; *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 946)

Court must use their independent judgment to review the adequacy of the EIR as an informational document. *Sierra Club v. County of Fresno*, 6 Cal. 5th 502, 515, 431 P.3d 1151, 1161 (2018).

II. Analysis

A. The Planning Commission Must Consider the Final EIR Prior to Deciding Whether or Not to Approve the Project.

The Planning Commission is proposing to approve the Project on November 13, 2019, despite the fact that no Final Environmental Impact Report ("FEIR") will have been prepared by that date. This violates the basic procedural requirements of CEQA. The comment deadline for the Draft Environmental Impact Report ("DEIR") is November 13, 2019. Under CEQA, the agency must consider and respond to any comments in the DEIR, and make any appropriate changes to the DEIR in the Final EIR. (14 CCR § 15088(c).) The FEIR's responses to comments on a draft EIR must state reasons for rejecting suggestions and objections concerning significant environmental issues. (*City of Maywood v. Los Angeles Unified Sch. Dist.* (2012) 208 Cal.App.4th 362, 391.)

One of the fundamental requirements of CEQA is that the lead agency must consider the environmental impacts of a Project before it decides whether or not to approve the Project. This ensures that the agency considers the Project's environmental costs as well as its economic benefits. In order to fulfill the purpose the agency must consider the Final EIR along with the Project approvals.

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CEQA is first and foremost designed to require governmental decision-makers to consider the environmental impacts of their actions **before** proceeding with a proposed project. CEQA states that the lead agency must consider public comment on the CEQA document "prior to carrying out or approving a project." CEQA § 21091(e). Requiring early consideration of environmental impacts allows the decision-makers to require more environmentally beneficial project alternatives or mitigation measures at a point when true flexibility remains. The courts have stated that CEQA is an "environmental 'alarm bell' whose purpose is to alert the public and its responsible officials to environmental changes

before they have reached ecological points of no return." (*County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810). CEQA requires environmental factors to be considered at the "earliest possible stage . . . before [the project] gains irreversible momentum," (*Bozung v. Local Agency Formation Comm.*, (1975) 13 Cal.3d 263, 277), "at a point in the planning process 'where genuine flexibility remains.'" (*Sundstrom v. Mendocino County*, (1988) 202 Cal.App.3d 296, 307).

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The Planning Commission will violate this basic tenet of CEQA law by considering approval of the Project prior to the release of the FEIR. The Planning Commission will not be able to consider public comment and the Final EIR together with Project approval. In so doing, the City will effectively deprive the public of its right to "have an appropriate voice in the formulation of any decision [affecting the environment]." (*Environmental Planning v. County of El Dorado* (1982) 131 Cal.App.3d 350, 354). As such, the Commission will not be able to weigh the Project's environmental impacts along with its economic benefits. We therefore request that the Planning Commission continue its consideration of the Project until after the Final EIR is released.

B. The EIR Fails to Establish a Baseline for Potentially Hazards Chemicals at the Project Site and Fails to Analyze Potential Impacts.

SAFER is concerned that the EIR fails to adequately analyze potential risks related to soil contamination. (See comments of environmental consulting firm, Soil, Water, Air Protection Enterprise ("SWAPE"), attached as Exhibit A). The Project site has been used for heavy industrial uses for decades. According to the DEIR, The property at 1610 South Magnolia Avenue is currently occupied by Gamblit Gaming, where slot machines are built; only small quantities of paint are utilized under current operations. However, the property at 1610 South Magnolia Avenue historically was occupied by other industrial uses where hazardous materials and petroleum products could have been used and disposed of (Kleinfelder 2016). Specifically, historically, a 9,000-gallon aboveground cryogenic vessel was present just outside of the northeastern corner of the building and was replaced with a 6,000-gallon vessel in 1989 (Kleinfelder 2016). The property at 1551 South Primrose Avenue is currently occupied by Duracold Refrigeration, a company that manufactures walk-in cooler and freezer panels. Chemicals used at this facility include 55-gallon drums of contact adhesive foam and release agent, 5-gallon buckets of hydraulic oil, and aboveground vessels for nitrogen and argon gas. (DEIR p. 12-2). The property at 1551 South Primrose Avenue historically was occupied by other industrial uses where hazardous materials and petroleum products could have been used and disposed of (Kleinfelder 2016). Specifically, the property was occupied previously by a ceramic plant facility in the 1960s. A spray room, cooling tower, and ammonia dissociater were permitted in the 1960s. In addition, in 1961, a permit was issued to install an interceptor with two tanks on the west side of the original building, which was permitted to tie into the onsite septic tank. The property owner has advised the City that the septic tank was subsequently removed when the building was connected to the City's sewer system and a building addition was installed over the former septic tank/interceptor location. However, the City's files do not contain a permit authorizing the removal of the septic tank or any document confirming removal of the septic tank. (DEIR p. 12-3).

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Due to this past industrial use, extensive contamination exists on the Project site. Total Petroleum Hydrocarbons ("TPH") was detected in one soil sampling location above Practical Quantitation Limits (PQL)¹ at 2.5 and 9 feet bgs (locations B2-2.5 and B2-9). PCE and TCE were detected above PQLs at one soil sampling location at 2.5 feet bgs; TCE was also detected above its PQL at 5 feet bgs (B6-2.5, B6-5). Metals were detected above PQLs at one soil sampling location at 2.5 feet bgs as well (B6-2.5). (DEIR p. 12-3). TPH was detected above PQLs in soil vapor in all samples, except at B-1-5. Carbon tetrachloride was detected above its PQL in four out of the eight locations; the maximum concentration detected was 540 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) at B-7-5. PCE was detected above its PQL at all locations, with a maximum concentration of 6,300 $\mu\text{g}/\text{m}^3$ at B-5-5. TCE was detected above its PQL at 5 locations; a maximum concentration of 400 $\mu\text{g}/\text{m}^3$ was detected at B-7-5. Toluene was detected at B-6-5 at 53 $\mu\text{g}/\text{m}^3$, and Freon 113 (1,1,2-trichlorotrifluoroethane) was detected in 7 of 8 sample locations with a maximum of 1,100 $\mu\text{g}/\text{m}^3$ at B-7-5. (DEIR p. 12-4).

The DEIR concludes:

Because certain contaminant concentrations in soil vapor exceeded risk screening levels established by the Department of Toxic Substances Control (DTSC) and U.S. EPA, the Phase II ESA recommended completion of a Human Health Risk Assessment (Kleinfelder 2019a). Therefore, a Human Health Risk Assessment (HHRA) was then prepared to evaluate potential risk to potential future residents on the property as well as to construction workers (Kleinfelder 2019b). Results of the HHRA indicate that there would be no significant risk to construction workers. ***However, results of the HHRA conclude that TCE and carbon tetrachloride pose a significant risk to future residents without remedial action.***

(DEIR, p. 12-4 (emphasis added)). The DEIR states, "Project construction activities have the potential to exacerbate conditions by spreading contamination resulting in exposure of construction workers and future occupants of the buildings, and adjacent residents to hazardous substances." (DEIR p. 12-12). The DEIR concludes, "Without mitigation, impacts would be significant." (DEIR op. 12-12).

Therefore, the Project will have significant impacts related to disturbing toxic chemicals in the soil. However, the DEIR proposes to develop mitigation measures in the future rather than proposing specific, feasible mitigation measures. This violates CEQA. CEQA requires that mitigation measures be set forth in the CEQA document so that the public can review and comment on their adequacy or inadequacy. *Citizens for Responsible Equitable Env't'l Dev. v. City of Chula Vista* ("CREED") (2011) 197 Cal.App.4th 327, 332. The DEIR proposes the following deferred mitigation measure:

MM HAZ-1: The DTSC shall be notified of the results of all Phase I Environmental Site Assessments (ESAs), Phase II (ESAs), and Human Health Risk Assessments prepared for the Project site. The Applicant/Developer shall comply with all requirements of DTSC for remediation of the portions of the Project site that are subject to CERCLA or California Health and Safety Code Division 20, Chapter 6.8 including, without limitation, requirements of any remediation plan or agreement

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and the requirement to install a vapor barrier, and the timing established by DTSC for such remediation. (DEIR, p. 12-12).

Thus, the mitigation measure will not be developed until after project approval, in violation of CEQA. As the Court of Appeal stated, “[R]eliance on tentative plans for future mitigation after completion of the CEQA process significantly undermines CEQA’s goals of full disclosure and informed decisionmaking; and[,] consequently, these mitigation plans have been overturned on judicial review as constituting improper deferral of environmental assessment.” *Communities for a Better Environment v. City of Richmond* (“CBE v. Richmond”) (2010) 184 Cal.App.4th at 92.

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The DEIR deferred mitigation measure is very similar to *CREED*. In *CREED*, a developer proposed to build a shopping center on a contaminated site, but proposed to develop a clean-up plan after project approval. The court held that this was improper deferred mitigation. In *CREED*, the city stated that a “corrective action plan” would be used to remediate soil and groundwater contamination at the Target store project site, but failed to include the plan in the Project MND and administrative record. 197 Cal.App.4th at 331-32. The court held that the mere absence of the corrective action plan from the administrative record rendered the MND insufficient under CEQA, and created a “fair[] argu[ment] that the project may have a significant impact by disturbing contaminated soils.” *Id.* at 332. The court held that mitigation measures must be identified prior to Project approval. *Id.* at 331-32.

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The City’s deferral of remediation “Plan” approval to the Project’s building permit stage is similarly prohibited under *CREED*. The *CREED* court expressly rejected Chula Vista’s argument that “the building permit stage is an acceptable deadline for completion of the remediation activities” because the absence of the plan at the project approval stage made it impossible to determine whether proposed soil remediation measures would be adequate. “Although the building permits are conditioned on compliance with the corrective action plan, it is unknown what, if any, mitigation measures in this plan address contaminated soils as the corrective action plan is not part of the record.” *Id.* at 332. Here, not only is there no evidence of the sufficiency of soil mitigations, there is no evidence that the mitigations will even be implemented before Project construction begins. This, too, is insufficient under *CREED*.

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A RDEIR is required to analyze the admittedly significant soil contamination, and to propose specific mitigation measures that will ensure the adequate clean-up of the Project site prior to Project approval.

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C. The Project Will Have Significant Cancer Risks Related to I-210.

The Project is proposed to be located immediately adjacent to I-210 – a major interstate freeway. Large freeways are known to be major sources of toxic air pollution, particularly, diesel particulate matter (“DPM”), which is listed by the State of California as a known human carcinogen.

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The DEIR discusses DPM from I-210, stating, "According to Caltrans traffic data, the segment of the I-210 adjacent to the Project area carries approximately 252,000 vehicles per day. Based on CARB's EMFAC2017 model, approximately 3.8% of all vehicles in the Los Angeles (South Coast) region are diesel vehicles, meaning there are approximately 9,585 diesel vehicles that pass by the Project area on a daily basis, emit DPM, and contribute to potential existing adverse health risks." (DEIR, p. 7-29). The DEIR also concludes that the Project will contribute to traffic in I-210 and related air pollution. It states, "according to the TIS, the Project would generate 1,938 total daily vehicle trips, of which approximately 74 (3.8%) would be diesel trips... This means that the Project could, at worst case, change DPM emissions adjacent to the Project area by no more than approximately 2%." (DEIR p. 7-29). Thus, the Project will increase air pollution from I-210 by up to 2%.

The DEIR conducts a health risk assessment, stating, "The incremental increase in cancer risk at this location is 28.2 in one million." (DEIR p. 7-34). This cancer risk is "above the SCAQMD recommended cancer risk threshold of 10 cases of cancer per million population (by a factor of approximately 2.8 at the worst-case MEIR location)." (DEIR p. 7-34).

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When a Project exceeds a duly adopted CEQA significance threshold, as here, this alone establishes a fair argument that the project will have a significant adverse environmental impact and an EIR is required. Indeed, in many instances, such air quality thresholds are the only criteria reviewed and treated as dispositive in evaluating the significance of a project's air quality impacts. See, e.g. *Schenck v. County of Sonoma* (2011) 198 Cal.App.4th 949, 960 (County applies BAAQMD's "published CEQA quantitative criteria" and "threshold level of cumulative significance"). See also *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 110-111 ("A 'threshold of significance' for a given environmental effect is simply that level at which the lead agency finds the effects of the project to be significant"). The California Supreme Court made clear the substantial importance that an air district significance threshold plays in providing substantial evidence of a significant adverse impact. *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 327 ("As the [South Coast Air Quality Management] District's established significance threshold for NOx is 55 pounds per day, these estimates [of NOx emissions of 201 to 456 pounds per day] constitute substantial evidence supporting a fair argument for a significant adverse impact"). Since expert evidence demonstrates that the Project will exceed the BAAQMD's CEQA significance threshold, there is a fair argument that the Project will have significant adverse and an EIR is required.

Despite finding that the cancer risk from I-210 will be exacerbated by the Project and will exceed SCAQMD CEQA significance thresholds, the DEIR concludes that this impact will be less than significant. This is wrong as a matter of law. In the case of *California Bldg. Indus. Assn. v. Bay Area Air Quality Mgmt. Dist.*, 62 Cal. 4th 369, 388, 362 P.3d 792, 801 (2015), the Supreme Court held that a CEQA document does not need to analyze the impact of existing roadway pollution on a proposed project unless the "project could exacerbate hazards that are already present." *Id.* Since the DEIR shows

that the Project will exacerbate pollution from I-210 by 2%, the impact must be analyzed under CEQA, and since it exceeds CEQA significance thresholds, the DEIR must identify the impact to be significant.

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The DEIR does propose mitigation for the impact, but the mitigation is not proven to be sufficient to reduce the impact to less than significant. The DEIR proposes that the Project should be fitted with air filtration devices capable of meeting MERV-8 or MERV-13 standards. (DEIR p. 7-36). the DEIR indicates that,

“[I]mplementation of HVAC systems with MERV-13 filters in all new residential units in the Project required in mitigation measure MM AIR-2 would reduce exposure to DPM emissions such that health risks would be under significance thresholds with and without the Project” (DEIR, p. 203).

The DEIR goes on to state that idling restrictions under mitigation measure MM AIR-1, the prevailing wind direction, and short-term construction schedule reduce the Project’s construction emissions and as a result, “DPM emissions from construction activities would be unlikely to result in adverse health effects to existing sensitive receptors that exceed the SCAQMD’s significance criteria 3. This impact would be less than significant” (DEIR pp. 192-193).

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However, the DEIR does not calculate how much these measures will reduce cancer impacts. Most importantly, it does not calculate whether the measures will reduce impacts to below the 10 per million significance threshold. The DEIR states, “it is reasonable to assume that installation of HVAC systems with MERV-8 or MERV-13 filters in the Project area would reduce potential cancer risks resulting from DPM to levels below SCAQMD significance thresholds, although the exact level of reduction that would be realized from these filters cannot be known with certainty.” (DEIR, p. 7-36).

The DEIR cannot declare this impact less than significant if it does not calculate whether the mitigation measure is sufficient to reduce the impact to below the significance threshold. “Here, the EIR included no facts or analysis to support the inference that the mitigation measures will have a quantifiable “substantial” impact on reducing the adverse effects. The EIR must accurately reflect the net health effect of proposed air quality mitigation measures.” *Sierra Club v. Cty. of Fresno*, 6 Cal. 5th 502, 522, 431 P.3d 1151, 1166 (2018).

D. The EIR Fails to Analyze Indoor Air Quality Impacts from Formaldehyde.

The Project will expose future residents to significant impacts related to indoor air quality, and in particular, emissions for the cancer-causing chemical formaldehyde. Many composite wood products typically used in modern home construction contain formaldehyde-based glues which off-gas formaldehyde over a very long time period. The primary source formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particle

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board. These materials are commonly used in residential building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims.

Formaldehyde is a known human carcinogen. There is a fair argument that residents of the Project will be exposed to a cancer risk from formaldehyde above the South Coast Air Quality Management District (SCAQMD) CEQA significance threshold for airborne cancer risk of 10 per million. Even if the Project uses modern "CARB-compliant" materials, formaldehyde will create a cancer risk more than ten times above the CEQA significance threshold. This significant environmental impact should be analyzed in an EIR and mitigation measures should be imposed to reduce the risk of formaldehyde exposure.

There are several feasible mitigation measures, such as requiring the use of no-added-formaldehyde composite wood products, which are readily available. Since the EIR does not analyze this impact at all, none of these or other mitigation measures are considered.

E. The EIR Improperly Underestimates the Project's Air Pollution Emissions.

SWAPE demonstrates that the DEIR improperly calculates the Project's air pollution emissions. As a result, the Project will have more significant air pollution impacts than described in the DEIR. The DEIR relies upon the CalEEMod to model the Project's construction and operational emissions. After reviewing the Project's CalEEMod output files, SWAPE found the following issues:

- **Use of an Incorrect Proposed Land Use Size:** According to the DEIR, the proposed Project will include a 500-space parking garage (pp. 23). However, review of the Project's CalEEMod output files demonstrates that the model only considers 166,720 sf of parking garage (Appendix C, pp. 164, 201, 232, 263, 301, 333). If the correct number of 500 spaces of enclosed parking with elevator had been inputted into the model, the land use size would have been 200,000 sf. Thus, the proposed parking land use size is underestimated by approximately 33,280 sf. As a result, the Project's emissions are underestimated.
- **Use of an Incorrect Existing Land Use Size:** According to the DEIR, the two existing light industrial land uses have a total square footage of 39,500 sf (pp. 53, Table 3-1). However, review of the Project's CalEEMod output files demonstrates that the existing light industrial land uses were modeled with a square footage of 44,240 sf. Thus, the existing light industrial land use is overestimated by 4,740 sf. Because the DEIR subtracts existing emissions from the proposed Project's emissions, overestimating an existing land use results in reduced net emissions. As a result, the model should not be relied upon to determine Project significance.

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- **Use of an Incorrect Land Use Population:** According to the DEIR, the proposed Project is estimated to house 630 new residents (pp. 391, Table 17-1). However, review of the Project's CalEEMod output files demonstrates that the model manually changes the population size to 603 (Appendix C, pp. 164, 201, 232, 263, 301, 333). Thus, the model underestimates the proposed Project's population size by 27 residents, and the Project's operational emissions are underestimated. L5.9
- **Failure to Include All Material Export:** According to the DEIR, "construction of the proposed Project would involve 8,585 cubic yards (cy) of cut, 3,430 cy of fill, with a net export of 3,430 cy" (Appendix C, 49). However, this is incorrect, because if the Project requires 8,585 cy of cut and 3,430 cy of fill, then the net export will be 5,155 cy. Review of the CalEEMod output files demonstrates that the model only includes 3,430 cy of material export (Appendix C, pp. 166, 203, 234, 266, 304, 336). As a result, construction emissions associated with the Project are underestimated. L5.10
- **Unsubstantiated Changes to Vehicle Fleet Mix:** Review of the Project's CalEEMod output files demonstrates that the fleet mix was manually altered without proper justification (Appendix C, pp. 165, 166, 202, 203, 233, 234, 265, 266, 303, 304, 335, 336). According to the "User Entered Comments & Non-default Data," the justification for these changes is: "No trips associated with HHD; OBUS; UBUS; SBUS; MH. These trips re allocated to LDA" (Appendix C, pp. 165, 202, 233, 264, 302, 334). However, this is incorrect, as the Transportation Impact Study (TIS), provided as Appendix J to the DEIR, fails to mention or justify these changes. Thus, the changes are unsubstantiated and the model should not be relied upon to determine Project significance. L5.11
- **Unsubstantiated Changes to Solid Waste Generation Rates:** Review of the Project's CalEEMod output files demonstrates that the solid waste generation rate was manually reduced by 75% in the model (Appendix C, pp. 167, 204, 235, 266, 304, 336). According to the "User Entered Comments and Non-Default Data," this reduction is justified by stating "[a]pply 75% waste diversion rate per AB341" (Appendix C, pp. 165, 202, 233, 264, 302, 334). However, simply stating that the Project will comply with AB 341 does not demonstrate that the Project will achieve a diversion rate of 75%, and as a result, the Project's emissions may be underestimated. L5.12
- **Use of Incorrect Trip Purpose Percentage:** The Project's CalEEMod model double counts the number of pass-by trips expected to occur throughout Project operation, and as a result, the Project's operational emissions may be L5.13

underestimated. Review of the Project's CalEEMod output files demonstrates that the trip purpose percentage was divided amongst primary, diverted, and pass-by trip types for the Project's retail land use (Appendix C, pp. 188, 225, 256, 288, 326, 358). However, as demonstrated in the DEIR's Transportation Impact Study (TIS), pass-by trips for this land use were already accounted for in the Project Trip Generation calculations (Appendix J, pp. 39). Therefore, the CalEEMod model should have divided the trip purpose between primary and diverted trips. Because the proposed Project's CalEEMod model incorrectly allocates the Project's operational trips to the various categories of trip purposes, the emissions associated with these trips are underestimated.

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As a result of the above errors, the DEIR underestimates the Project air pollution emissions, which will be more significant than set forth in the DEIR. A RDEIR should be prepared to remedy these errors and to analyze and mitigate the Project's air pollution impacts.

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F. The EIR Fails to Adequately Analyze the Project's Significant Cancer Risk from Construction and Operation.

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SWAPE has conducted analysis demonstrating that the Project will create highly significant cancer risks from construction and operation of the Project of 240 per million – 24 times above the SCAQMD CEQA significance threshold of 10 per million. (Exhibit A, p. 17).

The DEIR concludes that the proposed Project would have a less than significant impact on the health of nearby sensitive receptors without conducting a quantitative health risk assessment (HRA) for construction and operation (p. 7-27 – 7-28). Regarding construction-related health risk impacts, the DEIR attempts to justify its significance determination by stating,

"Project construction activities would not expose nearby sensitive receptors to substantial levels of DPM that would pose a significant adverse health risk for several reasons. First, the Project includes mitigation (MM AIR-1) to reduce DPM from equipment idling, which would directly reduce the potential health risks at nearby sensitive receptor locations. Second, as shown in Figure 7-1, below, the prevailing daytime wind direction at the nearest meteorological station maintained by the SCAQMD, in Azusa (less than five miles east of the project site), is from the west/southwest. Wind conditions at this location are considered representative of wind conditions at the Project site, meaning that DPM emissions generated by construction equipment would generally be pushed to the east/northeast, away from the closest sensitive residential receptors, and pollutants would quickly disperse over distance. Finally, potential long-term adverse health effects from DPM are evaluated assuming a constant exposure to emissions over a 70-year lifetime, 24 hours a day, seven days a week, with increased risks generally associated with increased proximity to emissions sources. Since construction

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activities would only generate DPM emissions on an intermittent, short-term basis, DPM emissions from construction would be unlikely to result in adverse health effects to existing sensitive receptors that exceed the SCAQMD's significance criteria. This impact would be less than significant" (p. 7-28 – 7-29).

Regarding operational health risk impacts, the DEIR attempts to justify its significance determination by stating,

"[T]he maximum daily on-site emissions generated during operation of the Project would not exceed the SCAQMD's recommended LST thresholds. This impact would be less than significant" (p. 7-27).

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However, these justifications for failing to evaluate the health risk impacts posed to nearby sensitive receptors are incorrect for several reasons.

First, the DEIR makes several qualitative claims that in no way prove that nearby sensitive receptors will not be significantly impacted by the Project's construction and operation. Simply stating that MM AIR-1 would reduce equipment idling, and that prevailing wind moves east/northeast are not sufficient justifications for the omission of a quantified construction and operational HRA. Rather, these are qualitative observations that fail to prove that nearby sensitive receptors will not be significantly impacted. Further, the SCAQMD provides a specific numerical threshold of 10 in one million for determining a project's health risk impact. Thus, the DEIR should have conducted a quantified assessment comparing the health risk impacts of the proposed Project's construction and operational emissions to this threshold. Without doing so, the DEIR cannot conclude less than significant health risk impacts to nearby sensitive receptors.

Second, stating that "construction activities would only generate DPM emissions on an intermittent, short-term basis" does not justify the omission of a construction HRA. According to the SCAQMD, the air pollution control agency for the proposed Project, it is recommended that health risk impacts from short-term projects also be assessed. The Guidance document states,

Since these short-term calculations are only meant for projects with limits on the operating duration, these short-term cancer risk assessments can be thought of as being the equivalent to a 30-year cancer risk estimate and the appropriate thresholds would still apply (i.e. for a 5-year project, the maximum emissions during the 5-year period would be assessed on the more sensitive population, from the third trimester to age 5, after which the project's emissions would drop to 0 for the remaining 25 years to get the 30-year equivalent cancer risk estimate).

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Thus, an HRA is required to determine whether the Project would expose sensitive receptors to substantial air pollutants. The DEIR should have conducted some sort of quantitative analysis and compared the results to the applicable threshold, as described above. By failing to prepare a quantified HRA, the DEIR fails to provide a comprehensive analysis of the sensitive receptor impacts that may occur as a result of exposure to substantial air pollutants from Project construction and operation.

Third, the omission of a quantified HRA is inconsistent with the most recent guidance published by the Office of Environmental Health Hazard Assessment (OEHHA), the organization responsible for providing recommendations and guidance on how to conduct HRAs in California. In February of 2015, the OEHHA released its most recent Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments, which was formally adopted in March of 2015. This guidance document describes the types of projects that warrant the preparation of an HRA. As previously stated, the Project will produce emissions of DPM through the exhaust stacks of construction equipment over an approximate 13-month construction period (Appendix C, pp. 49). The OEHHA document recommends that all short-term projects lasting at least two months be evaluated for cancer risks to nearby sensitive receptors. Once construction is complete, Project operation will generate truck trips, which will generate additional exhaust emissions, thus continuing to expose nearby sensitive receptors to DPM emissions. The OEHHA document recommends that exposure from projects lasting more than 6 months should be evaluated for the duration of the project and recommends that an exposure duration of 30 years be used to estimate individual cancer risk for the maximally exposed individual resident (MEIR). Even though we were not provided with the expected lifetime of the Project, we can reasonably assume that the Project will operate for at least 30 years, if not more. Therefore, per OEHHA guidelines, health risk impacts from Project construction and operation should have been evaluated in a quantified HRA. These recommendations reflect the most recent HRA policy, and as such, an assessment of health risks to nearby sensitive receptors from construction and operation should be included in an updated EIR.

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Finally, the use of an LST analysis, as well as the subsequent operational significance determination, is incorrect. While the LST method assesses the impact of pollutants at a local level, it only evaluates impacts from criteria air pollutants. As a result, health impacts from exposure to toxic air contaminants (TACs), such as diesel particulate matter (DPM), were not analyzed, thus leaving a gap within the DEIR's operational analysis.

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Since the DEIR conducts no HRA at all, there is no substantial evidence to rebut the conclusion of SWAPE that the Project will create a cancer risk from construction and operation of 240 per million.

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G. The EIR Fails to Adequately Analyze the Project's Significant Greenhouse Gas Impacts.

The DEIR concludes that the proposed Project would result in a less than significant GHG impact, claiming,

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"construction and operation of the Project would result in a net increase in GHG emissions equal to approximately 1,762 MTCO₂e per year. This net emissions increase is below the SCAQMD latest interim Tier 3 "bright-line" guidance and

recommendation for GHG significance thresholds for mixed-use projects (3,000 MTCO₂e)” (DEIR, p. 295).

The DEIR goes on to state,

“Since the Project would be operational in 2022 (i.e., after 2020), it may not be necessarily appropriate to evaluate the significance of the Project’s GHG emissions against the SCAQMD’s 3,000 MTCO₂e threshold, although this threshold does provide useful context for the City in determining the significance of a project’s GHG emissions. For example, presuming a 40% reduction in the SCAQMD’s existing CEQA thresholds is necessary to achieve the State’s 2030 GHG reduction goal (which is a 40% reduction below 1990 GHG emissions levels), a threshold of 2,760 MTCO₂e may be more appropriate for use in evaluating the project’s long-term emissions in Year 2022. As shown in Table 11-5, the Project’s GHG emissions would also be below this adjusted threshold. Therefore, the Project would not generate GHG emissions that have the potential to exceed SCAQMD thresholds” (pp. 295-296).

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Cont.

Finally, the DEIR claims,

“The Project would not result in greenhouse gas emissions in excess of thresholds of significance, would meet SCAQMD’s 2035 project-level target of 3.0 MTCO₂e/yr/service population, and would not conflict with the CARB Scoping Plan, SCAG 2016 RTP/SCS, or City’s Energy Action Plan. In addition, the Project would not result in wasteful or inefficient use of energy. Therefore, impacts on global climate change due to greenhouse gas emissions and impacts on energy consumption would be less than significant” (pp. 298).

This analysis and subsequent less than significant conclusion is incorrect for several reasons.

First, while we agree that the SCAQMD’s existing threshold of 3,000 MT CO₂e may not be appropriate to determine the significance of a Project planned to become operational after 2020, the DEIR cannot simply calculate their own threshold to determine Project significance. This threshold calculated in the DEIR of 2,760 has not been reviewed or approved by the appropriate processes and SCAQMD and thus, cannot be relied upon to determine Project significance.

Second, the DEIR claims that the Project would not conflict with the CARB Scoping Plan, SCAG 2016 RTP/SCS, or City’s Energy Action Plan and would not result in wasteful or inefficient use of energy. However, not conflicting with various plans and policies required for Projects in the area does not contribute to a less than significant impact determination.

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Third, the DEIR failed to evaluate the potential cumulative GHG emissions the Project may have in conjunction with the development of Project's nearby, such as the Alexan Foothills Specific Plan and Development Project. Thus, prior to approval, an updated DEIR should be prepared evaluating the potential cumulative impacts of the Project.

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Fourth, the DEIR relies upon flawed CalEEMod models for both the existing development and the proposed Project, as discussed above. This is incorrect, as the DEIR's existing model overestimates emissions and the model for the proposed Project underestimates emissions.

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SWAPE has conducted a GHG analysis, concluding that the Project will have GHG impacts of 3.4 per service population – which exceeds the CEQA significance threshold of 3.0. Since the Project will have significant GHG impacts, a RDEIR must be prepared to analyze this impact and proposed feasible mitigation measures.

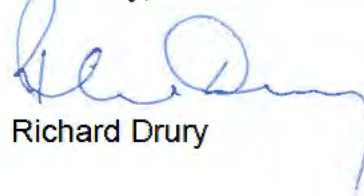
L5.25

III. Conclusion

SAFER asks that the City refrain from certifying the EIR or recommending approval of the Project in order to allow staff additional time to address the concerns raised herein. Please include this letter in the record of proceedings for this project. Thank you for your attention to these comments.

L5.26

Sincerely,



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November 12, 2019

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Re: The Arroyo at Monrovia Specific Plan (SCH 2019050016)

Dear Ms. Bermejo, Mr. Jimenez, and Ms. Atkins:

I am writing on behalf of **Supporters Alliance For Environmental Responsibility ("SAFER")**, regarding The Arroyo at Monrovia Specific Plan (SCH 2019050016). This letter supplements the letter submitted by our office earlier today by including two additional comment letter. The letter from traffic engineer Daniel Smith, PE, documents inaccuracies in the Draft EIR's traffic analysis. The letter from industrial hygienist Francis Offermann, PE, documents significant indoor air quality impacts created by the Project. Please include the attached documents in the administrative record for this matter. Thank you.

Sincerely,

Richard Drury