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Via Email

April 20, 2021

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Mayor Pro Tem Etta Waterfield
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Re: Comment on Supplemental Environmental Impact Report, Santa Maria Airport Business Park Specific Plan Amendment (SCH No. 2020070055)

Dear Mayor Patino, Mayor Pro Tem Waterfield, Honorable Councilmembers, Ms. White, and Mr. Albro:

This letter is submitted on behalf of **Supporters' Alliance for Environmental Responsibility ("SAFER")**, a California nonprofit public benefit corporation, regarding the supplemental draft environmental impact report ("DEIR") and final environmental impact report ("FEIR") (collectively, "SEIR") prepared for the Santa Maria Airport Business Park Specific Plan Amendment, SCH No. 2020070055 (the "Project"). After reviewing the SEIR, we conclude that it fails as an informational document and fails to impose all feasible mitigation measures to reduce the Project's impacts. SAFER requests that the City Council refrain from certifying the EIR at this time and instead request the City of

Santa Maria (“City”) address these shortcomings in a revised draft environmental impact report (“RDEIR”) and recirculate the RDEIR prior to considering approvals for the Project.

I. PROJECT DESCRIPTION

The City is proposing to amend the Santa Maria Airport Business Park Specific Plan initially adopted in 2008. As adopted, the overall Specific Plan includes the development of the 740-acre Specific Plan area located immediately south of the Santa Maria Public Airport, combining light industrial, research, manufacturing, and commercial land uses around an 18-hole golf course. Additional uses include retail opportunities, government facilities, and commercial and professional office space with mixed use potential. The Applicant is requesting to amend the land use and zoning designations of 28 acres at the southeast corner of the Specific Plan (“Project site”). The Project site is bordered to the north by Foster Road, and to the east by Orcutt Expressway/Highway 135, to the south by Union Valley Parkway. The 2007 Specific Plan originally proposed 314,067 square feet of Community Facilities (“CF”) floor area and a large regional stormwater retention basin facility at the remaining 8.7-acres of the 28-acre Project site whereas the 2007 Certified Programmatic EIR (“2007 EIR”) evaluated the development of 41,948 square feet of CF floor area.

The proposed Project now proposes 264,500 square feet of conceptual development, including commercial, light industrial, and public facility buildings. The Applicant is requesting to remove the CF designation and replace it with Airport Commercial (AC) and Light Industrial (LI) land use designations. The LI land use designation (and corresponding Planned Development Light Manufacturing/Public Facilities – Airport [PD-M-1/PF-A] zone) would be applied to the southwest corner of the Project site. East of Foxenwood Lane, the AC land use designation (and corresponding Planned Development Airport Commercial/Public Facilities – Airport [PD-C-3/PF-A] zone) would be applied to the entire area. The ROS-DP land use designation (and corresponding OS zone) would be applied to the site’s northwest corner to accommodate collection and treatment facilities for stormwater flows on-site.

While the Project does not currently propose any particular development at the Project site, the Applicant has coordinated with the Airport District to develop a Conceptual Development Plan. The Conceptual Development Plan includes commercial, light manufacturing, and public facility buildings, totaling 264,500 square feet of floor area.

II. 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 at pp. 1344, 1354; *Citizens of Goleta Valley*, 52 Cal.3d at 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.” (CEQA 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.)

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 at p. 1355 (emphasis added) (quoting *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal. 3d 376, 391 409, fn. 12).) As the court stated in *Berkeley Jets*:

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.)

More recently, the California Supreme Court has emphasized that:

When reviewing whether a discussion is sufficient to satisfy CEQA, a court must be satisfied that the EIR (1) includes sufficient detail to enable those who did not participate in its preparation to understand and to consider meaningfully the issues the proposed project raises [citation omitted], and (2) makes a reasonable effort to substantively connect a project’s air quality impacts to likely health consequences.

(*Sierra Club v. Cty. of Fresno* (2018) 6 Cal.5th 502, 510 (2018), citing *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 405.) “Whether or not the alleged inadequacy is the complete omission of a required discussion or a patently inadequate one-paragraph discussion devoid of analysis, the reviewing court must decide whether the EIR serves its purpose as an informational document.” (*Sierra Club v. Cty. of Fresno*, 6 Cal.5th at 516.) Although an agency has discretion to decide the manner of discussing potentially significant effects in an EIR, “a reviewing court must determine whether the discussion of a potentially significant effect is sufficient or insufficient, i.e., whether the EIR comports with its intended function of including ‘detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.’” (6 Cal.5th at 516, citing *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1197.) “The determination whether a discussion is sufficient is not solely a matter of discerning whether there is substantial evidence to support the agency’s factual conclusions.” (6 Cal.5th at 516.) Whether a discussion of a potential impact is sufficient “presents a mixed question of law and fact. As such, it is generally subject to independent review. However, underlying factual determinations—including, for example, an agency’s decision as to which methodologies to employ for analyzing

an environmental effect—may warrant deference.” (*Sierra Club v. Cty. of Fresno*, 6 Cal.5th at 516.) As the Court emphasized:

[W]hether a description of an environmental impact is insufficient because it lacks analysis or omits the magnitude of the impact is not a substantial evidence question. A conclusory discussion of an environmental impact that an EIR deems significant can be determined by a court to be inadequate as an informational document without reference to substantial evidence.

(*Sierra Club v. Cty. of Fresno*, 6 Cal.5th at 514.)

III. DISCUSSION

A. The EIR Fails to Analyze All of the Project’s Reasonably Foreseeable Impacts That Could Result From the Proposed Light Industrial Zoning.

The SEIR states that the Project “does not currently propose any particular development at the project site,” and a project-level analysis is not provided since “the specific details of future development on the project site are not known at this time....” (DEIR, p. 1-2.) However, the Project’s environmental impacts were evaluated based on the Conceptual Development Plan proposed by the Applicant, which allegedly “represents a reasonable development scenario at the project site for evaluation in the SEIR....” (See *id.* at pp. ES-2, 1-2.) The Conceptual Development Plan includes specific developments and their square footage. (See *id.* at pp. ES-2, 2-11.) In the southwest portion of the Project site the Conceptual Development Plan proposes 7,000 square feet of Public Facilities, a 100,000 square foot self-storage facility, and a 15,100 square foot State office building. (*Id.*, p. 2-11.)

The City proposes to rezone the southwest portion of the Project site as Planned Development Light Manufacturing/Public Facilities – Airport. (See DEIR, p. 2-9.) The permitted uses within the Light Manufacturing (“M-1”) zone include warehousing and wholesale distributors. (*Id.*, p. 2-10.) Warehousing and wholesale distribution uses are much more intensive permitted uses in the M-1 zone than a self-storage facility, public facility, or office building that were analyzed in the SEIR. Warehousing and wholesale distribution uses would employ more workers and would result in greater traffic, operational emissions, greenhouse gases (“GHG”), energy, noise, and other impacts. However, the SEIR failed to analyze these potential impacts from a warehouse or wholesale distribution center since it limited its analysis of impacts based on the arbitrary developments selected for the Conceptual Development Plan.

It is reasonably foreseeable that a warehouse or wholesale distribution center would be developed in the area of the Project site zoned M-1 since these are permitted uses within the M-1 zoning. The City should be analyzing the maximum impacts from the zoning change. By failing to analyze the Project's potentially significant environmental impacts that would result from such authorized uses with impacts likely much greater than the uses selected for the Conceptual Development Plan, the EIR is entirely deficient as an informational document. By limiting its analysis to the hypothetical uses selected in the Conceptual Development Plan, the City fails to provide substantial evidence that the Project would not result in greater or additional significant and unavoidable impacts. The City is required to prepare a revised DEIR and analyze and mitigate the maximum potential impacts that could result from the rezoning of the Project site.

B. The SEIR's Analysis of the Project's Potential VMT Impacts is Not Based on Substantial Evidence and Fails to Address Feasible Mitigation Measures.

The SEIR concludes that the Project's VMT impacts will be less than significant. (DEIR, p. 4.3-15.) However, the Project's impacts are underestimated because the analysis fails to acknowledge that the VMT in the light manufacturing area will be dramatically increased should a warehouse or distribution center become the use in the this portion of the Project site. Instead, the SEIR assumes that "90 percent of the Project's daily trips would be generated by the non-office commercial uses proposed on the site." (DEIR App. D, p. 7.) Further, the VMT analysis included the trip generation from a self-storage facility in the Light Manufacturing zoned portion of the Project site instead of an allowable, more trip intensive use despite the SEIR's assertion that no specific development plans are known at this time. (See *id.* at p. 13.) In addition, the SEIR fails to identify all feasible mitigation measures. For example, the City could reduce the extent of the light manufacturing zoning or limit the type of uses in the light manufacturing zoned portion of the Project. The SEIR therefore underestimates the Project's VMT impacts, and a revised DEIR is required to adequately analyze and mitigate the Project's potential VMT impacts.

C. The SEIR is Not Based on an Adequate Baseline From Which to Evaluate Impacts to Biological Resources.

The EIR's analysis of the Project's potential impacts on biological resources is "based on technical studies prepared for the 2007 Certified EIR, the findings presented in the 2007 Certified EIR, reconnaissance surveys conducted in support of this SEIR,

and review of existing data.” (DEIR, p. 4.2-23.) The SEIR also states that SWCA conducted surveys of the Project site in 2019 and 2020. (*Id.* at 4.2-1.) However, the City failed to include any evidence of these surveys in the SEIR prepared for the proposed Project.

Every CEQA document must start from a “baseline” assumption. The CEQA “baseline” is the set of environmental conditions against which to compare a project’s anticipated impacts. *CBE v. So Coast Air Qual. Mgmt. Dist.* (2010) 48 Cal.4th 310, 321. Section 15125(a) of the CEQA Guidelines states in pertinent part that a lead agency’s environmental review under CEQA:

must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time [environmental analysis] is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant.

See, *Save Our Peninsula Committee v. County of Monterey* (2001) 87 Cal.App.4th 99, 124-125.

By relying on the technical studies prepared for the 2007 EIR and failing to provide any evidence or reports from the 2019 and 2020 surveys, the City has failed to provide substantial evidence to establish a baseline for evaluating impacts of the proposed Project to the existing wildlife on or nearby the Project site. It is up to the City to have investigated the current presence of wildlife species prior to issuing the SEIR. “[U]nder CEQA, the lead agency bears a burden to investigate potential environmental impacts.” *Cty. Sanitation Dist. No. 2 v. Cty. of Kern* (2005) 127 Cal.App.4th 1544, 1597–98.

D. The EIR Failed to Adequately Address and Mitigate the Project’s Impacts on Biological Resources.

Fourteen years have passed since the certification of the 2007 EIR and many changed circumstances in that time are relevant to the Project’s potential impacts to wildlife which requires the preparation of updated technical studies. Expert wildlife biologist Dr. Shawn Smallwood, Ph.D., reviewed the Project, the 2007 EIR, and the SEIR and concluded that the SEIR inadequately evaluated the Project’s impacts on wildlife due to these changed circumstances. A revised DEIR must be prepared to

address these changed circumstances and adequately analyze the Project's impacts to biological resources. Dr. Smallwood's comments and CV are attached as Exhibit A.

Based on his recent visit to the Project site and his review of the SEIR, Dr. Smallwood concluded that the following factors render the EIR's discussion of impacts to biological resources insufficient:

- (1) The SEIR provided an incomplete characterization of the environmental setting;
- (2) The SEIR fails to account for the decline in wildlife species since 1995/2007;
- (3) The SEIR fails to account for the addition or changes of statutes protecting wildlife;
- (4) The SEIR fails to account for habitat loss and habitat fragmentation;
- (5) The SEIR fails to assess the impact on wildlife from traffic; and
- (6) The SEIR fails to assess the impact on wildlife from collisions with windows.

For these reasons, the SEIR fails to adequately evaluate the Project's impacts on biological resources, the City should not base its analysis of the Project's impacts on the 2007 EIR, and the City should instead prepare updated technical studies in a revised EIR.

1. The SEIR provided an incomplete characterization of the environmental setting, and hence a misleading analysis of the Project's impacts.

Dr. Smallwood performed a site visit to the Project site on April 9, 2021. (Ex. A, p. 1.) Although "the recent conversion of the Project site from natural vegetation cover to strawberry cultivation undoubtedly suppressed wildlife to a devastating degree," he still detected 42 species of vertebrate wildlife. (*Id.*) Dr. Smallwood observed Anna's hummingbirds aggressively defending breeding territories, red-tailed hawks and a sharp-shinned hawk, an American kestrel, a colony of acorn woodpeckers, many pairs of house finches, western fence lizards, California towhees, ground squirrels, and Lawrence's goldfinch, which is listed by the U.S. Fish and Wildlife Services as a Bird Species of Conservation Concern. (*Id.* at 4.) A full list of the species observed by Dr. Smallwood can be found in Table 1 of his attached comment. (*Id.* at 3.) Dr. Smallwood also reviewed eBird and iNaturalist records. Using these records, Dr. Smallwood notes that 77 special-status species of wildlife have been detected nearby or within the region of the Project site. (*Id.* at 15.)

Dr. Smallwood notes that detection surveys were performed within the Specific Plan area for the California tiger salamander and California red-legged frog, but not for any other special-status species of vertebrate wildlife. (*Id.* at 7.) Detection surveys are designed by species' experts to provide the best chance for detecting the targeted species by applying the methods and survey effort most likely to detect the species if it is indeed present. (*Id.*) However, absence determinations should not be made for special-status species without the support of negative findings of detection surveys and absence or low probability of occurrence determinations should not be implied for species of which detection surveys have not been performed. (*Id.* at 8.)

Dr. Smallwood notes that the other wildlife surveys conducted on the Project site were only reconnaissance level surveys. (*Id.*) In 25.75 hours of surveys over 3 days in 1995, Aries Consultants detected 40 species of vertebrate wildlife across the entire Specific Plan area. (*Id.*) Nine of these species were special-status species. According to the SEIR, two surveys were conducted, in 2019 and 2021, at the Project site. However, the SEIR did not include the reports of these surveys, summarize their findings, or even provide references for these surveys. (*Id.*) Dr. Smallwood detected 42 species of wildlife during his 3-hour survey of the Project site. (*Id.*) Based on the Aries Consultants survey and Dr. Smallwood's survey, at least 62 species of vertebrate wildlife have been detected at or near the site of the Project. (*Id.*) Of these species, 12 are special-status species, including two listed species. (*Id.*)

Dr. Smallwood concludes that the result of a single survey qualifies as an absurdly thin empirical foundation for characterizing the environmental setting of the Project. (*Id.*) Neither the 2007 EIR, on which the SEIR biological resources impacts analysis is based, nor the SEIR have realistically characterized the wildlife community that occurs at the Project site. A revised DEIR is required to ensure impacts to wildlife are adequately analyzed and mitigated.

2. The SEIR fails to account for wildlife species declines since the 2007 EIR.

Dr. Smallwood highlights that a study published in 2019 revealed that North American birds have suffered a 29% decline in overall abundance over the past 48 years. (*Id.* at 11.) This loss, unknown at the time of the 2007 EIR, poses dire ecological and economic consequences that have yet to be fully understood, but which must be considered in any serious cumulative impact analysis. (*Id.*) The study attributed the 29% loss of birds primarily to habitat loss. (*Id.*) In light of this information, a revised DEIR is required to address the Project's direct and cumulative impacts on birds.

3. The SEIR fails to account for the changes to or additions of wildlife statutes.

Dr. Smallwood notes that the overall decline in bird abundance across North America has also included declines in special-status species, which has prompted recent changes in statutes to protect them. (*Id.* at 15.) For example, the common yellowthroat, which was found at the site in 1995, is listed by the U.S. Fish and Wildlife Service as a Bird Species of Conservation Concern but was not listed in 1995 when Aries et al. performed their biological survey for the 2007 EIR. (*Id.*) Neither yellow warbler nor Nuttall's woodpecker were U.S. Fish and Wildlife Bird Species of Conservation Concern in 2007, but they became so since. (*Id.*) The tricolored blackbird was a California Species of Special Concern in 2007 but is now listed as Threatened under the California Endangered Species Act. (*Id.*) The SEIR failed to update the listing status of the tricolored blackbird. (*Id.*) Dr. Smallwood further notes that rankings of conservation priority among special-status bird species did not exist at the time of the 2007 EIR but do now. (*Id.*) A revised DEIR is required to take into account these changes and adequately evaluate the Project's impacts to biological resources.

4. The SEIR fails to account for the habitat loss and habitat fragmentation over the past 25 years.

Since the 1997 biological survey and the 2007 EIR, the availability of open space to wildlife in the region of the Project site has diminished but was not analyzed in the SEIR. (*Id.*) Given the recently documented 29% decline in overall bird abundance across North America over the last 48 years, Dr. Smallwood concludes that an analysis of the effects of habitat loss and habitat fragmentation is required. (*Id.* at 15-16.) Given the changes to the landscape to the northeast and southeast of the Santa Maria Airport since 2007, the SEIR "should have predicted the decline in productive capacity of wildlife and the landscape changes' effects on wildlife movement in the region." (*Id.* at 16.)

Since the 1995 biological survey and the 2007 EIR, tracts of open space have been converted to residential uses and agricultural fields and have therefore been lost to wildlife. (*Id.*) Open space that was available at the time of the 1995 survey and 2007 EIR formed contiguous travel routes across and inclusive of the Project site, has since been severely constrained. (*Id.*) The Project would further fragment terrestrial travel routes that currently remain available to wildlife but the SEIR ignores this. (*Id.*) Dr. Smallwood calculates that development of the Project will deny habitat to over 79,000

birds over the next 100 years. (*Id.*) Such an impact necessitates discussion and mitigation in a revised DEIR.

5. The SEIR fails to analyze the Project's impacts on wildlife from traffic.

According to the SEIR, the Project would result in 9,491,776 vehicle miles traveled (VMT) annually. (DEIR, p. 4.3-14.) However, neither the SEIR nor the 2007 EIR on which is it based addressed the impacts on wildlife mortality from traffic generated by the Project. (Ex. A, pp. 16-17.) Vehicle collisions with special-status species is not a minor issue, but rather results in the death of millions of species each year. Dr. Smallwood explains:

Across North America traffic impacts have taken devastating tolls on wildlife (Forman et al. 2003). In Canada, 3,562 birds were estimated killed per 100 km of road per year (Bishop and Brogan 2013), and the US estimate of avian mortality on roads is 2,200 to 8,405 deaths per 100 km per year, or 89 million to 340 million total per year (Loss et al. 2014). Local impacts can be more intense than nationally.

(*Id.* at 17.) Dr. Smallwood estimates that collisions with vehicles as a result of the Project would kill 19,167 birds and 5,339 non-volant wildlife annually. (*Id.* at 19.) Especially due to the special-status bird species and listed species likely to occur at or near the Project, these collisions represent a significant impact to wildlife that has not been addressed, discussed, or mitigated in the SEIR.

Dr. Smallwood suggests mitigation measures that would reduce the impacts due to vehicle collisions. (Ex. A, p. 22.) Because this significant impact and feasible mitigation measures have not been considered in the SEIR, the City must address this impact in a revised DEIR.

6. The SEIR fails to analyze the Project's impacts on birds from window collisions.

Window collisions are often characterized as either the second or third largest source of human-caused bird mortality. (*Id.* at 20.) However, the SEIR did not address the impacts on wildlife from window collisions. Dr. Smallwood indicates that the Project, as proposed, will result in significant impacts on birds colliding with the Project's clear glass windows. (*Id.*) Specifically, Dr. Smallwood calculates that the glass used in the

Project's buildings would result in 624 bird deaths annually and 62,405 bird deaths over 100 years. (*Id.*)

In order to mitigate these potential impacts, Dr. Smallwood recommends adherence to available guidelines on building design intended to minimize collision hazards to birds, such as those by the American Bird Conservancy ("ABC"). (*Id.* at 22-23.) ABC recommends: (1) minimizing use of glass; (2) placing glass behind some type of screening (grilles, shutters, exterior shades); (3) using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) turning off lights during migration seasons. (*Id.* at 23.) Especially due to the special-status species in the Project area, this impact must be addressed in a revised DEIR.

E. There is Significant New Information in the Record Requiring a Recirculated Revised DEIR.

Aries Consultants detected 40 species of vertebrate wildlife across the Specific Plan area during their 1995 reconnaissance level survey. Nine of these species were special -status species. However, Dr. Smallwood detected 42 species of vertebrate wildlife during his reconnaissance level survey, 20 of which were not detected by Aries Consultants. (Ex. A, p. 8.) Two of these previously undetected species are listed as special-status species and were not addressed in the SEIR – the American kestrel and Lawrence's goldfinch. (*Id.* at 11; *see also id.* at 13-14.)

CEQA requires re-circulation of an EIR when significant new information is added to the EIR following public review but before certification. (Pub. Res. Code § 21092.1.) The CEQA Guidelines clarify that new information is significant if "the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project" including, for example, "a disclosure showing that . . . [a] new significant environmental impact would result from the project." (14 CCR § 15088.5.) Dr. Smallwood's detection of two special-status species at the Project site that were not analyzed in the SEIR, or the 2007 EIR on which it relies, is significant new information. The City must analyze and mitigate the Project's impacts on these species in a revised DEIR and circulate it for full public review.

F. The EIR Inadequately Analyzed and Mitigated the Project's Impacts on Air Quality.

Matt Hagemann, P.G., C.Hg., and Dr. Paul E. Rosenfeld, Ph.D., of the environmental consulting firm SWAPE reviewed the EIR's analysis of the Project's impacts on air quality. SWAPE's comment letter and CVs are attached as Exhibit B.

1. The EIR underestimated the Project's emissions.

SWAPE found that the EIR underestimated the Project's emissions and therefore cannot be relied upon to determine the significance of the Project's air quality impacts. The DEIR relies on emission calculated from the California Emissions Estimator Model Version CalEEMOD.2016.3.2 ("CalEEMod"). (Ex. B, p. 1.) This model, which is used to generate a project's construction and operational emissions, relies on recommended default values based on site specific information related to a number of factors. (*Id.* at 2.) CEQA requires any changes to the default values to be justified by substantial evidence. (*Id.*)

SWAPE reviewed the EIR's CalEEMod output files and found that the values input into the model were inconsistent with information provided in the SEIR. (*Id.*) This results in an underestimation of the Project's emissions. (*Id.*) As a result, the EIR's air quality analysis cannot be relied upon to determine the Project's emissions.

Specifically, SWAPE found that the following values used in the EIR's air quality analysis were either inconsistent with information provided in the EIR or otherwise unjustified:

- a. Incorrect land use type (Ex. B, p. 2.)
- b. Unsubstantiated reductions to CH₄, CO₂, and N₂O intensity factors (Ex. B, p. 3.)
- c. Unsubstantiated changes to individual construction phase lengths (Ex. B, pp. 4-5.)
- d. Unsubstantiated changes to vendor and worker trip numbers (Ex. B, p. 6.)
- e. Unsubstantiated reduction to architectural coating area (Ex. B, pp. 6-7.)
- f. Use of incorrect operational vehicle trip purpose percentages (Ex. B, pp. 7-8.)
- g. Unsubstantiated application of area-related operational mitigation measures (Ex. B, pp. 8-9.)

As a result of these errors in the EIR, the Project's construction and operational emissions are underestimated and cannot be relied upon to determine the significance of the Project's air quality impacts. A revised EIR is necessary to address these errors.

2. The EIR failed to implement all feasible mitigation measures to reduce the Project's significant and unavoidable air quality impacts.

The SEIR concluded that the Project's operational NO_x emissions would exceed the applicable Santa Barbara County Air Pollution Control District's ("SBCAPCD") threshold and be significant and unavoidable after the implementation of mitigation measures. (DEIR, p. 4.1-23.) Pursuant to CEQA Guidelines, the City may not approve the Project unless all feasible mitigation measures have been applied to reduce significant impacts to reduce the impact as much as possible. (14 CCR § 15096(g)(2).) However, SWAPE's review of the SEIR found that not all feasible mitigation measures have been applied. (Ex. B, p. 10.)

SWAPE has provided a list of feasible mitigation measures based on guidance from the State of California Department of Justice and the California Air Pollution Control Officers Association (CAPCOA). (Ex. B, pp. 17-22.) A revised EIR must be prepared which assesses and applies all feasible mitigation to reduce the Project's significant air quality impacts.

G. The EIR Inadequately Analyzed the Project's Impact on Human Health From Emissions of Diesel Particulate Matter.

The EIR did not contain any quantified health risk assessment ("HRA") to evaluate the Project's impact on human health from emissions of diesel particulate matter ("DPM"). Rather, the DEIR concludes that the Project would result in a significant and unavoidable operational health risk impact because the Project's estimated maximum daily emissions of NO_x exceed the SBCAPCD significance threshold after the implementation of mitigation. However, SWAPE finds the DEIR's evaluation of the Project's health risk impacts incorrect for five reasons. (Ex. B, p. 11.)

First, the DEIR fails to quantitatively evaluate the Project's construction-related toxic air contaminant ("TAC") emissions or make a reasonable effort to connect these emissions to potential health risk impacts posed to nearby existing sensitive receptors. (*Id.*) Construction of the Project will produce DPM emissions through the exhaust stacks of construction equipment but the DEIR fails to mention the Project's construction-related TAC emissions. (*Id.*) Without making a reasonable effort to connect the Project's

construction-related emissions to the potential health risks posed to nearby receptors, the DEIR is inconsistent with CEQA's requirement to correlate the increase in emissions generated by the Project with potential adverse impacts on human health. (*Id.*)

Second, the DEIR fails to quantitatively evaluate the Project's operational TAC emissions or make a reasonable effort to connect these emissions to potential health risk impacts posed to nearby existing sensitive receptors. (*Id.*) The DEIR indicates that the Project is expected to generate approximately 12,066 daily vehicle trips, which will generate additional exhaust emissions and continue to expose nearby sensitive receptors to DPM emissions, but when discussing the impact posed by the Project's operation to nearby, existing sensitive receptors, the DEIR only addresses the Project's significant NO_x emissions. (*Id.*) The DEIR fails to discuss the potential Project-generated TACs or indicate the concentrations at which such pollutants would trigger adverse health effects. (*Id.*) This goes against SBCAPCD guidance that health risk analyses should evaluate impacts from TAC emissions, not criteria air pollutants. (*Id.*)

Third, by failing to conduct construction and operational HRAs, the Project is inconsistent with the most recent guidance published by the Office of Environmental Health Hazard Assessment ("OEHHA"), the organization responsible for providing guidance on conducting HRAs in California. (*See id.* at 12.)

Fourth, by failing to prepare a quantified construction and operational HRA, the DEIR fails to compare the Project's cumulative excess cancer risk to the applicable SBCAPCD numeric threshold of 10 in one million. (*Id.*) Thus, pursuant to CEQA and SBCAPCD guidance, an analysis of the health risk posed to nearby, existing receptors from the Project's construction and operation should have been conducted.

Fifth, as previously stated, the DEIR concludes that the Project's operational NO_x emissions would be significant and unavoidable. (DEIR, p. 4.1-23.) However, an impact can only be labeled as significant and unavoidable under CEQA after all available, feasible mitigation is considered. (Ex. B, p. 12.) Here, the DEIR fails to implement all feasible mitigation, as previously stated. (*Id.*) Therefore, the DEIR's conclusion that the Project's operational health risk impact would be significant and unavoidable is unsubstantiated. A revised DEIR must be prepared and incorporate all feasible mitigation measures to reduce the health risk impacts to less than significant levels.

H. The EIR Inadequately Analyzed the Project's Impacts on Greenhouse Gases.

The DEIR concluded that the Project's greenhouse gas ("GHG") impacts would be significant and unavoidable. (DEIR, p. 4.1-30.) The DEIR also states that the Project would conflict with applicable policies adopted for the purpose of reducing GHG emissions. (DEIR, p. 4.1-34.) However, SWAPE notes that the DEIR's GHG analysis, as well as the subsequent significant and unavoidable impact conclusions are incorrect for three reasons.

First, as discussed above, the air model used in the DEIR to calculate the Project's emissions relied on unsubstantiated and incorrect parameters. (See Ex. B, p. 15.) Second, the DEIR failed to implement all feasible mitigation to reduce GHG emissions as required by CEQA. (*Id.* at 15-16.) Lastly, the DEIR failed to consider the performance-based standards proposed by the California Air Resources Board's 2017 Scoping Plan. (See *id.* at 16-17.) A revised DEIR must be prepared which assesses and applies all feasible mitigation to reduce the Project's significant GHG impacts.

Since the Project will admittedly have significant and unavoidable GHG impacts, all feasible mitigation measures are required. The SEIR fails to impose all feasible mitigation measures.

IV. CONCLUSION

For the foregoing reasons, SAFER believes that the SEIR is wholly inadequate. SAFER urges the City Council to refrain from certifying the SEIR or approving of the Project in order to allow staff additional time to address the concerns raised herein. Thank you for considering our comments and please include this letter in the record of proceedings for this project.

Sincerely,



Paige Fennie
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