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VIA EMAIL ONLY

May 23, 2023

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**Re: Irvine Market Place Development & Addendum to the Lower Peters Canyon Specific Plan Environmental Impact Report
CITY COUNCIL AGENDA ITEM 3.1 (May 23, 2023)**

Dear Mayor Khan and Honorable City Councilmembers:

This comment is submitted on behalf of **Supporters Alliance for Environmental Responsibility ("SAFER")** and its members living or working in and around the City of Irvine ("City") regarding the Irvine Market Place Residential Development Project (General Plan Amendment 00863325-PGA, Zone Change 00870374-PZC, Development Agreement 00900866-PDA, and Master Plan 00882754-PMP) ("Project") to be heard as Agenda Item 3.1 at the City Council's May 23, 2023 meeting.

On May 4, 2023, the Planning Commission approved the Project's Master Plan (which SAFER timely appealed) and recommended that the City Council approve the Project's General Plan Amendment, Zone Change, and Development Agreement. SAFER is concerned that the City's reliance on the 2023 Addendum to the 1995 Lower Peters Canyon Specific Plan Environmental Impact Report (SCH No. 94041030) ("1995 Specific Plan EIR") violates the California Environmental Quality Act ("CEQA"). Because the Project proposes 969 additional residential units that were not analyzed by the 1995 Specific Plan EIR, the Project is outside of the scope of the 1995 Specific Plan EIR and the use of an addendum is improper. Therefore, SAFER respectfully requests that the City Council refrain from approving the Project at this time and, instead, direct staff to prepare an initial study followed by a Project-specific EIR or negative declaration as required by CEQA prior to Project approval.

PROJECT DESCRIPTION AND BACKGROUND

The Project proposes the development of 1,261 residential units within Planning Area 4 (“PA4” or Lower Peters Canyon), resulting in a net increase of 969 units over previously approved uses. PA4 encompasses approximately 1,409 acres in the northern portion of the City, and is bound by I-5 to the southwest, Jamboree Road to the northwest, Culver Drive to the southeast, and Portola Parkway to the northeast. The Project site encompasses approximately 15.5 acres and is bound by Bryan Avenue to the northeast, State Route 261 to the southeast, El Camino Real to the southwest, and commercial uses to the northwest.

The Project’s Master Plan proposes three five-story apartment buildings, which feature a six-story central garage wrapped with residential units. The Master Plan consists of 1,261 total residential units with 413 units in Building 1, 430 units in Building 2, and 418 units in Building 3.

In 1995, the County of Orange approved and adopted a Final Environmental Impact Report for the Lower Peters Canyon Specific Plan (SCH No. 9401030) (“1995 Specific Plan EIR” or “1995 EIR”). In 2003, the City approved and adopted an Addendum to the Lower Peters Canyon Specific Plan Program Environmental Impact Report (“2003 Addendum”). The 1995 Specific Plan EIR was a program EIR which analyzed the development of 10,568 residential dwelling units, 696,000 square feet of retail commercial uses, a special use park, a community park, six neighborhood parks, a library, four elementary schools, one middle school, one high school, and associated road and drainage improvements and other infrastructure. The 2003 Addendum evaluated environmental impacts associated with a General Plan Amendment, a Zone Change, and Master Plans, which allowed for multi-family residential development in PA 4 Sector 8 instead of previously designated commercial uses.

LEGAL STANDARD

CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the fair argument standard. Under that standard, a lead agency must prepare an EIR whenever substantial evidence in the whole record before the agency supports a fair argument that a project may have a significant effect on the environment. (Pub. Res. Code § 21082.2; *Laurel Heights Improvement Ass’n v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.)

CEQA permits agencies to ‘tier’ CEQA documents, in which general matters and environmental effects are considered in a document “prepared for a policy, plan, program or ordinance followed by narrower or site-specific [environmental review] which incorporate by reference the discussion in any prior [environmental review] and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as

significant effects on the environment in the prior [EIR].” (Pub. Res. Code (“PRC”) § 21068.5.) “[T]iering is appropriate when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous [environmental reviews].” (*Id.* § 21093.) CEQA regulations strongly promote tiering of environmental review.

Where a program EIR has been prepared, such as the 1995 Specific Plan EIR, “[l]ater activities in the program must be examined in light of the program [document] to determine whether an additional environmental document must be prepared.” (14 CCR § 15168(c).) The first consideration is whether the activity proposed is covered by the program. (14 CCR § 15168(c)(2).) If a later project is outside the scope of the program, then it is treated as a separate project and the previous environmental review may not be relied upon in further review. (*See Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1320–21.) The second consideration is whether the “later activity would have effects that were not examined in the program.” (14 CCR § 15168(c)(1).) A program environmental review may only serve “to the extent that it contemplates and adequately analyzes the potential environmental impacts of the project” (*Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal.App.4th 1156, 1171 [quoting *Citizens for Responsible Equitable Envtl. Dev. v. City of San Diego Redevelopment Agency* (2005) 134 Cal.App.4th 598, 615].) If the program environmental review does not evaluate the environmental impacts of the project, a tiered [CEQA document] must be completed before the project is approved. (*Id.* at 1184.)

Pursuant to Guidelines sections 15162(a) and 15168(c), a project is not within the scope of a previous program EIR, and subsequent environmental review is necessary, where:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would, in fact, be feasible and would substantially reduce one or more

- significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Where a later project is outside the scope of a previous program EIR, an agency must prepare an initial study to determine “whether the later project may cause significant effects on the environment that were not examined in the prior environmental impact report.” (PRC § 21094(c); see *Sierra Club, supra*, 6 Cal.App.4th at 1321.) If there is a fair argument that the Project may result in new significant impacts, the agency must prepare a tiered EIR. Under the fair argument standard, an EIR must be prepared “whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact. (*Sierra Club, supra*, 6 Cal.App.4th at 1316.) “[I]f there is substantial evidence in the record that the later project may arguably have a significant adverse effect on the environment which was not examined in the prior program EIR, doubts must be resolved in favor of environmental review and the agency must prepare a new tiered EIR, notwithstanding the existence of contrary evidence.” (*Id.* at 1319.)

DISCUSSION

I. Under CEQA, an EIR or negative declaration is required for the Project rather than an addendum.

The City has improperly relied upon CEQA’s subsequent review provisions. (PRC § 21166; 14 CCR §§ 15162, 15164.) Where a previous EIR has been certified for a project, CEQA’s subsequent review provisions determine whether “[a] subsequent EIR shall be prepared for *that* project.” (14 CCR 15162 [emphasis added].) This is not the same project that was previously analyzed. The proposed Project is a different, and far larger project, adding an additional 969 units. This new project exceeds the scope of the analysis of the 1995 Specific Plan EIR. No EIR has ever been prepared for *this* Project and, as a result, the use of CEQA’s subsequent review provisions and the 2023 Addendum are improper.

In addition, because the 1995 Specific Plan EIR was a programmatic EIR for the entire Lower Peters Canyon Specific Plan, CEQA review of this subsequent Project is governed by CEQA Guidelines section 15168, which provides that a subsequent EIR is unnecessary only where a proposed activity is “within the scope of the project covered by the program EIR.” (14 CCR § 15168(c).) The Project is outside the scope of the 1995 EIR because the Project proposes a net increase of 969 residential units beyond what was analyzed in the 1995 Specific Plan EIR for PA 4 and will result in new significant impacts. The fact that this Project requires a general plan amendment and a zoning change further underscores the fact that the Project is beyond the scope of the analysis and context of the 1995 EIR. Because the Project is outside the scope of the

1995 Specific Plan EIR, CEQA's subsequent review provisions do not apply and the addendum is improper. (*Sierra Club, supra*, 6 Cal.App.4th at 1320-21.) Instead, the City is required to prepare an initial study to determine whether to prepare a tiered EIR or negative declaration. (*Id.* [citing PRC §§ 21094(c); see also 14 CCR § 15152(f).])

II. An EIR or MND is required because the Project will cause new significant air quality impacts and health-risk impacts.

Air quality experts Matt Hagemann, P.G., C.Hg., and Paul Rosenfeld, Ph.D., of Soil/Water/Air Protection Enterprise ("SWAPE") have reviewed the 1995 EIR, 2003 Addendum, and 2023 Addendum. SWAPE's comment and CV are attached as **Exhibit A**.

As discussed below and set forth in SWAPE's comment, the proposed Project will have significant air quality and health-risk impacts. Due to these new significant impacts, the 1995 EIR "will require major revisions" and a subsequent EIR or MND is required for the Project under Guidelines section 15162. (14 CCR § 15162(a)(1).) As a result, the Project is outside the scope of the 1995 EIR and 2003 Addendum, and an initial study is required to determine whether to prepare an EIR or an MND for the Project. (14 CCR § 15168(c)(2)).

a. The 2023 Addendum inaccurately modeled the Project's emissions and cannot be relied upon to determine the Project's air quality impacts.

SWAPE found that the 2023 Addendum incorrectly estimated the Project's construction and operational emissions and therefore cannot be relied upon to determine the significance of the Project's impacts on local and regional air quality. The 2023 Addendum relies on emissions calculated from the California Emissions Estimator Version CalEEMod 2020.4.0 ("CalEEMod"). (2023 Addendum, p. 70). 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. (Ex. A, p. 3-4). CEQA requires any changes to the default values to be justified by substantial evidence. (*Id.*).

SWAPE reviewed the 2023 Addendum's CalEEMod output files and found that several of the values input into the model were inconsistent with information provided elsewhere in the 2023 Addendum. (Ex. A at 4). Specifically, SWAPE found that the following values used in the 2023 Addendum's air quality analysis were either inconsistent with information provided in the 2023 Addendum or otherwise unjustified:

1. Unsubstantiated Reductions to Architectural and Area Coating Emission Factors. (Ex. A, p. 4-5);
2. Unsubstantiated Changes to Individual Construction Phase Lengths. (Ex. A, p. 5-7);
3. Unsubstantiated Reduction to Number of Gas Fireplaces. (Ex. A, p. 7-8);
4. Incorrect Application of Tier 4 Final Emissions Standards. (Ex. A, p. 8-11);
5. Incorrect Application of Operational Energy-Related Mitigation Measure. (Ex. A, p. 11);

6. Incorrect Application of Operational Area-Related Mitigation Measures. (Ex. A, p. 11-12).

Based on the issues listed above, the 2023 Addendum's analysis of air quality cannot be relied upon to determine the significance of impacts.

b. An updated air model analysis found that the Project will have a significant air quality impact.

To more accurately determine the Project's construction-related and operational emissions, SWAPE prepared an updated CalEEMod model using more site-specific information and corrected input parameters. (*See* Ex. A, p. 12-13). SWAPE's updated analysis found that the Project's construction-related ROG emissions totaled 214.3 lbs/day, significantly exceeding the South Coast Air Quality Management District ("SCAQMD") 75 lbs/day significance threshold. (*Id.* at 13).

SWAPE's model demonstrates that the Project would result in new significant air quality impacts, which bring the Project outside the scope of the 1995 EIR and 2003 Addendum. (14 CCR §§ 15162(a)(1), 15168(c)(2).) An initial study followed by an EIR or an MND is therefore required for this Project. (*Id.*)

c. The 2023 Addendum failed to adequately analyze the Project's potential air quality impacts from diesel particulate matter emissions.

One of the primary emissions of concern regarding health effects for land development projects is diesel particulate matter ("DPM"), which can be released during Project construction and operation. DPM consists of fine particles with a diameter less than 2.5 micrometers including a subgroup of ultrafine particles (with a diameter less than 0.1 micrometers). Diesel exhaust also contains a variety of harmful gases and cancer-causing substances. Exposure to DPM is a recognized health hazard, particularly to children whose lungs are still developing and the elderly who may have other serious health problems. According to the California Air Resources Board ("CARB"), DPM exposure may lead to the following adverse health effects: aggravated asthma; chronic bronchitis; increased respiratory and cardiovascular hospitalizations; decreased lung function in children; lung cancer; and premature deaths for those with heart or lung disease.¹

The City prepared a Health Risk Assessment ("HRA") as part of the 2023 Addendum and concluded that the maximum cancer risk posed by the Project to nearby sensitive receptors as a result of construction would be 5.95 in one million and would therefore not exceed the CEQA significance threshold on 10 in one million. (Ex. A, p. 13). SWAPE identifies three reasons for

¹ *See* CARB Resources - Overview: Diesel Exhaust & Health, available at <https://ww2.arb.ca.gov/resources/overview-diesel-exhaust-and-health>.

why the 2023 Addendum's evaluation of health risk impacts and less-than-significant conclusion is incorrect. (*Id.*)

First, the 2023 Addendum's construction HRA is flawed due to the inputting of several incorrect values into the CalEEMod analysis, as described above. (Ex. A, p. 14). The 2023 Addendum's HRA therefore uses an underestimated DPM concentration, which led to an underestimate of the Project's cancer risk. The HRA cannot be relied upon to determine impacts of the Project. (*Id.*)

Second, the 2023 Addendum fails to mention or provide the exposure assumptions for the HRA, such as age sensitivity factors or fraction of time at home. (Ex. A, p. 14). Without accurately substantiating these assumptions, the HRA may underestimate the cancer risk to nearby sensitive receptors from Project construction. (*Id.*)

Lastly, the HRA uses the incorrect equation when calculating the Project's cancer risks, and is therefore inconsistent with guidance set forth by the Office of Environmental Health Hazard Assessment ("OEHHA"), the organization responsible for providing guidance on conducting HRAs in California. (*Id.*; OEHHA, February 2015, *available at*: http://oehha.ca.gov/air/hot_spots/hotspots2015.html.)

For the above reasons, the 2023 Addendum's analysis of health impacts from DPM is inaccurate and cannot be relied upon to determine significance. Therefore, the City lacks substantial evidence to determine that the Project does not require a subsequent EIR. (14 CCR §§ 15162(a)(1), 15168(c)(2)).

IV. An EIR is Required Because New Mitigation Measures Are Available to Address the Project's Air Quality Impacts.

Pursuant to CEQA Guidelines section 15162, a subsequent EIR is required where new information since the certification of the 1995 EIR and 2003 Addendum demonstrates that mitigation measures "which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure." (14 CCR § 15168(a)(3)(D).)

The 2023 Addendum states there are no mitigation measures previously found infeasible which are different from those previously analyzed and which the City has failed to adopt. (2023 Addendum, p.3). However, SWAPE's review determined that the 1995 EIR and 2003 Addendum only incorporate one mitigation measure to address the proposed Project's significant and unavoidable air quality impact, Measure S-5, which requires grading activities to be in compliance with SCAQMD and City standards. (Ex. A, p. 3; 2023 Addendum, p. 67, 68). SWAPE notes that there are now considerably different mitigation measures aside from that one which would substantially reduce the Project's significant air quality impacts. (Ex. A, p. 3.)

SWAPE's recommended measures include use of Tier 4 equipment and use of high efficiency enhanced filtration units, among others. (Ex. A, p. 15-17.)

SWAPE has presented new information regarding mitigation measures which are considerably different from those analyzed in the 1995 EIR and 2003 Addendum, which would substantially reduce the Project's significant and unavoidable air quality impacts, and which the Project proponents have failed to implement. A subsequent EIR is therefore required prior to approval for the Project. (14 CCR § 15168(a)(3)(D).)

V. An EIR is Required Because of New Information Regarding the Project's Significant Impacts on Indoor Air Quality from Formaldehyde Emissions.

Certified Industrial Hygienist, Francis "Bud" Offermann, PE, CIH, has conducted a review of the Project. Mr. Offermann is a leading expert on indoor air quality, in particular emissions of formaldehyde, and has published extensively on the topic. As discussed below and set forth in Mr. Offermann's comment, the Project's emissions of formaldehyde will result in significant cancer risks to future employees working at the Project. Mr. Offermann's comment and CV are attached as **Exhibit B**.

Importantly, the 1995 Program EIR did not address indoor air quality impacts or formaldehyde emissions. Because these impacts were not previously analyzed at all, the fair argument standard applies and an EIR is required to address and mitigate this impact.

Formaldehyde is a known human carcinogen and is listed by the State of California as a Toxic Air Contaminant ("TAC"). The SCAQMD has established a significance threshold of health risks for carcinogenic TACs of 10 per million. (Ex. B, p. 2.)

Mr. Offermann explains that many composite wood products typically used in home, apartment, and office building construction contain formaldehyde-based glues which off-gas formaldehyde over a very long time period. He states, "The primary source of formaldehyde indoors is composite wood products manufactured with urea-formaldehyde resins, such as plywood, medium density fiberboard, and particle board. These materials are commonly used in residential, office, and retail building construction for flooring, cabinetry, baseboards, window shades, interior doors, and window and door trims." (Ex. B, pp. 2-3.)

Mr. Offermann concludes that future employees of the Project will be exposed to a cancer risk from formaldehyde of approximately 17.7 per million, *even assuming* that all materials are compliant with the California Air Resources Board's formaldehyde airborne toxics control measure. (Ex. B, p. 4.) This exceeds SCAQMD's CEQA significance threshold for airborne cancer risk of 10 per million. Importantly, Mr. Offermann's conclusions are based on studies conducted in 2019 and therefore were not available when the 1995 Program EIR was approved.

Mr. Offermann concludes that these significant environmental impacts must be analyzed and mitigation measures should be imposed to reduce the risk of formaldehyde exposure. (Ex. B, pp. 4-5, 11-13.) He prescribes a methodology for estimating the Project’s formaldehyde emissions in order to do a more project-specific health risk assessment. (*Id.*, pp. 5-9.) Mr. Offermann also suggests several feasible mitigation measures, such as requiring the use of composite wood products manufactured with CARB approved no-added formaldehyde (NAF) resins, which are readily available. (*Id.*, pp. 11-13.)

When a Project exceeds a duly adopted CEQA significance threshold, as here, this alone establishes substantial evidence that the project will have a significant adverse environmental impact. 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 Air District’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 SCAQMD’s CEQA significance threshold, there is substantial evidence that an “unstudied, potentially significant environmental effect[]” exists. (See *San Mateo Gardens, supra*, 1 Cal.5th at 958.)

The City has a duty to investigate issues relating to a project’s potential environmental impacts. (See *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1597–98. [“[U]nder CEQA, the lead agency bears a burden to investigate potential environmental impacts.”].) This is especially true for TACs. The proposed Project will have significant impacts on air quality and health risks by emitting cancer-causing levels of formaldehyde into the air that will expose future employees to cancer risks potentially in excess of SCAQMD’s threshold of significance for cancer health risks of 10 per million.

- a. The Project’s significant impacts to human health from indoor emissions of formaldehyde as well as the mitigation measures available to reduce that impact are new information that could not have been known prior to 2019.**

As discussed above, the Project will result in a significant impact to human health from indoor emissions of formaldehyde. This potential indoor air quality impact could not have been

known until 2019 when the first study was published showing that buildings using composite wood products that comply with California Air Resources Board (“CARB”) formaldehyde standards vastly exceed CEQA significance thresholds for cancer risk. Therefore, this impact was not known and could not have been known when the 1995 EIR was approved. When scientific information was not available at the time of prior CEQA review, more recent studies showing that a project may have more serious human health or environmental impacts constitute significant new information requiring a subsequent EIR rather than an addendum. (*Security Env't'l Sys. v South Coast Air Quality Mgmt. Dist.* (1991) 229 Cal.App.3d 110, 124; *Meridian Ocean Sys. v. State Lands Com.* (1990) 222 Cal.App.3d 153, 169). As such, the 2023 Addendum is improper under CEQA Guidelines sections 15162 and 15164 and an EIR is required. (*See* 14 CCR §§ 15162(a)(3), 15164(a).)

Additionally, Mr. Offermann suggests mitigating the Project’s indoor air quality impacts by requiring all composite wood products used in construction of the Project to be manufactured with CARB-approved no-added formaldehyde (NAF) resins. (Ex. B, pp. 11-13.) Because indoor air quality impacts were not analyzed in the 1995 EIR, the City has not considered the use of NAF composite wood products. Furthermore, such products have only become readily available recently and, thus, could not have been considered in 1995. Because the 2023 Addendum does not adopt any measures to reduce indoor formaldehyde emissions, an EIR is required.

VI. The Project Requires a New EIR and Statement of Overriding Considerations Due to the Remaining Significant and Unavoidable Impacts.

In addition to the requirement for a new EIR due to the identification of new significant impacts and availability of new mitigation measures, an EIR is also required for the Project due to impacts that remain significant and unavoidable. When a prior EIR, such as the 1995 Specific Plan EIR, admits significant and unavoidable impacts, a later project requires its own EIR and statement of overriding considerations for any impacts that remain significant and unavoidable. (*Communities for a Better Env't. v. Cal. Res. Agency* (2002) 103 Cal.App.4th 98, 124-25.)

The 1995 EIR found significant and unavoidable impacts to cultural resources, aesthetics, air quality, natural resources, and water quality. (1995 EIR, pp. 1-5, 1-6 to 1-7.)

With regard to the Project’s air quality impacts, the 2023 Addendum concluded that “the [2023 Addendum] identified a slight reduction in air quality emissions compared to the [1995 EIR]. No new or substantially more severe air quality impacts were identified in the [2023 Addendum].” (2023 Addendum, p. 67.) Later, the 2023 Addendum’s air quality section clarifies that regional construction emissions would be reduced with the proposed Project as compared to the 1995 EIR. (2023 Addendum, p. 70-72.) Therefore, the remaining air quality emissions from the proposed Project remain significant and unavoidable, as concluded in the 1995 EIR. Additionally, the 2023 Addendum does not state that regional construction emissions have been brought to a less than significant level, just that they have been reduced, therefore those emissions are also likely still significant and unavoidable.

Even though air quality impacts were found significant and unavoidable in the 1995 EIR and the City adopted a statement of overriding considerations at that time, the City cannot “adopt one statement of overriding considerations for a prior, more general EIR, and then avoid future political accountability by approving later, more specific projects with significant unavoidable impacts pursuant to the prior EIR and statement of overriding considerations.” (*Communities for a Better Env't., supra*, 103 Cal.App.4th at 124.)

This also applies to the Project’s cultural resources and agricultural and forestry resources, which were previously found significant and unavoidable, and for which the 2023 Addendum stated the analysis had not changed from that of the 1995 EIR. (2023 Addendum, pp. 67, 84).

Therefore, the Project requires its own EIR and statement of overriding considerations to ensure that the City “go on the record and explain specifically why they are approving the later project despite *its* significant unavoidable impacts.” (*Communities for a Better Env't., supra*, 103 Cal.App.4th at 125.)

CONCLUSION

For the reasons above, SAFER respectfully requests that the City Council refrain from approving the Project at this time and, instead, direct staff to prepare an initial study followed by a Project-specific EIR or negative declaration as required by CEQA.

Sincerely,



Amalia Bowley Fuentes
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