ATTACHMENT J
HEARING OFFICER ADDENDUM (DATED MARCH 5, 2021)

ZHO Addendum for
Modification to Conditional Use Permit #6222 (Arroyo Seco Canyon Project)
3420 and 3500 North Arroyo Boulevard

March 5, 2021

On January 11, 2021, I issued a written determination approving the Modification to Conditional Use Permit #6222 (Arroyo Seco Canyon Project). Concurrent to the approval, I adopted Resolution No. 2021-01 (A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF PASADENA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH NO. 2014101022) FOR THE ARROYO SECO CANYON PROJECT AREAS 2 AND 3, ADOPTING ENVIRONMENTAL FINDINGS AND A MITIGATION MONITORING AND REPORTING PROGRAM) as well as Resolution No. 2021-02 (A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF PASADENA ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS IN CONNECTION WITH THE ARROYO SECO CANYON PROJECT AREAS 2 AND 3 (ALTERNATIVE B)).

I have reviewed the appeal, filed by Arroyo Seco Foundation et al, which was filed on January 19, 2021, including both the one-page "request for appeal" and the "Reason for Appeal of Hearing Officer's Determination Regarding FEIR and Conditional Use Permit #6222 – Arroyo Seco Canyon Project."

I believe that staff, as well as the consultants/experts retained by the City, are the appropriate parties to address the specific allegations that the environmental analyses associated with the requested Modification to Conditional Use Permit #6222 are inadequate. In that regard, I do not address those specific issues herein.

This addendum will address the appellant's allegations concerning what I did, or purportedly. did not do, while considering the Modification to Conditional Use Permit #6222. Specifically, the appellant makes the following allegations:

> "The Hearing Officer failed to consider significant gaps in the FEIR and the omission of important information that have deprived the public of meaningful opportunity to understand and comment upon the impacts of the Project and the changes in it."
> (Request for Appeal application, under REASON FOR APPEAL)

> "The Hearing Officer asserted that he had reviewed the entire prior record of the CEQA proceedings but did not clearly demonstrate his consideration of the issues raised here and in comments on the FEIR, nor did he engage in any questioning of staff on these matters in the hearing."
> (Reason for Appeal" attachment, Page 3)

> "The Hearing Officer's failure to discuss the issues raised here has resulted in a CEQA administrative record that is sorely lacking and the EIR must be recirculated."
> (Reason for Appeal" attachment, Page 3)

With respect to these allegations, I hereby note the following:

1. In advance of the public hearing, I thoroughly reviewed the entire CEQA documentation associated with the proposed project, which is exhaustive. This included the primary CEQA documents themselves (DEIR, FEIR), numerous technical studies, and documents addressing concerns raised by project opponents.

2. In advance of the public hearing, I thoroughly reviewed several letters provided by the appellant and other stakeholders.

3. There was substantial public testimony during the public hearing—notably, by the appellants—as well as other parties. I heard, and considered, all of this public testimony before rendering my decision on the Modification to Conditional Use Permit #6222.

4. The appellant's contention that I "failed to consider significant gaps in the FEIR" is inaccurate. The concerns expressed in the appeal were voiced in the letters I reviewed and in public testimony provided at the hearing—again, this project has an exhaustive administrative record relative to environmental issues, all of which I reviewed in advance of the hearing, and/or considered as part of the testimony during the hearing. Based upon these documents and testimony, I found the appellant's arguments to be less than persuasive and/or refuted by other portions of the public record (documents/testimony provided by city staff, environmental consultants, and/or legal counsel).

5. The assertion that the hearing officer "did not clearly demonstrate his consideration of the issues raised here and in comments on the FEIR, nor did he engage in any questioning of staff on these matters in the hearing" is inaccurate. I am under no legal obligation to "demonstrate my consideration" of an issue in public comments during a hearing; further, whether I "engage in any questioning of staff" on a matter in no way demonstrates that I am somehow unaware of a particular issue. Were decision-makers to be held to that standard, most determinations would be challenged as insufficient.

   It is often the case that I will ask staff questions while conducting hearings. I ask questions for a variety of reasons: to secure more information, to better understand a particular issue, to interpret or better understand a Municipal Code requirement, and for other reasons. With respect to the requested Modification to Conditional Use Permit #6222, I did not find any reason to ask additional questions of staff beyond what I said during the hearing.

I have served for nearly twenty years as a hearing officer, I have conducted more than 150 hearing officer hearings, and I have considered several hundred land-use applications. I feel confident that I have demonstrated the following abilities: one, a thorough understanding of the California Environmental Quality Act; two, the ability to read, absorb, and evaluate technical reports from experts in various fields (traffic, biology, geology, noise, etc.); three, to conduct a thorough review of background information—such as CEQA documents, reports, technical studies, photographs, land-use applications, plans, videos, and other materials) provided by City staff, legal counsel, and other stakeholders (applicants, neighbors, interest groups, issue advocates, and the general public) in advance of the public hearing; four, that I provide ample opportunity for all parties to present information, documentation, and testimony during the hearing; and, finally, that I give due consideration to the evidence and testimony provided by all parties, prior to rendering a decision on a particular land-use application. The appellant's suggestion to the contrary is inaccurate; further, were the appellant's allegations correct, they would be entirely inconsistent with my extensive record of service as a hearing officer.

Again, I will defer to staff, as well as the consultants/experts retained by the City, are the appropriate parties to address the specific allegations that the environmental analysis are inadequate.

Given the foregoing, the appellant has not provided a basis upon which to reject my certification of the CEQA documents associated with the Modification to Conditional Use Permit #6222, nor has the appellant provided an adequate reason why my decision should be overturned on appeal. The appeal should, therefore, be denied, and my original decision to approve Modification to Conditional Use Permit #6222, and to certify the CEQA documents, should be sustained.