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VIA EMAIL ONLY

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**Re: Opposition to Addendum for the Coachella Valley Arena
(Specific Plan No. 343 Amendment No. 2; General Plan Amendment No.
200005; Change of Zone No. 2000025; Plot Plan No. 200021; Tentative Parcel
Map No. 38040)
PLANNING COMMISSION AGENDA ITEM 4.3 (April 7, 2021)**

Dear Honorable Commissioners of Riverside County Planning Commission:

I am writing on behalf of the **Supporters Alliance for Environmental Responsibility** (“SAFER”) and its members living or working in and around Riverside County in opposition to the Addendum to the NorthStar Specific Plan EIR prepared for the proposed Coachella Valley Arena (SP No. 343 Amendment No. 2; GPA No. 200005; CZ No. 2000025; PP No. 200021; TPM No. 38040) (“Arena Project”) to be heard as Agenda Item 4.3 at the April 7, 2021 Planning Commission meeting.

SAFER is particularly concerned that the County has prepared an Addendum for the Arena Project based on an environmental impact report (“EIR”) prepared 15 years ago for the NorthStar Specific Plan (“North Star SP”) which, at the time, did not contemplate anything remotely similar to the proposed Arena Project. Rather than analyzing and mitigating the impacts of the Arena Project in a supplemental EIR, the County has bypassed the procedural and substantive requirements of the California Environmental Quality Act (“CEQA”).

As explained below, when a proposed project is not within the scope of a previously

certified programmatic EIR, CEQA requires that a supplemental EIR or mitigated negative declaration (“MND”) be prepared. Due to the fact that the 2006 NorthStar SP EIR did not contemplate, analyze, or mitigate the impacts of a hockey arena with a 10,000-person capacity and hosting over 100 events annually, the current Arena Project is not within the scope of the 2006 EIR. Furthermore, as evidenced by the expert comments submitted herewith by expert wildlife biologist Dr. Shawn Smallwood, Ph.D, and air quality experts Soil Water Air Protection Enterprise (“SWAPE”), CEQA requires that a full supplemental EIR, rather than an MND, be prepared for the Arena Project.

SAFER respectfully requests that the Planning Commission refrain from approving the Arena Project and the Addendum at this time. To comply with CEQA, the County should consider the Arena Project only after a supplemental EIR has been prepared.

BACKGROUND

In 2006, the County certified the EIR for the NorthStar Specific Plan. The NorthStar SP covers 455.75 acres of unincorporated land within the Western Coachella Valley, approximately ½ mile north of the City of Palm Desert. At the time of approval in 2006, the NorthStar SP consisted of ten (10) planning areas allowing for the following uses:

- Planning Area 1- Championship golf course on approximately 240 acres,
- Planning Area 2- Golf clubhouse facilities on approximately 5.9 acres,
- Planning Area 3- Deluxe golf-view hotel on approximately 17.6 acres,
- Planning Area 4- Golf villas on approximately 7.3 acres,
- Planning Area 5- Resort timeshare units on approximately 9.95 acres,
- Planning Area 6- Golf view condominiums on approximately 33.2 acres,
- Planning Area 7- Mixed use retail development on approximately 36.2 acres,
- Planning Area 8- Industrial park uses on approximately 69.6 acres,
- Planning Area 9- Executive office uses on approximately 16 acres, and
- Planning Area 10- Community commercial uses on approximately 20 acres.



APPROVED CONCEPTUAL LAND USE PLAN

Now, fifteen years after the approval of the NorthStar SP and associated EIR, a new applicant (SoCal Arena Company, LLC) is proposing a massive amendment to the NorthStar SP to allow for the development of new multi-purpose arena, event center, and hockey training facility with practice ice, surface parking, and a retail skate shop on approximately 44.41-acres within the NorthStar SP (“Arena Project”). The Arena would consist of an approximately 260,000 square foot arena event center, an approximately 35,000 square foot hockey training facility, surface parking, and loading areas.

The primary purpose of the Arena Project is to host an American Hockey League (“AHL”) team and provide a venue for other events in the Coachella Valley, including concerts, family shows, other sporting events, cultural events, conferences, and conventions. The Arena would host the following events:

- Up to forty-six (46) annual AHL games with 7,500-9,918 patrons;
- An estimated forty-five (45) annual concerts, with approximately 7,500-11,7000 patrons;
- An estimated thirty-eight (38) annual family shows with 4,000-5,000 patrons;
- An estimated ten (10) non-AHL sporting events with 7,000-10,000 patrons;
- An estimated twenty (20) rental uses of the Arena annually (e.g. conventions, conferences, cultural events) with 800-3,000 patrons.

As shown below, the proposed amendment to the NorthStar SP add a new Planning Area 11 for the Arena and reduce the size of Planning Area 8 and make adjustments to the boundaries of Planning Area 4, 6, and 7 to accommodate the Arena.



PROPOSED CONCEPTUAL LAND USE PLAN

DISCUSSION

I. CEQA's environmental review requirements for later activities under a program EIR do not allow the use of an Addendum for the Arena Project.

The 2006 EIR prepared for the NorthStar SP is a program EIR. The CEQA Guidelines define a "program EIR" as an EIR "prepared on a series of actions that can be characterized as one large project and are related either: (1) Geographically, (2) As logical parts in the chain of contemplated actions, (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program, or (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways. (14 CCR § 15168.) The 10 separate planning areas of the 2006 NorthStar SP covered a series of separate projects (e.g. the golf course, hotel, industrial, commercial, residential) (1) within the NorthStar SP geographic area, (2) as a chain of contemplated actions under the NorthStar SP, and (3) in connection with the issuance of the NorthStar SP. As such, the 2006 EIR is properly characterized as a program EIR subject to the provisions of CEQA Guidelines section 15168.

Guidelines section 15168 provides the procedure for the use of a program EIR (e.g. the 2006 NorthStar SP EIR) with later activities (e.g. the Arena Project). "Later activities in the program must be examined in light of the PEIR to determine whether an additional environmental document must be prepared." (14 CCR §15168(c)(1).) A program EIR may only serve for subsequent actions "to the extent that it contemplates and adequately analyzes the potential environmental impacts of the project. . . ." (*Center for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal.App.4th 1156, 1171 [citations omitted].) "If a later activity would have *effects* that were not examined in the project EIR, a new initial study would need to be prepared leading to either an EIR or a negative declaration." (14 CCR § 15168(c)(1) [emphasis added].) Notably, as emphasized in the preceding quote, Guidelines section 15168 focuses on "effects" rather than "significant impacts." Furthermore, Guidelines section 15168 does not allow for the use of an addendum, but rather requires an EIR or MND for a later project that is not within the scope of the program EIR.

"Whether a later activity is within the scope of a program EIR is a factual question that the lead agency determines based on substantial evidence in the record." (14 CCR § 15168(c)(2).) Guidelines section 15168 emphasizes that the analysis contained in the program EIR is largely determinative of whether a subsequent project falls within its scope:

Factors that an agency may consider in making that determination [i.e. that a later activity is within the scope of a program EIR] include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR. (14 CCR § 15168(c)(2).)

Where there is no evidence that a later project was contemplated at the time of the program EIR or that any site-specific environmental issues related to the later project were

addressed in the program EIR, that later project is not within the scope of the program EIR. (*See NRDC v. City of Los Angeles* (2002) 103 Cal.App.4th 268, 284-85.) When a later project is not within the scope of the program EIR, an initial study followed by “either an EIR or a negative declaration” must be prepared. (14 CCR § 15168(c)(1).)

There can be no doubt that the effects of a minor-league hockey arena were not contemplated whatsoever when the NorthStar SP and EIR were approved in 2006. The allowable land uses in the 10 planning areas of the 2006 NorthStar SP did not include the uses proposed by the Arena Project. The 2006 EIR does not include a project-level review of the Arena Project or any previous version of the Arena Project. The factors identified by Section 15168(c)(2) for determining whether a new activity is within the scope of a program EIR are all conditioned on being “described in the program EIR.” (14 CCR § 15168(c)(2).) These factors include “allowable land use” and “covered infrastructure” described in the EIR. (*Id.*) The 2006 EIR’s description of “allowable land” and “covered infrastructure” not only do not make any reference to a new arena within the NorthStar SP.

Because there is no detail or analysis in the 2006 EIR of the construction and operation of a new arena, there is no substantial evidence that the Arena is within the scope of the 2006 EIR. As such, CEQA Guidelines section 15168 requires the County to prepare at least a negative declaration for the Arena Project. As explained below, even though a negative declaration is permissible under CEQA Guidelines 15168, expert evidence submitted by SAFER establishes a fair argument that a supplemental EIR, rather than a negative declaration, is required for the Arena Project.

II. A supplemental EIR is required for the Arena Project because the Arena Project will result in significant environmental impacts that were not addressed by the 2006 EIR.

Because the Arena Project is not within the scope of the 2006 NorthStar SP EIR, Guidelines section 15168(c)(1) requires that “a new initial study would need to be prepared leading to either an EIR or a negative declaration.” (14 CCR § 15168(c)(1).) In determining whether to prepare an EIR or negative declaration under Guidelines section 15168, the “fair argument test” applies. (*Sierra Club v. Cty. of Sonoma* (1992) 6 Cal.App.4th 1307, 1318.) Under the fair argument test, an EIR must be prepared “whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant environmental impact.” (*Id.* at 1316; *see Friends of Coll. of San Mateo Gardens v. San Mateo Cty. Comm. Coll. Dist.* (2016) 1 Cal.5th 937, 960.)

When an EIR is prepared for a later activity under a program EIR, CEQA allows the project-specific EIR to “tier” off the program EIR. (PRC § 21094.) “[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.” (*Sierra Club*, 6 Cal.App.4th at 1319.) The tiered EIR may “incorporate by reference the discussion in any prior

[EIR] and [] 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]" (PRC § 21068.5.) A tiered EIR is required if any substantial evidence in the record indicates that a project may have an significant environmental impact—even if contrary evidence exists to support the agency's decision. (14 CCR § 15064(f)(1); *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 931.) "It is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency's determination." (*Pocket Protectors*, 124 Cal.App.4th at 928.)

A. The Addendum and 2006 EIR inadequately addresses the Arena Project's impacts on biological resources.

Expert wildlife biologist Dr. Shawn Smallwood, Ph.D., reviewed the Addendum for the Arena Project as well as the 2006 EIR. Dr. Smallwood's comment and CV are attached as Exhibit A.

Dr. Smallwood's associate, Noriko Smallwood, performed a site visit to the Area Project site on April 3, 2021. (Ex. A, p. 1.) Noriko detected "27 species of vertebrate wildlife during her 141 minutes at the site: (*Id.*) Twelve of the species detected by Noriko had not been identified in the biological surveys prepared for the 2006 EIR or the current Addendum. (*Id.*) Of the 27 species detected by Noriko on April 3, 2021, eight or nine were special-status species, five of which had not been identified in the biological surveys prepared for the 2006 EIR or the current Addendum (*Id.* at p. 2.)

Noriko also observed abundant bird life at the Arena Project site including osprey, Swainson's hawk (a California threatened species), red-tailed hawk, northern harrier, Costa's hummingbird, double-crested cormorant, verdin, Gambel's quail, long-billed curlew and American avocets among other species. (Ex. A, pp. 6-8.) In only 2 hours and 20 minutes, Noriko had more than twice the number of species detected by the Addendum's biological survey and half the species detected over 13 days and nights in the 2006 EIR's biological survey.

Dr. Smallwood concluded that since the 2006 EIR (and its associated biological survey conducted in 1997) "changed circumstances relevant to potential impacts to wildlife warrant the preparation of a project-specific EIR." (Ex. A, p. 8.) Specifically, Dr. Smallwood found that the following factors necessitate the preparation of an EIR:

- (1) biological surveys at the site from 1997 to 2021 reveal an incomplete characterization of the environmental setting, and hence a misleading analysis of impacts;
- (2) wildlife species declined since 1997/2006;
- (3) statues protecting wildlife have been added or changed;
- (4) new research tools and data were developed;
- (5) habitat loss and habitat fragmentation further diminished wildlife over the past 24 years;

- (6) road mortality is better understood, and is particularly relevant in the face of the project's proposed construction of an Arena that would draw audience participants from far and wide; and understanding vastly improved of
- (7) bird-window collision mortality;
- (8) electric line-strike mortality;
- (9) mortality caused by greater energy demand;
- (10) the effects of artificial lighting; and
- (11) cumulative impacts.

1. Incomplete characterization of the environmental setting.

Dr. Smallwood review found that the biological surveys conducted in 1997 for the 2006 EIR and 2021 for the Addendum failed to properly establish the baseline environmental setting for the Project area. (Ex. A, pp. 9-17.) The 1997 biological survey detected 56 vertebrate species of wildlife and the 2021 biological survey detected an addition 3. However, in only 2 hours and 20 minutes on the site, Noriko Smallwood detected an additional *twelve* species. (*Id.* at 9.) As Dr. Smallwood explains, "Given that survey outcomes changed so greatly from [the 1997] survey to [the 2021] survey to Noriko's survey, the Addendum's assertions are readily refuted. Neither the 2006 EIR nor the Addendum have realistically characterized the wildlife community that occurs at the project site."(*Id.* at p. 14.)

Dr. Smallwood also explains that the biological surveys conducted were not detection surveys and "therefore unlikely to provide satisfactory evidence in support of presence or absence determinations of special-status species." (Ex. A, p. 16.) Also, the Addendum's determination of species occurrence likelihoods conflict with the biological surveys and with database records for the area. For example, the Addendum concludes that the northern harrier hawk is absent from the Arena Project site even though Noriko Smallwood observed a northern harrier hawk at the Project site on April 3, 2021. (Ex. A, p. 16; see Photo 9 (Ex. A, p. 6).)

2. Decline of wildlife.

Dr. Smallwood also highlights the severe decline in the North American bird population (a 29% decline in overall abundance over the past 48 years) as a substantial change in circumstance unknown in 2006 when the NorthStar SP EIR was approved. (Ex. A, p. 17.) Based on this decline and, as discussed above, the inadequacy of the biological surveys conducted for the Arena Project and 2006 EIR, "a project-specific EIR is necessary to properly address the Project's direct and cumulative impacts on birds." (*Id.*)

3. Change in conservation status of species

In the time since the NorthStar SP was approved in 2006, the conservation status of species detected at the Project site has changed. (Ex. A, pp. 17-18.) For example, the Costa's hummingbird, which is now listed as a Species of Conservation Concern, has been found on the site by surveys in 1997 and 2021. (*Id.*) However, the Costa's hummingbird was not listed as a special-status species in 2006 when the NorthStar SP EIR was approved. (*Id.*) Similarly, the

yellow warbler, Nuttall's woodpecker, and Bell's sage sparrow were all listed as Species of Conservation Concern after approval of the 2006 EIR. (*Id.* at pp. 17-18.) Furthermore, California law now requires protections to birds protected by the federal Migratory Bird Treaty Act, which covers "most of the bird species documented at or near the project site, as well as most of the birds recently reported on eBird." (*Id.* at p. 18.)

4. New research tools and data.

Dr. Smallwood notes that, since the 2006 EIR, there has been a "proliferation in use of electronic data bases . . . These data bases have rapidly added to the scientific body of knowledge on the distribution of wildlife species." (Ex. A, p. 18.) According to eBird and iNaturalist records, 81 special-status species of wildlife have been detected nearby or within the region of the project site. (*Id.*) These databases, which were not available when the 2006 EIR was prepared, indicate that "the site is inherently rich in wildlife and it is rich in special-status species of wildlife." (*Id.*) Dr. Smallwood concluded that "[g]reater use of the new tools and data are needed to appropriately analyze the project's potential impacts to wildlife" and therefore, "[a] new project-specific EIR is warranted." (*Id.*)

5. Habitat loss and fragmentation.

Given the changes to the landscape of the Coachella Valley since 1997, Dr. Smallwood concludes that "the Addendum is not credible in its assertions that no substantial changes have occurred with the environmental setting and potential impacts to biological resources since the 2006 EIR." (Ex. A, p. 18.) Dr. Smallwood explains that since the 2006 EIR, "large tracts of open space have been lost to wildlife" in the vicinity of the Arena Project. (*Id.* at 20.) Dr. Smallwood calculates that the Arena Project would cause significant impacts to birds (105,940 birds lost over the next century) due to the loss of terrestrial habitat. (*Id.* at 21.) However, the Addendum failed to address or analyze the changed circumstance of habitat fragmentation and the resulting impact on wildlife. (*Id.* at 20-21.)

The Addendum also fails to mention that the Coachella Valley itself is a well-known wildlife movement corridor. (Ex. A, p. 21.) The Addendum improperly focuses on whether wildlife corridors intersect the Arena Project site. However, CEQA requires that impacts to wildlife movement be analyzed regardless of the movement is channeled by a corridor. (*Id.*) Dr. Smallwood concludes that an EIR is required to properly analyze the Project's impacts on wildlife movement because "[t]he project would cut wildlife off from stopover and staging opportunities, forcing volant wildlife to travel even farther between remaining patches of stopover refugia." (*Id.*)

6. Road Mortality.

Dr. Smallwood noted that the impacts of wildlife mortality from traffic generated by the Arena Project and NorthStar SP were not addressed in the Addendum or 2006 EIR. (Ex. A, p. 21.) According to the Addendum, the Arena Project would result in 21,323,770 vehicle miles

traveled annually. Dr. Smallwood estimates that collisions with vehicles as a result of the Arena Project would kill 43,056 birds annually (over 2 million birds over 50 years of project operations). (*Id.*, p. 23.) Especially due to the special-status bird species likely to occur at or near the Arena Project, these collisions represent a significant impact to wildlife that has not been addressed, discussed, or mitigated in the Addendum or 2006 EIR.

Dr. Smallwood suggests mitigation measures that would reduce the impact due to vehicle collisions. (Ex. A, p. 29.) Because this significant impact or feasible mitigation measures have not been considered by the County in the Addendum or 2006 EIR, the County must address this impact in an EIR.

7. Window Collisions.

Based on the Arena's design depicted in the Addendum, the Arena includes extensive glass panels. Dr. Smallwood notes that bird fatality from collision with glass surfaces is a well-documented problem, that neither the Addendum nor 2006 EIR discussed the issue. Dr. Smallwood calculated that the glass facades of the Arena would result in 21 bird deaths per year (Ex. A, p. 24.) Especially due to the special-status species in the Project area, Dr. Smallwood's analysis indicates the impact to birds with from collision with glass is a significant impact, unmitigated by the Addendum or 2006 EIR. (*Id.*)

Dr. Smallwood suggests a number of mitigation measures that would reduce the impact from window collisions. (Ex. A, pp. 29-30.) Because this significant impact or feasible mitigation measures have not been considered by the County in the Addendum or 2006 EIR, the County must address this impact in an EIR.

8. Line-strike mortality.

Dr. Smallwood noted that the impacts of electric line-strikes to wildlife were not addressed in the Addendum or 2006 EIR. (Ex. A, p. 25.) The Arena Project includes a 1,600-foot extension of electrical circuit line north from Cook Street, but the Addendum does not analyze the extension's impact on birds. Dr. Smallwood calculated that the circuit line extension would cause 55 bird fatalities per year. Especially due to the special-status species in the Project area, Dr. Smallwood's analysis indicates the impact to birds with from line-strikes is a significant impact, unmitigated by the Addendum or 2006 EIR. (*Id.*)

9. Impacts to wildlife from increased energy demand.

Based on the energy information available in the Addendum, Dr. Smallwood calculated that the Arena Project would require 2.4 MW of offsite energy generation, which in the upcoming years will be all renewable. (Ex. A, p. 27.) Dr. Smallwood calculated that the impacts to wildlife from renewable energy projects serving the Arena Project would kill 51 birds and 2 bats annually. (*Id.* at p. 28.) This impact is not discussed, disclosed, or analyzed in the Addendum or 2006 EIR.

10. Artificial lighting.

Although the 2006 EIR includes a mitigation measure to cast outdoor lighting down and away from the Coachella Valley Preserve, the Addendum's depiction of the Arena Project shows considerable light being cast toward the Preserve. (Ex. A, p. 28.) Dr. Smallwood notes, "The excess light cast from the Arena could penetrate the Preserve, illuminating surface areas normally traversed by nocturnal wildlife that rely on darkness for stealth. Penetrating light would also generate stark light/shadow contrasts that can be confusing to wildlife." (*Id.*) Neither the Addendum nor the 2006 EIR addressed this potential impact to wildlife from artificial lighting.

11. Cumulative Impacts.

Dr. Smallwood found the Addendum's discussion of cumulative impacts to wildlife to be inadequate because it was "based on the unfounded assumption that the disturbed environmental setting precludes occurrences of special-status species of wildlife." (Ex. A, p. 29.) However, as discussed above, the Addendum (and 2006 EIR) relied on a faulty environmental baseline, ignored changes in protection status for species, ignored habitat loss and fragmentation, and ignored the impacts from vehicles, glass surfaces, and power lines. Dr. Smallwood concluded that without an adequate analysis of the Arena Project's impacts on wildlife, the Addendum's conclusions as to the Arena's Project's cumulative impacts are unfounded.

B. The Addendum and 2006 EIR inadequately addresses the Arena 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 Addendum's analysis of the Arena Project's impacts on air quality. SWAPE's comment letter and CVs are attached as Exhibit B.

1. The Addendum underestimated the Arena Project's emissions.

SWAPE found that the Addendum underestimated the Project's emissions and therefore cannot be relied upon to determine the significant of the Project's air quality impacts. The Addendum relies on emissions 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.*, pp. 1-2.) CEQA requires that any changes to the default values must be justified by substantial evidence. (*Id.*)

SWAPE reviewed the Project's CalEEMod output files and found that the values input into the model were inconsistent with information provided in the Addendum. (Ex. A, p. 2.) This results in an underestimation of the Project's emissions. (*Id.*) As a result, the Addendum's air quality analysis cannot be relied upon to compare the Project's impacts to the impacts analyzed in the 2006 EIR.

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

1. Incorrect Land Use Type (Ex. B, pp. 2-3.)
2. Underestimated Parking Land Use Size (Ex. B, p. 3.)
3. Unsubstantiated Construction Phase Lengths (Ex. B, pp. 4-5.)
4. Unsubstantiated Changes to Off-Road Equipment HP Values (Ex. B, pp. 5-6.)
5. Unsubstantiated Changes to Gas Fireplace Values (Ex. B, p. 6.)
6. Improper Application of Tier 4 Final Mitigation Measure (Ex. B, pp. 6-9.)
7. Improper Application of Operational Mitigation Measure (Ex. B, pp. 9-11.)

As a result of these errors in the Addendum, 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 nor relied upon to compare the Project’s impacts to the 2006 EIR.

2. The Arena Project will result in a potentially significant air quality impact.

In an effort to accurately determine the proposed Arena Project’s construction and operational emissions, SWAPE prepared an updated CalEEMod model that includes more site-specific information and correct input parameters, as provided by the DEIR. (Ex. B, p. 11.) SWAPE included “all proposed land use types and sizes as described by the Addendum; omitted the unsubstantiated changes to the individual construction phase lengths, off- road construction equipment horsepower values, and gas fireplaces; and excluded the unsubstantiated construction-related and operational mitigation measures.” (*Id.*) SWAPE’s updated model found that Arena Project’s construction-related NO_x as well as operational VOC, NO_x, CO, PM₁₀, and PM_{2.5} emissions, exceeded the applicable SCAQMD thresholds of the South Coast Air Quality Management District (“SCAQMD”).

Construction-Related Emissions:

Model	NO _x
Addendum Construction	53
SWAPE Construction	134
% Increase	152%
SCAQMD Regional Threshold (lbs/day)	75
Threshold Exceeded?	Yes

Operational Emissions:

Model	VOC	NO _x	CO	PM ₁₀	PM _{2.5}
Addendum Operation	123	237	625	153	43
SWAPE Operation	127	437	709	239	67
% Increase	3%	85%	13%	56%	55%
SCAQMD Regional Threshold (lbs/day)	55	55	550	150	55
Threshold Exceeded?	Yes	Yes	Yes	Yes	Yes

SWAPE's updated model demonstrates that the Project would result in a potentially significant air quality impact that was not previously identified or addressed in the Addendum. Furthermore, SWAPE's updated model indicated that the Arena Project will have significant environmental impacts not identified or mitigated by the 2006 EIR. As such, an EIR is required to address and mitigate the Arena Project's air quality impacts.

3. The Addendum inadequately analyzed the Arena Project's impact on human health due to emissions of diesel particulate matter.

The Addendum concluded that the Arena Project would not pose a significant health impact, but failed to include a quantified construction or operational health risk assessment ("HRA"). (Ex. B., p. 12.) As SWAPE noted, "the Addendum fails to quantitatively evaluate the Project's construction-related and operational 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.*) The Project will generate approximately 39,275 daily vehicle trips with sellout concerts and hockey games scattered throughout the year. Yet, the Addendum failed to indicate or discuss the concentration of Project-generated DPM that would trigger adverse health effects. (*Id.*)

Additionally, the failure of the Addendum to provide a quantified HRA is inconsistent with the most recent guidance of the Office of Environmental Health Hazard Assessment ("OEHHA"). OEHHA recommends that all short-term projects lasting at least two months (e.g. the Arena Project's 20-month construction schedule) be evaluated for cancer risks to nearby sensitive receptors. (Ex. B, p. 13.) OEHHA also recommends that exposure from projects lasting more than 6 months (e.g. the Arena's future years of operation) 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"). (*Id.*)

Lastly, by failing to provide a quantified HRA for the Arena Project, the Addendum fails to compare the excess health risk impact to the applicable SCAQMD threshold of 10 in one million and lacks evidence to support its conclusion that the health risk would be under the threshold. (Ex. B, p. 12.)

2. The Arena Project will result in a potentially significant impact to human health from emissions of diesel particulate matter.

SWAPE prepared a screening-level health risk assessment ("HRA") to evaluate potential DPM impacts from the construction and operation of the Project. (Ex. B, pp. 13-17.) SWAPE used AERSCREEN, the leading screening-level air quality dispersion model. (*Id.* at p. 13.) SWAPE used a sensitive receptor distance of 500 meters and analyzed impacts to individuals at different stages of life based on OEHHA and SCAQMD guidance. (*Id.* at pp. 14-16.)

SWAPE found that the excess cancer risk for adults, children, infants, and third-

trimester gestations at the closest sensitive receptor located approximately 500 meters away, over the course of Project construction and operation, are approximately 18, 160, 63, and 2.5 in one million in one million, respectively. (Ex. B, p. 16.) Moreover, SWAPE found that the excess cancer risk over the course of a residential lifetime is approximately 240 in one million. (*Id.*) Thus, the infant, child, adult, and lifetime cancer risks all exceed the SCAQMD threshold of 10 in one million. Even with a less-conservative model that does not include the recommended age sensitivity factors, SWAPE still found that the child, adult, and lifetime cancer risks exceeded the SCAQMD threshold.

SWAPE's analysis indicated that the County must prepare an EIR for the Arena Project with a quantified HRA in order to connect the Project's air quality emissions and the potential health risks posed to nearby receptors and to compare the impacts to those analyzed in the 2006 EIR.

C. The Addendum inadequately addresses the Arena Project's impacts on greenhouse gases.

The Addendum concluded that the Arena Project would result in net annual greenhouse gas ("GHG") emissions of 83,442 metric tons of carbon dioxide equivalents per year ("MT CO₂e/year"). (Ex. B, p. 17.) The County's Climate Action Plan ("CAP") sets a threshold of 3,000 MT CO₂e/year. However, the CAP includes screening tables with measures to reduce the emissions of GHGs. According to the CAP, a project that implements "100 points of mitigation measures from the Screening Tables" have a less than significant GHG impact. (*Id.* at p. 18.)

Although the Addendum concluded that the Arena Project would satisfy 100 points from the CAP's screening tables, SWAPE found that the Addendum provided inadequate explanations for many of the measures. (*Id.* at pp. 18-20.) For example, the Addendum concludes that the Project would satisfy measure EE10.A.2 (Windows) by stating, "The proposed Arena would satisfy this measure by providing enhanced window insulation." (Addendum, p. 124). However, as SWAPE notes, window insulation is not included as a mitigation measure for the Project and therefore cannot be relied upon to necessarily reduce the Project's GHG emissions. (Ex. B, p. 19.) As another example, the Addendum concludes that the Project would satisfy measure EE10.A.4 (Air Infiltration) by stating, "The proposed Arena would satisfy this measure" (Addendum, p. 124). However, as SWAPE notes, the Addendum fails to explain how the Project would satisfy the measure or provide information regarding the specific actions that would be required in order to implement the measure. (Ex. B, p. 20.)

Accordingly, SWAPE concluded that "the Addendum's screening table analysis, as well as the subsequent less-than-significant GHG impact conclusion, should not be relied upon." (Ex. B, p. 20.)

CONCLUSION

The County's use of an Addendum to approve the Arena Project violates CEQA. The

Addendum is not appropriate because the 2006 NorthStar SP EIR did not contemplate the development of an arena and, therefore, the Arena Project is not within the scope of the 2006 EIR. Pursuant to CEQA, the County should have prepared an EIR or negative declaration for the Arena Project. Due the Arena Project's potential significant impacts to wildlife, air quality, human health, and greenhouse gas emissions, the County should prepare an EIR for the Arena Project tiered from the 2006 EIR prior to approval of the Project.

As such, SAFER respectfully requests that the Planning Commission refrain from approving the Addendum and Specific Plan amendment at this time. Rather, SAFER respectfully requests that the Arena Project be sent back for review under the tiering provisions of CEQA to to prepare an instead of an Addendum for the Project.

Sincerely,



Brian B. Flynn
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