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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 3.1 (May 5, 2021)**

Dear Honorable Commissioners of Riverside County Planning Commission:

This correspondence is intended as a supplement to the April 7, 2021 comment letter submitted 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 3.1 at the May 5, 2021 Planning Commission meeting.

SAFER received a response to the April 7, 2021 comment letter at 4:32 p.m. on May 4, 2021. SAFER’s detailed reply to the issues raised in the County’s response will be provided either to this Commission at a later date or to the Board of Supervisors. SAFER stands by its position that the Addendum for the Arena Project is improper generally and deficient specifically for air quality, wildlife, traffic, and energy. For those reasons, SAFER still strongly urges the Commission to not approve the Arena Project at this time and instead to prepare a full environmental impact to fully disclose, analyze, and mitigate the Arena Project’s impacts.

However, although SAFER is still concerned about the use of the Addendum generally and the conclusions reached by the County therein, ***the most pressing immediate concern is that the County has allowed grading activity to proceed on the Arena Project site.*** Photos provided to SAFER of grading activity taking place on the Arena Project site on April 22, 2021 are attached to this comment.

SAFER became aware that grading was occurring on April 22, 2021. After further investigation, SAFER became aware that the County had issued a mass grading permit for the Arena Project on April 15, 2021. Surprisingly, there was no mention of commencing grading either at the April 7 Planning Commission meeting or the April 21 meeting (a week *after* the grading permit had been issued). As you may be aware, SAFER has filed a lawsuit against the County alleging that the issuance of the grading permit violated both CEQA and the Riverside County Code. Additionally, it appears that the heavy-duty equipment currently in use on the project site does not meet the emissions standards analyzed in the Addendum, thereby calling into question the legitimacy of the Addendum's analysis.

For the reasons below, SAFER is requesting that the Planning Commission (1) stay the effect of the grading permit until final approval of the Arena Project and (2) require that all off-road construction equipment used for construction of the Arena Project, including grading, meet Tier 4 Final emissions standards as was assumed (but not required) by the Addendum.

I. The County Code prohibits grading and construction activity pending final approval of a tentative map.

“When a tentative map has been submitted, ***no grading or construction work shall be performed until the tentative map has been approved*** by the appropriate approving body.” (RCC § 16.12.050 B [emphasis added].) The tentative map for the Arena Project that is before you today (Tentative Parcel Map 38040) was submitted to the County on November 12, 2020. Clearly, it has not yet been approved by this Commission or the Board of Supervisors.

The Tentative Map proposes to subdivide the 101.58 acre NorthStar Specific Plan into four (4) parcels. Because the Arena Project is within the NorthStar Specific Plan, it is certainly covered by the proposed Tentative Map. By the plain language of County Code section 16.12.050 B, no grading is allowed to occur until the tentative map has been approved. SAFER requests that the Commission do everything in its power to stop grading activity on the Arena Project site until the Board of Supervisors gives final approval to the Project.

II. CEQA requires that the Arena Project be considered and approved “as a whole” prior to grading.

The purpose of the Addendum prepared for the Arena Project is to compare the impacts of the Arena to the impacts analyzed in the 2006 NorthStar Specific Plan EIR. Under CEQA, the term “project” refers to “the whole of an action.” (14 CCR § 15378(a).) A public agency may not

divide a single project into smaller individual subprojects to avoid responsibility for considering the environmental impact of the project as a whole. (*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal.App.4th 1209, 1223.) No agency may approve a project subject to CEQA until the entire CEQA process is completed and the overall project is lawfully approved.” (*Orinda Ass’n. v. Bd. of Supervisors* (1986) 182 Cal.App.3d 1145, 1171.)

The Addendum properly included grading impacts in its analysis of the Arena Project as a whole. There are multiple references in the Addendum to grading impacts:

- “**Construction of the Arena, including grading**, building construction, and site improvements, would take approximately twenty (20) months from start to finish.” (Addendum, p. 33.)
- “The Air Quality Report concluded that construction of the proposed Project would result in temporary **generation of VOC, NOx, CO, SOx, PM10, and PM2.5 emissions from construction activities such as grading**, building construction, paving, and application of architectural coatings.” (Addendum, p. 64.)
- “There is a potential for **grading and excavation activities to inadvertently encounter tribal cultural resources** in soil not previously disturbed.” (Addendum, p. 196.)
- The Air Quality Study appendix of the Addendum also includes the Arena’s grading phase in its calculation of construction-related emissions. (Addendum, App. A, pp. 20-21.)

Grading is intrinsically part of the Arena Project. The impacts of the Arena Project must be considered as a whole, including grading, prior to approval. The Arena Project cannot be allowed to proceed in part or in whole prior to the completion of the approval process. (*Orinda Ass’n, supra*, (1986) 182 Cal.App.3d 1145, 1171 [approval process must be complete before issuance of demolition permit]; *Day v. City of Glendale* (1975) 51 Cal.App.3d 817, 823-24 [CEQA review must be completed prior to grading].) Therefore, SAFER requests that the Commission do everything in its power to stop grading activity on the Arena Project site until the Board of Supervisors gives final approval to the Project.

III. The Commission should require Tier 4 Final emissions standards for off-road construction equipment as analyzed in the Addendum

Even if the Commission allows grading to proceed, SAFER urges the Commission to **require Tier 4 Final emissions standards for off-road construction equipment**. In SAFER’s April 7 comment letter, the issue was raised as assumptions made in the Addendum’s air quality analysis. SAFER’s air quality consultants had found that the Addendum’s emissions model **assumed** in its analysis that all off-road construction equipment used for grading and construction of the Arena Project would meet Tier 4 Final emissions standards.

For background, since 1994, The U.S. Environmental Protection Agency (“EPA”) has adopted more stringent emissions standards for off-road construction equipment since 1994 with

Tier 4 Final representing the most stringent standard. As such, Tier 4 Final represents the cleanest construction equipment on the market. When the Addendum calculated the Arena Project's emissions (and came to the conclusion that the Arena's air quality impacts were less than or similar to the impacts from the 2006 EIR), it assumed that Tier 4 would be used. The Addendum made that assumption based on the fact that South Coast Air Quality Management District recommends—but does not require—Tier 4 Final equipment. SAFER's April 7, 2021 comment letter, as well as Brian Flynn's oral comments at the April 7, 2021 meeting, noted that the Addendum most likely underestimated the Arena Project's emissions based on the assumption that the cleanest equipment would be used even if it was not required.

Unfortunately, SAFER's concern that the Addendum underestimated the Project's emissions has been realized. Based on a review of the equipment currently in use on the Arena Project site, SAFER's air quality consultant was able to determine that Caterpillar 637D dual Engine Wheel Tractor Scrapers are in use. This equipment, with the visible plumes of black smoke seen in the attached photographs, appear to have been manufactured between approximately 1979 to 1991, long before Tier 4 Final equipment was available.

This dirtier equipment will continue to be used and will continue to undermine the Addendum's analysis unless the Commission harmonizes the assumptions presented in the Addendum with actual requirements for the Project. Any requirement that the Arena Project utilize Tier 4 Final equipment must come from mitigation measures or conditions of approval placed on the Project by this Commission or the Board of Supervisors. Even if the Commission approves the Project, SAFER requests that the Commission require Tier 4 Final for all off-road construction equipment for the Arena Project.

Thank you for your consideration of this letter.

Sincerely,



Brian B. Flynn
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