

AGREEMENTS AND AMENDMENTS CONTINGENT UPON THE RELOCATION OF AN NBA TEAM TO THE HONDA CENTER

CEQA DETERMINATION

The Guidelines for the California Environmental Quality Act ("CEQA") include a list of classes of projects that have been determined not to have a significant effect on the environment and so are exempt from CEQA. Section 15323 of the CEQA Guidelines provides for one of these "categorical exemptions." It states:

"Normal Operations of Facilities for Public Gatherings

"Class 23 consists of the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same or similar kind of purpose. For the purposes of this section, "past history" shall mean that the same or similar kind of activity has been occurring for at least three years and that there is a reasonable expectation that the future occurrence of the activity would not represent a change in the operation of the facility. Facilities included within this exemption include, but are not limited to, racetracks, stadiums, convention centers, auditoriums, amphitheaters, planetariums, swimming pools, and amusement parks."

The Anaheim Arena was approved as a multi-purpose indoor sports and entertainment arena. The proposed amendment of the Facility Management Agreement to address a Venue Contract and the related approvals being considered by the City Council ("Project") constitute the normal operations for which the Arena was designed, and relate to activities for which the Arena has been used for nearly eighteen years. Thus, the Project falls within the Class 23 categorical exemption from the provisions of CEQA quoted above. (CEQA Guidelines § 15323.) That section relates the concept of past history to public expectations for use of the facility in the future. Where the facility has been used for a particular purpose, the public expects the use to continue in the future. Thus, continuation of that use would not represent a change in the environmental conditions. Because the Arena is used for professional sports teams currently, and has been the venue for professional basketball games in the past, people living in the area have come to expect that the Arena would involve such activities as proposed by the Project. Continuing such activity would not represent a substantial change in the environment from what people have come to expect. The proposed amendment and other related actions are also exempt pursuant to other regulatory guidelines including, but not limited to, CEQA Guideline section 15301.

Even were the Project not otherwise exempt, its effects were already examined in earlier environmental studies. The site where the Anaheim Arena is now located was rezoned as a Public Recreation Zone in December 1989 and the Anaheim Arena Final Environmental Impact Report No. 299 (SCH 89070512) ("EIR") was certified at that time. The Arena was always designed and constructed to be home to two professional

sports franchises, and therefore the City and its facility management partners have worked throughout the years to bring a second professional sports franchise to the Honda Center. Since that original approval and certification, further environmental evaluations were performed regarding the Arena, including those as follows: (i) Anaheim Stadium Area Master Land Plan Final Environmental Impact Report No. 321 (SCH 9611041); (ii) Anaheim General Plan Update Final Environmental Impact Report No. 330 (SCH 2003041105); and (iii) Anaheim Platinum Triangle Expansion Project (SCH 200412045). Collectively, these documents will be defined as the “environmental studies.” All of the environmental studies are incorporated herein by this reference and are available for review during normal business hours at the City Clerk’s office.

The Project does not constitute a substantial change in the Arena that would require major revisions in the environmental studies. Nor have substantial changes occurred with respect to the circumstances under which the Arena is being operated that would require major revisions in the environmental studies if the Project were approved. Finally, no new information that was not known at the time the EIR was certified as complete has become available that shows that the Project would have significant effects not discussed in the environmental studies; that the Project would cause previously identified significant effects to be substantially more severe than those identified in the environmental studies; that previously infeasible mitigation or alternatives are now available; or that different mitigation measures or alternatives would substantially reduce significant effects of the Project. Consequently, no subsequent environmental review may be required. (Pub. Res. Code § 21166; CEQA Guidelines § 15162.)