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March 29, 2011

Sent via email: Mayor@anaheim.net

Hon. Thomas Tait, Mayor
City of Anaheim Council Members

Re: City of Sacramento's Comments on CEQA Review of Items 1, 2 and 3
March 29, 2011, Combined City and Anaheim Public Finance Authority Agenda

Dear Mayor Tait and Council Members:

The City of Sacramento requests that you continue the three above-referenced items to allow for adequate time for the City of Sacramento and the public to review the documents associated with the City of Anaheim's environmental review of the "proposed amendment of the [Honda Center] Facility Management agreement to address a Venue Contract [with TeamCo] and the related approvals [\$75,000,000 lease revenue bonds issuance] being considered by the City Council" (the "Project"). Since Anaheim conducted no environmental review of the Project, but rather asserted a Class 23 Categorical Exemption, the following cannot and is not intended to provide an exhaustive list of the environmental impacts and the CEQA compliance deficiencies associated with this Project. But rather it is intended to draw your attention to the need to continue these items until CEQA compliance can be assured.

Inadequate time to review Environment Studies

As a threshold issue the City of Sacramento submitted a public records act request to the City of Anaheim March 4, 2011, regarding records relating to the Sacramento Kings, Honda Center, etc.—records that clearly include the records associated with the Project. The City of Sacramento has not received a single record to date from Anaheim.

The City of Anaheim posted the agenda and some, but not all, of the related agenda materials for the Project on the Friday afternoon preceding the Cesar Chavez three-day weekend shortening the time for review of these substantial records. Not all records referenced in these staff reports are available on line—in particular the earlier environmental studies referenced in the CEQA Determination document appended to Agenda Item #2. These environmental studies “are available for review during normal business hours at the City Clerk’s office.” The environmental studies named include: (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. 30 (SCH 2003041105); (iii) Anaheim Platinum Triangle Expansion Project (SCH 200412045); and (iv) the Anaheim Arena Final Environmental Impact Report No. 299 (SCH 89070512) (the “EIR”). Although these studies are expected to be voluminous, their size does not necessarily indicate whether they properly study the impacts attendant to full-time addition of an NBA team to the Honda Center and the practice facilities in 2011. The time granted to the City of Sacramento and to the public for review of these studies as they relate to the Project is inadequate to allow for a meaningful review.

Inadequate review of blighting impacts of the Project

While a physical change must result directly or indirectly from a project before CEQA applies, if an economic impact will cause physical change, as part of a chain of causation, then the physical impact should be considered under CEQA. Agenda Report Item #2 states:

“City staff has evaluated the proposed plan and believes these actions will further advance Anaheim’s position to receive the NBA team. We are hesitant to identify the specific economic impact relative to this opportunity. However, Economist Lou Hatayima, through his analysis in June of 2008, stated that the NBA Seattle Supersonics, prior to their move to Oklahoma City, contributed \$188 million a year to the local economy through payroll, ticket sales and other consumer spending. Additionally, and on the low end, in May of 2006, a study by the City of Oklahoma City stated that the NBA New Orleans Hornets had an economic impact of \$66.4 on their temporary home.”

Conversely, it is reasonable to estimate the negative economic impacts on the cities from which an NBA team relocates are in this \$66-million to \$188-million range. The Sacramento Kings relocation from Arco Arena (now known as Power Balance Pavilion) will have a negative economic impact in this range that likely will be concentrated in the Natomas area of

Sacramento. Restaurants, bars, and businesses already weakened by the region's prolonged recession may fail leading to many additional "board ups" of vacant properties in Sacramento. The physical blighting impacts of such relocation need to be studied and at a minimum measures to mitigate those impacts must be adopted as a condition of the Project approval.

Additionally, if the Project induces the NBA team to default on its approximate \$77 million in financial obligations to the City of Sacramento, the deleterious physical impacts to the City of Sacramento must also be studied and mitigated to a level of less than significant. The only mitigation for such a significant impact is to include a mitigation measure requiring the NBA team to satisfy its \$77-million financial obligation to the City before relocation to Anaheim.

None of the Agenda Reports mention the City of Sacramento. The Venue Contract obliquely refers to the NBA team as "TeamCo." Likewise the CEQA Determination document is devoid of any mention of Sacramento, much less any consideration of the significant environmental impacts on Sacramento caused by the Project.

Failure to prepare a Subsequent or Supplemental EIR to address new information and changed circumstances caused by the Project

The CEQA Determination document states that:

"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."

This statement is patently false. The Honda Center has never been operated with a NBA basketball team at the same time as the NHL team and other sports and entertainment events. In addition, The circulation system and traffic conditions in the surrounding area and the freeway system serving Honda Center have changed since the EIR was certified.

The CEQA Determination document further states that:

"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 alternatives are now available; or that different mitigation measures or alternatives would substantially reduce significant effects of the Project."

Mayor Tait and Council Members

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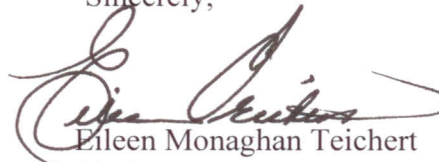
This statement ignores the fact that there will be new and more severe significant effects, and thus the need for new mitigation measures, because NBA games attract more patrons than NHL games. For example:

- There is no discussion of increases in air quality, noise and traffic impacts from the congestion caused by the NBA games, which are typically held during the evening commute period due to television scheduling.
- There is no discussion of increased parking demands, especially during the "play-off" season, which may spill over and impact surrounding businesses and neighborhoods.
- There is no discussion of whether transit and other alternative transportation options are available to minimize the traffic and parking impacts that will be caused by the Project.

The EIR referenced was certified in 1989—twenty-two years ago. The CEQA Determination relies on the premise that when this EIR was prepared it had been assumed that the Arena would support two professional sports franchises, concluding that the Project would not require revisions to that EIR. Clearly the age of this EIR calls into question whether any of the significant effects of the Project being implemented two decades later could have been adequately identified and studied. The State Supreme Court recently held in a similar situation that CEQA impacts of a project are to be measured against existing physical conditions and not the permitted level of operations (see *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal. 4th 310).

Again, the City of Sacramento urges you to either conduct a proper environmental review of the Project consisting of a new EIR or at a minimum a Mitigated Negative Declaration to address this new information and substantial change in operation of Honda Center. Further, all Anaheim records relevant to the Project must be made available to the City of Sacramento and to the public, with adequate time for review, prior to your taking the actions set out in your March 29, 2011, agenda.

Sincerely,



Eileen Monaghan Teichert
City Attorney

cc: Sacramento Mayor and City Council
Anaheim City Clerk landal@anaheim.net
Anaheim City Manager citymanager@anaheim.net
Sacramento City Treasurer
Maloof Sports, Inc.