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February 5, 2020

Mayor and City Council
City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Re: Case 5.1496 - Palm Springs Arena Project

Honorable Mayor and City Council:

On behalf of Palm Springs Together (“PST”), we write to urge the City of Palm Springs to scrupulously fulfill its responsibilities under the California Environmental Quality Act and the Brown Act as it considers discretionary actions related to the Arena Project (“the Project”) proposed by the Agua Caliente Band of Cahuilla Indians (“the Tribe”) that will profoundly affect City residents.

Palm Springs Together was created to address a social and economic justice issue and has evolved to support public safety (including ensuring reasonable emergency medical response times), infrastructure and other hallmarks of a livable city. Palm Springs Together has established a website (<https://palmspringstogether.org/>). PST has placed a full page Los Angeles Times advertisement about the Project (<https://palmspringstogether.org/latimes-ad.pdf>) and has been in communication with the Attorney General and the office of the Governor.

A. Project Background.

On December 5, 2019, the City approved the administrative report regarding the Project and the Section 14 Specific Plan. The Tribe’s response to that report was that it will follow some but not all of the steps requested by the City. Among other items, the Tribe said it will submit a Transportation Management Plan and Parking Plan. It is our understanding that the City will review and act on those plans. We understand that the Tribe has agreed to voluntarily monitor for stationary emissions relative to the new building. However, there is no plan to address mobile source emissions that should be addressed through transportation demand management and other air pollution reduction measures.

The capacity of the proposed arena is massive: 11,000. This is more than half the size of Staples Center in downtown Los Angeles. But unlike Staples Center, this arena

would not be at or near the intersection of five major freeways. Rather, this arena is proposed for a city center location without the infrastructure, including Police and Fire capacity, to support the impacts it would create. Arena traffic would reduce the level of service at intersections and on roadways across a wide swath of Palm Springs, hindering emergency vehicle circulation, access and response times, in conflict with the Circulation and Safety elements of the Palm Springs General Plan and key elements of the Section 14 Specific Plan. The most notable conflict between the Project and the Specific Plan is created because the plan itself says:

"Section 14 is intended to be an area where residents and visitors can circulate and move about in a safe and convenient manner using their preferred mode of transportation. The street network within Section 14 is designed to accommodate all users of the roadway, regardless of travel mode. Planning and design elements incorporated within the proposed street standards and street cross-sections are intended to facilitate and promote safe travel by pedestrians, bicyclists, transit vehicles, and automobiles throughout Section 14."

The arena would be a direct threat to the public safety of the people of Palm Springs, including tourists and other visitors. PST is most concerned about emergency vehicle circulation and predicts a significant drop in emergency response times on game and concert days, which could mean the difference between life and death for people. While the arena is proposed to be on Tribal land, its impacts would be apparent across a large swath of the city. Notably, there is no emergency services plan proposed as part of the Arena Project; no transportation, circulation and mobility plan; and no municipal services agreement between the City and the Tribe to address arena impacts.

The arena would not exist in a vacuum. It is part of an expansive -- and expanding -- gaming, sports, entertainment, cultural, hotel and retail complex. As the Tribe's Vision 2020 plan becomes reality, there will be other demands on infrastructure, including mobility, circulation, Police and Fire. All of the impacts, collectively and cumulatively, need to be considered as the City takes discretionary actions to accommodate the arena and the larger master-planned project of which it is a part. Similarly, all discretionary actions should be consistent with the Section 14 Specific Plan and the General Plan.

B. A Publicly Reviewable Memorandum of Understanding is Necessary.

We believe it is necessary that a formal Memorandum of Understanding be developed between the City and the Tribe regarding the Project. We anticipate the City will need additional funding for Police, Fire, and other public services. A Memorandum of Understanding is necessary to bind all parties to the terms and to ensure that the agreement is enforceable.

C. Proper Review Pursuant to the California Environmental Quality Act is Imperative.

We note that the City cannot evade its responsibilities under the California Environmental Quality Act to prepare environmental review for its activities related to the Arena Project merely because the Project is sited on Tribal land. CEQA is designed to promote the twin goals of public participation and environmental protection. Many of the activities the City will be reviewing and approving related to the Arena Project are project activities within the meaning of CEQA because they are discretionary actions undertaken by the City that could have a direct or indirect physical impact on the environment. (Public Resources Code section 21065; *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116; *Union of Medical Marijuana Patients, Inc.* (2019) 7 Cal.5th 1171.)

There are multiple “projects” at issue here: the development project proposed for the Tribal land site, and the City's project-related actions affecting land within the City’s jurisdiction, be they Tribal or non-Tribal lands. These will be actions that rise to the level of "project" under the California Environmental Quality Act (California Public Resources Code §21065). The City's review of and discretionary action on this package of measures is subject to CEQA. There is substantial evidence to suggest that the development project would cause reasonably foreseeable direct and indirect changes in the environment well beyond the Tribal land site. The City cannot avoid CEQA review of its discretionary actions simply because the development project itself is on Tribal land, or because the project sponsor claims it is not necessary. The following impact areas are likely to be severe in the Palm Springs context:

- Air pollution (stationary)
- Air pollution (mobile)
- Transportation/traffic
- Emergency services
- Parking
- Circulation
- Mobility

No new parking facilities are proposed to be created as part of the Arena Project, which would result in a projected parking shortfall of between 1,600 and 2,700 parking spaces based on the arena’s occupancy for any one event, according to the City’s analysis of the Project. As a result, major portions of downtown, Uptown and Section 14 would become a parking lot for the arena. As the environmental document prepared by the project sponsor demonstrates, there will be significant level-of-service reductions at key intersections all across the City, not just on or near the Project site. PST’s primary

concern is the ability of emergency vehicles to circulate amid the gridlock. There is no plan to address this.

Another significant concern is conflict between cars and pedestrians. Spreading parking out over such a large area geometrically increases the odds of conflicts, including accidents, involving cars and people. There are streets in the center city, including where arena parking is likely, that are incomplete -- without fully built-out sidewalks, crosswalks and streetlights. At the very least, every street where there is sanctioned arena parking should be fully improved to accommodate such parking, minimize automobile-pedestrian conflict and promote general safety. As a matter of fact, all of Section 14 should be improved with built-out infrastructure to support residents and businesses today, and to encourage the continued responsible build-out of Section 14 in the future. With its geographic location in the city center, Section 14 has the potential to be a vibrant mixed-use, mixed-income commercial and housing district that truly encourages safe travel by pedestrians, cyclists, transit vehicles and cars.

Notably, the City has authority and control to mitigate many of the environmental impacts that would be caused by the arena, notwithstanding whether the project sponsor acknowledges them or contributes to the cost of mitigating them. The City acknowledges as much in its reports on the Project. Thus, the City must conduct its own environmental assessment and make determinations before taking discretionary actions related to the Project. To do otherwise would be reckless and irresponsible, in addition to being a violation of the law.

D. Transparency in Project Dealings is Critical.

We are very concerned about the transparency of the process that the City might utilize in developing communications and agreements with the Tribe. There cannot and there should not be backroom, secret deals between the City and the Tribe. The California Environmental Quality Act and the Brown Act demand no less than proper notice and public participation in the interest of environmental protection and public engagement. The Brown Act states its purpose in unusually blunt and forceful language:

[T]he Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them

to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

(Govt. Code § 54950.)

Public notice has already proven a problem for the City. There was a hearing by the City Council on this Project on December 5. The hearing date was originally December 4. Property owners within 500 feet of the project were sent a notice for the December 4 hearing. When the hearing date was changed, they were not sent an updated notice. How can there be public input and participation if people are not reasonably notified? What's more, given the Project's far-reaching impacts across a wide swath of the city, notice should have been wide. There must be hearings on related discretionary actions, and future hearings must be adequately noticed.

Conclusion.

By writing to the City at this time, we seek to ensure that there will be sufficient notice to us and the public generally before actions are taken on any above. We hereby request any notices of public hearings pursuant to the City Municipal Code and Public Resources Code section 21092.2.

Thank you for your consideration of these comments. We are hopeful that the City will undertake the appropriate and necessary level of environmental review of discretionary actions related to the Project, and that the proposed Project is improved to reduce the reasonably foreseeable negative impacts on the City. Please let me know if we can help to this end.

Sincerely,

A handwritten signature in blue ink that reads "Douglas P. Carstens". The signature is fluid and cursive, with a long horizontal stroke at the end.

Douglas P. Carstens