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Code Section 6103

23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

24 **COUNTY OF SAN FRANCISCO**

25 MISSION BAY ALLIANCE and
26 JENNIFER WADE,

27 Petitioners and Plaintiffs,

28 v.

OFFICE OF COMMUNITY INVESTMENT
AND INFRASTRUCTURE (OCII), TIFFANY
BOHEE, in her capacity as Executive Director of
OCII, OCII COMMISSION, CITY AND
COUNTY OF SAN FRANCISCO (CCSF),
CCSF PLANNING DEPARTMENT, ET AL.

Respondents and Defendants.

GSW ARENA LLC, DAVID KELLY, and
DOES 26-50,

Real Parties in Interest.

Case No. CPF-16-514892

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

Environmental Leadership Development Project
CEQA Challenge

Case Management Conference Date:

March 29, 2016

Time: 1:30 p.m.

Department 503

Hon. Garrett L. Wong

Action filed in Sacramento County Superior
Court: January 7, 2016

Action filed in San Francisco County Superior
Court: March 11, 2016

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1 This action challenges approvals of a new event center and sports arena proposed for use by the
2 Golden State Warriors professional basketball franchise and others, and other mixed-use development
3 in San Francisco’s Mission Bay South neighborhood.

4 The Governor certified the project as an Environmental Leadership Development Project
5 (“Leadership Project”) under Public Resources Code sections 21178 through 21189.3, commonly
6 referred to as AB 900. The certification subjected this case to the expedited litigation timetable
7 provided under Public Resources Code section 21185 and California Rules of Court that implement AB
8 900. (Cal. Rules of Court, Rules 3.2220-3.2231 [trial court proceedings], 8.700-8.705 [appellate
9 proceedings].)

10 The AB 900 rules direct the parties to file a joint Initial Case Management Conference
11 Statement. (Cal. Rules of Court, Rule 3.2226, subd. (d).)

12 This Joint Case Management Conference Statement is submitted on behalf of Petitioners
13 Mission Bay Alliance and Jennifer Wade (collectively “the Alliance”), Respondents Office of
14 Community Investment and Infrastructure (“OCII”) and the City and County of San Francisco (the
15 “City”) et al. (collectively “Respondents”), and Real Parties in Interest GSW Arena LLC and David
16 Kelly (collectively “Real Parties”).

17 **I. STATEMENT OF THE CASE**

18 **A. Factual Background**

19 The project involves a sports arena, event center and mixed-use development at Blocks 29-32 in
20 the Mission Bay South area of San Francisco (the “Project”).

21 On behalf of OCII, the San Francisco Planning Department prepared a Subsequent
22 Environmental Impact Report (“SEIR”) for the Project. The SEIR tiered off previously-certified EIRs
23 for the 1990 Mission Bay Redevelopment Plan and the 1998 Mission Bay South Redevelopment Plan.

24 On November 3, 2015, OCII’s Commission on Community Investment and Infrastructure
25 (“Commission”) held a public hearing on the Project, after which the Commission certified the SEIR
26 and approved various elements of the Project. On the same day, OCII’s Executive Director issued a
27 determination that the event center is a permitted secondary use within the Mission Bay South
28 Redevelopment Plan.

1 The Alliance appealed OCII's decision to certify the SEIR to the San Francisco Board of
2 Supervisors ("Board").

3 On December 8, 2015, following additional hearings and approvals by San Francisco agencies,
4 the Board upheld the appealed decision of the OCII resolution certifying the SEIR.

5 On December 9, 2015, OCII filed its Notice of Determination with the San Francisco County
6 Clerk.

7 On December 21, 2015, the City filed a second Notice of Determination concerning Project-
8 related actions taken by the Board acting as a responsible agency pursuant to the California
9 Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA").

10 **B. Procedural History**

11 On January 7, 2016, the Alliance filed the underlying Petition for Writ of Mandamus and
12 Complaint for Reverse Validation (the "Petition") in Sacramento County Superior Court. The Alliance
13 alleged that the Project approvals were made in violation of CEQA and the Mission Bay South
14 Redevelopment Plan. (Sacramento County Superior Court, Case No. 34-2016-80002271.)

15 On January 14, 2016, Respondents and Real Parties in Interest filed separate Answers to the
16 Petition pursuant to the expedited timetable for AB 900 Leadership Projects. (See California Rules of
17 Court, Rule 3.2224.)

18 Also on January 14, 2016, Respondents and Real Parties filed a Motion for Change of Venue to
19 San Francisco Superior Court and a Demurrer to the third cause of action for reverse validation.

20 On January 21, 2016, Respondents lodged and served a document that they identified as the
21 record of proceedings. (See California Rules of Court, Rule 3.2225.)

22 On February 3, 2016, the Sacramento County Superior Court granted the Motion for Change of
23 Venue to San Francisco. As a result of that transfer order, the Court also took the Respondents' and
24 Real Parties' hearing on demurrer off calendar.

25 On February 12, 2016 the City lodged a corrected record of proceedings to fix certain links
26 between the index and the record documents that were inoperable in the index lodged on January 21,
27 2016.

1 On February 22, 2016, the Alliance filed a Petition for Writ of Mandamus in the Third District
2 Court of Appeal seeking appellate review of the trial court's order transferring venue to San Francisco.
3 (*Mission Bay Alliance et al. v. Superior Court*, Third Dist. Court of Appeal Case No. C081342.)

4 On February 26, 20016, the Alliance filed a Petition for Writ of Mandamus in the San Francisco
5 County Superior Court, Case No. CPF-16-5144811, *Mission Bay Alliance v. City and County of San*
6 *Francisco* (the "City Case") challenging additional approvals of the Project. The Petition does not
7 include a CEQA cause of action.

8 On March 3, 2016, the Third District Court of Appeal summarily denied the Petition for Writ of
9 Mandate regarding change of venue to San Francisco.

10 On March 9, 2016, the Sacramento County Superior Court Clerk transferred this case to the San
11 Francisco Superior Court.

12 On March 10, 2016, the City and Real Parties in Interest filed Answers to the Petition and
13 Complaint in the City Case.

14 On March 11, 2016, this case was filed in San Francisco County Superior Court and was
15 assigned to Department 503. This Court scheduled a Case Management Conference on May 31, 2016.

16 Also on March 11, 2016, the Alliance and Respondents each filed separate Notices of Related
17 Case with respect to the City Case.

18 On March 14, 2016, the City lodged the record of proceedings in the City Case.

19 On March 16, 2016, Respondents and Real Parties filed an ex parte application to reschedule
20 the Case Management Conference. The Alliance opposed the timing requested by the application.
21 This Court approved the application, scheduling the Case Management Conference for March 29, 2016.
22 The Court also directed the parties to file a Joint Case Management Conference Statement on March
23 24, 2016.

24 **II. RULES FOR AB 900 CASES**

25 Cases proceeding under AB 900 are subject to special rules designed to expedite the legal
26 process. (Pub. Resources Code, § 21185; Cal. Rules of Court, Rules 3.2220-3.2231, 8.700-8.705.)

27 The parties dispute whether these rules apply in this case. The Alliance contends that although
28 the Governor certified the Project as a Leadership Project under AB 900, Respondents have failed to

1 comply with the requirements of AB 900 in preparing, certifying, and lodging the administrative record
2 and the rules governing litigation under AB 900 do not apply. Respondents and Real Parties disagree
3 with this argument.

4 The parties' respective positions regarding how to resolve this dispute are set forth below in
5 item 7.

6 **III. SUBJECTS FOR CONSIDERATION UNDER RULE 3.2226, SUBDIVISION (C).**

7 Rule 3.2226, subdivision (c), lists the issues to be addressed at the Case Management
8 Conference. The following discussion provides information with respect to each item on this list.
9 Where the parties do not agree, the discussion provides a brief summary of the positions of each of the
10 parties.

11 1. Service of Petition (Rule 3.2226, subd. (c)(1)).

12 All parties named in the Petition have been served.

13 2. Notice of Responsible Agencies (Rule 3.2226, subd. (c)(2)).

14 On January 21, 2016, Respondents provided the Alliance a list of responsible agencies and
15 public agencies having jurisdiction over natural resources affected by the Project. The Alliance
16 provided notices to the listed agencies on January 26, 2016.

17 3. Responsive Pleadings (Rule 3.2226, subd. (c)(3)).

18 Under California Rules of Court, Rule 3.2224, subdivision (a), all answers or motions to
19 challenge the sufficiency of the petition must be filed within 10 days after service of the petition. As set
20 forth below, responsive pleadings have been timely filed.

21 The Alliance served the Petition on Real Parties and Respondents on January 8 and 11, 2016,
22 respectively.

23 On January 14, 2016, Respondents and Real Parties filed answers. Respondents and Real Parties
24 also filed a Motion for Change of Venue to San Francisco Superior Court and a Demurrer to Petition
25 for Writ of Mandate and Complaint for the Third Cause of Action (Reverse Validation).

26 As a result of granting Respondents' and Real Parties' motion for change of venue, the
27 Sacramento Superior Court took the hearing on the demurrer off calendar without prejudice to re-filing
28 the demurrer in the San Francisco County Superior Court.

1 All responsive pleadings have been filed. The parties do not believe this Court needs to take
2 further action with respect to this issue.

3 Respondents and Real Parties will be refiling their demurrer in San Francisco Superior Court in
4 advance of the Case Management Conference. Their proposed briefing schedule is set forth in section 7
5 below.

6 4. Severance, Bifurcation, or Consolidation with Other Actions (Rule 3.2226, subd. (c)(4)).

7 The Rules of Court provide that the subjects for discussion at the mandatory case management
8 conference include “[w]hether severance, bifurcation, or consolidation with other actions is desirable,
9 and if so, a relevant briefing schedule.” (Rule 3.2226, subdivision (c)(4).)

10 In addition, this Court has discretion to consolidate actions under Code of Civil Procedure
11 section 1048, subdivision (a), which provides as follows: “When actions involving a common question
12 of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters
13 in issue in the actions; it may order all the actions consolidated and it may make such orders concerning
14 proceedings therein as may tend to avoid unnecessary costs or delay.” (Code Civ. Proc., § 1048, subd.
15 (a).)

16 All parties agree that this case and the City Case are related.

17 As explained below, Respondents and Real Parties believe that consolidation of the City Case is
18 appropriate. The Alliance disagrees. The parties’ positions are summarized below.

19 a. Respondents’ and Real Parties’ Position on Consolidation

20 Respondents and Real Parties request that this Court consolidate this case with the City Case for
21 all purposes. They believe that consolidation is appropriate for the following reasons:

22 (1) The City Case and this action involve challenges to approvals granted by OCII and by the
23 City for the same Project.

24 (2) The expedited timetable for litigation concerning environmental leadership development
25 projects covers challenges to *both* the certification of an environmental impact report, *and*
26 “the grant of any project approvals for . . . a leadership project.” (Cal. Rules of Court, rule
27
28

1 3.2220(b); Pub. Resource Code, § 21185.) Thus, both the Rules of Court and Public
2 Resources Code section 21185¹ require both actions to proceed on the same expedited
3 timetable. Consolidating these actions would further the requirements and objectives of the
4 statute and is judicially economical.

5 (3) The City Case and this action involve the same parties. Petitioners/Plaintiffs in both cases
6 are Mission Bay Alliance and Jennifer Wade. The City and County of San Francisco, acting
7 through various San Francisco boards, commissions, and departments, is a respondent in
8 each case. OCII is a respondent in this case and a real party in interest in the City Case. In
9 both cases, GSW Arena LLC and David Kelly are named as real parties in interest. No
10 other parties are named.

11 (4) The City Case and this action are both venued in San Francisco County.

12 (5) The City Case and this action both involve petitions for writs of mandate. The City Case and
13 this action will be determined on virtually the same record of proceedings; the only
14 difference is that the record for the City Case is augmented to include those documents
15 related to a February 24, 2016 appeal of one of the Project approvals.

16 (6) On January 21, 2016, the City filed and served the record of proceedings in this action. On
17 March 14, 2016, the City certified, filed and served an additional volume encompassing
18 those documents related to a February 24, 2016 appeal of one of the Project approvals. The
19 evidence upon which both this action and the City Case will be resolved has therefore been
20 filed and served. Consolidating this action and the City Case will not delay the resolution of
21 either case.

25 ¹ Public Resources Code section 21185 provides, “the Judicial Council shall adopt a rule of court to
26 establish procedures applicable to actions or proceedings brought to attack . . . the certification of the
27 environmental impact report for an environmental leadership development project certified by the
28 Governor . . . or the granting of any project approvals that require the actions or proceedings, including
any potential appeals therefrom, be resolved, within 270 days of certification of the record of
proceedings”

1 (7) The City Case and this action involve the same standard of review. (Code Civ. Proc., §§
2 1085, 1094.5; *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal.* (1988) 47
3 Cal.3d 376, 392 fn. 5.)

4 (8) The City Case and this action seek the same relief. In this action, the Alliance seeks “to
5 enjoin the construction of the [Project], and to set aside all approvals relating to the
6 [Project].” (Petition for Writ of Mandate, ¶ 1.) Likewise, the City Case “seeks to enjoin the
7 construction of the [Project], and to set aside four approvals granted to the [Project].”
8 (Petition for Writ of Mandate / Complaint for Declaratory and Injunctive Relief, ¶ 1.)

9 (9) If the cases are heard separately, there is substantial risk of unnecessary costs and delay,
10 despite the significantly overlapping administrative records upon which each case will be
11 adjudicated, and the need for expedited treatment.

12 (10) Rule 3.2226, subdivision (c)(4), explicitly makes “consolidation with other actions” a
13 proper topic for discussion at the mandatory case management conference in cases involving
14 Environmental Leadership Development Projects.

15 For all these reasons, Respondents and Real Parties believe the City Case should be
16 consolidated with this case for all purposes.

17 b. The Alliance’s Position on Consolidation

18 The Alliance agrees that this case and the City Case are related and should be assigned to one
19 department for all purposes, but solely for the reasons enunciated above in paragraphs 1, 3, 4, and 8.
20 This Project has a large record (over 160,000 pages) and a complex factual history. Judicial economy
21 will be best served by having one judge review the record(s) and resolve the cases. However, the
22 Alliance does not agree that the two cases should be consolidated or briefed and heard together.

23 The Alliance contends that the lodged record of proceedings in this case materially violates the
24 requirements of AB 900 in both timing and content and that Respondents have therefore forfeited the
25 streamlined litigation provisions of AB 900. The Alliance is filing a motion requesting an order
26 removing this case from AB 900 timelines based on Respondents’ failure to comply with strict
27 timelines for preparing an adequate record.

1 Further, the Alliance believes that, because City Case is not a “CEQA Challenge,” it is not
2 subject to AB 900. (Cal. Rules of Court, rules 3.2220 (b) [AB 900 cases are limited to “grounds of
3 noncompliance with” CEQA]; rule 3.2223 [caption requires designation of “Environmental Leadership
4 CEQA Challenge]; rule 3.2230 [assuming that all AB 900 cases are subject to CEQA’s general
5 requirement for a mandatory settlement conference].) The City Case is not subject either to AB 900’s
6 “fast-track” timelines or even CEQA’s standard expedited timelines. And even if AB 900 could be
7 construed to apply to both actions, the challenged approvals and record certification dates were
8 different and briefing schedules must be too. Without a unified briefing and hearing schedule, no
9 efficiency is achieved by consolidation.

10 *****

11 The parties propose that, at the CMC, this Court establish an expedited briefing schedule and
12 hearing date for both Respondents’ and Real Parties’ motion to consolidate and the Alliance’s motion
13 forfeit AB 900 timelines. The parties’ proposed schedule for briefing and hearing the motions is set
14 forth in item 7.

15 5. Appointment of Liaison or Lead Counsel (Rule 3.2226, subd. (c)(5)).

16 The parties do not believe that this Court should appoint a liaison or lead counsel.

17 6. Administrative Record (Rule 3.2226, subd. (c)(6)).

18 On December 14, 2015, Respondents certified a record of proceedings. On January 21, 2016,
19 Respondents lodged and served what was described as the certified record of proceedings. The
20 Alliance claims the record lodged and served on January 21, 2016, is materially different from the
21 certified record of proceedings. On February 12, 2016 the City lodged a corrected record of
22 proceedings to fix certain links between the index and the record documents that were inoperable in the
23 index lodged on January 21, 2016.

24 On March 14, 2016, Respondents lodged and served the certified record of proceedings in the
25 City Case. That record includes the full record in this case, plus an additional volume encompassing
26 those documents related to a February 24, 2016 appeal of one of the Project approvals. Respondents
27 and Real Parties contend the amount of new material in the additional volume, beyond that already
28 found in the record lodged and supplied to Petitioners on January 21, 2016, is relatively modest.

1 Rule 3.2225, subdivision (c), provides that any request to augment or otherwise change the
2 contents of the administrative record must be made by motion served and filed no later than the filing
3 of that party's initial brief and that any motion regarding the record will be heard at the time of the
4 hearing on the merits of the petition unless the court orders otherwise. Respondents and Real Parties
5 thus propose that motions concerning the contents of the record be filed in accordance with this rule on
6 the briefing schedule set forth below under item 9, and that this Court hold a hearing on any such
7 motions on the trial date.

8 The Alliance contends that the lodged record of proceedings in this case materially violates
9 AB 900's requirements in both timing and content, and that Respondents have forfeited the streamlined
10 litigation provisions of AB 900. The Alliance further contends that, regardless of whether this action is
11 subject to AB 900 rules, the lodged record must be certified in conformance with mandatory CEQA
12 rules governing electronic records, including indexing and bookmarking, before it will be usable for
13 purposes of briefing the merits and for the Court's review and decision.

14 7. Motions before the Hearing on the Merits (Rule 3.2226, subd. (c)(7)).

15 As previously noted, Respondents and Real Parties will file a Demurrer and a Motion to Consolidate
16 the City Case. The Alliance will file a motion for an Order to Show Cause for removal of this case
17 from AB 900 timelines under Rule 3.2221 (c) and for correction of the record as described above. The
18 parties propose that all of these motions – the Demurrer, the motion to consolidate, and the motion for
19 sanctions and for correction of the record – be heard according to an expedited briefing schedule and
20 hearing date; to wit:

21 The Alliance's motion for sanctions and supporting memorandum; Respondents' and Real Parties' Demurrer and motion to consolidate and supporting memoranda	March 25, 2016 at noon (served but not filed until court approves hearing date at CMC)
22 Opposition memoranda	Served on March 31; filed on April 1, 2016, except Demurrer opposition served and filed on April 1
23 Reply memoranda	April 5, 2016
24 Hearing date	April 8, 2016, 8:30 a.m.

1 The parties request that, at the CMC, this Court establish a briefing schedule and hearing date
2 for these motions.

3 8. Issues Expected to be Raised in Briefs (Rule 3.2226, subd. (c)(8)).

4 The Alliance expects to raise issues in their brief on the merits of this case delineated in the
5 mandamus petition at paragraphs 43, 46, and 47, without limitation.

6 9. Schedule for Briefs on the Merits (Rule 3.2226, subd. (c)(9)).

7 Proceedings under AB 900 are to be resolved within 270 days of the date the City certified the
8 record of proceedings. (Pub. Resources Code, § 21185.) On December 14, 2015, the City certified the
9 record of proceedings.

10 Respondents and Real Parties take the position that this action, including any appeals, is to be
11 resolved within 270 days of December 14, 2015; to wit, on or before September 9, 2016.

12 The Alliance disagrees for many reasons. The Alliance contends that AB 900 rules do not
13 apply, and further contends that the record certified on December 14, 2016 in this case materially
14 differs from the record lodged on January 21, 2016, and is not usable for briefing purposes due to many
15 violations of the Rules of Court governing records in CEQA cases. The Alliance also contends that,
16 even if the City Case were to be consolidated with this case and the Court subjects it to AB 900
17 timelines, the record certification did not occur until February when the final administrative appeal
18 concluded.

19 The Alliance's motion for removal of this action from AB 900 timelines will be contested by
20 Respondents and Real Parties.

21 The parties agree that, regardless of whether AB 900 rules apply, every CEQA action is entitled
22 to priority over other civil matters. (Pub. Resources Code, § 21167.1, subd. (a).)

23 The parties take different positions regarding filing merits briefs. The Alliance contends that it
24 will be premature to set a briefing schedule until the record and its index are in usable form to permit
25 briefing to begin. Indeed, the Alliance sees Respondents' and Real Parties' schedule as being premised
26 on the assumption that this Court will deny the Alliance's motion regarding the administrative record
27 and sanctions removing this case from AB 900 timelines, and that the rules establishing an expedited
28 schedule for litigation involving an AB 900 project will apply. The Alliance further contends that the

1 two actions should not be briefed or heard together because they involve different legal and factual
2 issues and the City Case has no CEQA cause of action. Respondents and Real Parties also contend that
3 the Alliance's claim that it has forfeited the AB 900 timetable is meritless and in any event that
4 Respondents' and Real Parties' schedule is consistent with the requirement, applicable to all CEQA
5 cases, that this matter is entitled to priority over other civil matters. (Pub. Resources Code, § 21167.1,
6 subd. (a).)

7 Respondents and Real Parties propose:

Brief	Respondents' and Real Parties' proposed deadline to file/serve	Page limit
Petitioners' opening brief	April 13, 2016 (three court days after hearing on motions to consolidate and for sanctions)	40
Respondents and Real Parties' brief	May 6, 2016	40
Petitioners' reply brief	May 16, 2016	15

17 Respondents and Real parties propose that each "side" file single, consolidated briefs, rather
18 than multiple briefs, that the briefs will address all claims in both this action and in the City Case, and
19 that motions related to the contents of the record would be filed concurrent with the merits briefs.

20 In this paragraph and the two paragraphs that follow, Respondents and Real Parties offer the
21 following explanation for why they believe their proposed schedule is appropriate: Under Rule 3.2227,
22 Petitioners' opening brief would ordinarily be due within 25 days after the court's initial case
23 management conference. The initial case management conference, in turn, is supposed to occur within
24 30 days of filing the petition. (Rule 3.32226, subd. (a) [initial case management conference to occur
25 within 30 days of filing of petition].) Here, Petitioners filed the petition on January 7, 2016. Thus,
26 Petitioners' opening brief should have been due no more than 55 days thereafter, or on March 2, 2016.

27 In this case, however, the case management conference did not occur within the time frame
28 established by the Rules of Court. The reason for the delay is that Petitioners initially filed this case in

1 Sacramento County Superior Court, rather than San Francisco. Respondents and Real Parties moved to
2 transfer venue; this motion was briefed and decided in 20 days. Petitioners then sought writ review of
3 the superior court's order transferring venue, and Petitioners refused Respondents' and Real Parties'
4 request to expedite this process and instead took nearly the maximum period for filing for writ review.
5 As a result, the Court of Appeal denied the writ petition 29 days after the trial court's order. Following
6 an additional effort by the Alliance to delay the transfer, the case was transferred to San Francisco and,
7 eight days after the Court of Appeal's denial of the writ petition, assigned to this Department.
8 Respondents and Real Parties then filed an ex parte application to schedule a Case Management
9 Conference. Thus, the Case Management Conference – which should have occurred no later than no
10 later than February 8, 2016 (Rule 3.2226, subd. (a)) – is instead taking place more than seven weeks
11 later, on March 29, 2016. This delay is entirely attributable to Petitioners' decision to file in the wrong
12 court, and then seek writ review of the Sacramento County Superior Court's order transferring the case
13 to the right court.

14 Respondents and Real Parties note that this schedule is consistent with Public Resources Code
15 section 21167.4, subdivision (c), which applies to CEQA litigation generally. That section generally
16 provides that briefing should be completed within a 90-day period, and the hearing on the merits should
17 be held within 30 days thereafter. In this case, the City filed and served the record on January 21, 2016.
18 At that point, Petitioners had the information they needed in order to prepare their merits brief. Under
19 the general time frame established by section 21167.4, subdivision (c), briefing ought to be completed
20 on or before April 20, 2016. Section 21167.4 therefore provides a further basis for adopting the
21 briefing schedule proposed by Respondents and Real Parties.

22 Petitioners' response (next four paragraphs):

23 Respondents' and Real Parties misconstrue the Rules of Court in stating that an opening brief is
24 due within 25 days following the initial case management conference. Rule 3.2226 states that the initial
25 case management conference should include consideration of “[w]hether a further case management
26 conference should be set.” (Rule 3.2226, (c)(14).) The 25-day period in Rule 3.2227 does not
27 necessarily begin with the *initial* case management conference but rather from “the case management
28 conference.” A further case management conference should follow resolution of the motions discussed

1 above. As explained above, it is premature to set briefing and hearing dates at the present. It is also
2 premature to establish page limits for the merits briefs because the record is not in usable format yet,
3 and the parties need the record in usable format to cite to all of the evidence that is relevant to their
4 claims. The Rules of Court also require hyperlinks to the record that will be unduly time consuming
5 and inefficient until the Respondents correct their indexing and bookmarking violations.

6 As explained in paragraph 7, Petitioners have proposed and the parties have now agreed to an
7 expedited schedule for briefing the pending motions that will address consolidation, the demurrer, the
8 record, and the forfeit of AB 900 timelines, to be heard on April 8, 2016 if the Court's schedule
9 permits. Petitioners cannot agree to or even propose an appropriate briefing schedule or page limits
10 until those motions are resolved, and therefore respectfully request a second case management
11 conference on April 13, 2016.

12 As to touted delays for transfer of the case from Sacramento to San Francisco, all were
13 precipitated by Respondents' and Real Parties' motion to transfer venue. The Alliance filed this case in
14 Sacramento in good faith and for good cause, as it involves complex issues of redevelopment law.
15 Respondents and Real Parties could have avoided all delay by agreeing to venue in Sacramento County
16 rather than filing a motion to transfer venue.

17 In terms of proceeding under standard CEQA timelines, which the Alliance agrees are
18 applicable to this case although not the City Case, resolution of the problems with the administrative
19 record that will be brought before this Court in April must preclude setting a briefing schedule. The
20 current record is not usable for briefing either in this case or in the City Case which presents different
21 issues of law and fact but shares a substantial portion of the same record of proceedings.

22 * * *

23 The parties agree that they will both electronically file and serve all pleadings by e-mail on the
24 same date. (Rule 3.2222, subd. (b).)

25 Within five days of filing the briefs, the parties will file with this Court briefs that are
26 hyperlinked to the record of proceedings and to cited authority. (Rule 3.2227, subd. (a)(1).)

27 9. Page Limitations for Briefs on the Merits (Rule 3.2226, subd. (c)(10)).

28 Please see item 8.

1 10. Hearing Date and Time Allotment (Rule 3.2226, subd. (c)(11)).

2 Under Rule 3.2227, subdivision (b)(1), the trial court is directed to conduct a hearing within 80
3 days of the Case Management Conference. In this instance, the Case Management Conference was
4 delayed by the parties' dispute over the proper venue. The parties therefore request that this Court
5 schedule the hearing on the merits at its convenience following 15 court days after the Alliance files the
6 reply brief on the merits, or as soon thereafter as the matter may be heard by the court. The hearing
7 date will vary depending on which briefing schedule is adopted by this Court. If the Court adopts
8 Respondents' and Real Parties' schedule, with which the Alliance disagrees for the reasons stated, then
9 the hearing would occur on or after June 6, 2016.

10 The Respondents and Real Parties propose that the Court reserve one day for the hearing. The
11 Alliance proposes that two days be reserved for hearing.

12 11. Potential for Settlement (Rule 3.2226, subd. (c)(12)).

13 The parties have met and conferred regarding the potential for settlement, without success. The
14 parties do not believe the Court needs to schedule a settlement conference or order alternative dispute
15 resolution. If the Court schedules a settlement conference, the parties will participate in good faith.

16 12. Stipulations (Rule 3.2226, subd. (c)(13)).

17 The parties have entered into a stipulation dismissing with prejudice the Third Cause of Action
18 (Reverse Validation). The parties have not entered into any other stipulations.

19 13. Additional Case Management Conferences (Rule 3.2226, subd. (c)(14)).

20 The Respondents and Real Parties request that the Court schedule an additional case
21 management conference on April 8, 2016, at 8:30 a.m., reasoning that is the same date that the Court is
22 requested by Respondents and Real Parties to conduct a hearing on the motions to consolidate and for
23 sanctions, and that this approach will enable the Court and the parties to address any further case
24 management conference issues that may exist at that time. However, as noted above, the Alliance
25 requests that the further case management conference be held on April 13, 2016, at 8:30 a.m., following
26 the parties' pending motions. Respondents and Real Parties contend that this will simply further delay
27 an action subject to the expedited timetable under AB 900.

28 14. Other Matters (Rule 3.2226, subd. (c)(15)).

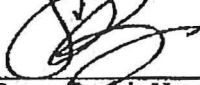
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The parties are not aware of any other matters to be addressed by the Court at this time.

Dated: March 24, 2016

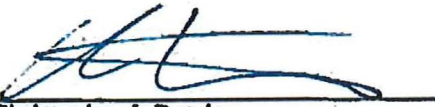
Respectfully submitted,

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MISSION BAY ALLIANCE


Dated: March 24, 2016

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Dated: March 24, 2016

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Dated: March 24, 2016

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GSW ARENA LLC and DAVID KELLY

3
4 **PROOF OF SERVICE**

5 I, Michele L. Nickell, am a citizen of the United States, employed in the City and County of
6 Sacramento. My business address is 555 Capitol Mall, Suite 800, Sacramento, California 95814 and
7 email address is bthorne@rmmenvirolaw.com. I am over the age of 18 years and not a party to the
8 above-entitled action.

9 I am familiar with Remy Moose Manley, LLP's practice whereby the mail is sealed, given the
10 appropriate postage and placed in a designated mail collection area. Each day's mail is collected and
11 deposited in a U.S. mailbox after the close of each day's business.

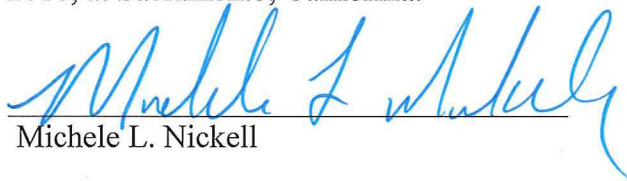
12 On March 24, 2016, I served the following:

13 **JOINT CASE MANAGEMENT CONFERENCE STATEMENT**

- 14 On the parties in this action by causing a true copy thereof to be placed in a sealed envelope,
15 with postage fully prepaid, in the designated area for outgoing mail and addressed as below
- 16 On the parties in this action by causing a true copy thereof to be delivered via Federal Express
17 to the following person(s) or their representative at the address(es) listed below
- 18 On the parties in this action by causing a true copy thereof to be delivered via facsimile from
19 (916) 443-9017, to the following person(s) or representative at the facsimile number(s) listed
20 below, with a facsimile transmission reported as complete and without error
- 21 On the parties in this action by causing a true copy thereof to be electronically delivered via
22 the internet to the following person(s) or representative at the email address(es) listed below

23 **SEE ATTACHED SERVICE LIST**

24 I declare under penalty of perjury that the foregoing is true and correct and that this Proof of
25 Service was executed this 24th day of March 2016, at Sacramento, California.

26 
27 Michele L. Nickell

3 **SERVICE LIST**

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