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11 Capitol Corridor Joint Powers Authority

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

04/04/2022 at 11:59:44 AM

By: Suzanne Pesko, Deputy Clerk

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **COUNTY OF ALAMEDA**

14 CAPITOL CORRIDOR JOINT POWERS
15 AUTHORITY,

16 Petitioner,

17 v.

18 CITY OF OAKLAND, a municipal corporation;
19 CITY COUNCIL OF THE CITY OF
OAKLAND; and DOES 1 through 20,

20 Respondents,

21
22 OAKLAND ATHLETICS INVESTMENT
GROUP, LLC, and PORT OF OAKLAND legally
23 named as the City of Oakland, a municipal
corporation, acting by and through its Board of
24 Port Commissioners, and ROES 1-20,

25 Real Parties in Interest.

CASE NO. CIV 22CV009308

**ENVIRONMENTAL LEADERSHIP
CEQA CHALLENGE**

**VERIFIED PETITION FOR WRIT OF
MANDATE**

**[CCP §§ 1085 and 1094.5; Pub. Res. C. §§
21168 and 21168.5]**

**EXEMPT FROM FILING FEES
[CAL. GOVT. CODE § 6103]**

1 Petitioner Capitol Corridor Joint Powers Authority (“CCJPA”) respectfully petitions this
2 Court for a writ of mandate pursuant to California Code of Civil Procedure §§ 1085 and/or 1094.5
3 and California Public Resources Code §§ 21168 and/or 21168.5, as follows:

4 **INTRODUCTION**

5 1. On February 17, 2022, Respondent City Council adopted Resolution No. 89045 certifying
6 the Environmental Impact Report (“EIR”) for the Oakland Waterfront Ballpark District Project or
7 “Howard Terminal Project” (“Project”) and, in reliance on the EIR, conducted a first reading of
8 Ordinance No. 13681, pursuant to which the Board of Port Commissioners relinquished to the
9 City Council all jurisdictional responsibilities to approve, permit, and administer “Project
10 Approvals on the Port Area Project Site” (the “Jurisdictional Ordinance”). On March 1, 2022, the
11 City Council conducted a second reading of and thereafter adopted Ordinance No. 13681.
12 Together, these actions are the first of numerous steps the City will be required to take as it
13 pursues a long-sought after major league baseball stadium to serve as the home of the Oakland A’s
14 baseball team.

15
16 2. In certifying the EIR and approving the Jurisdictional Ordinance, the City Council, acting
17 on behalf of the City of Oakland (together “the City” or “Respondent”), failed to conduct adequate
18 environmental review of the potentially significant adverse environmental effects of the Project
19 and failed to comply with the California Environmental Quality Act (“CEQA”) set forth at Pub.
20 Res. Code § 21000, *et seq.*, and CEQA Guidelines, 14 Cal. Code Regs. §§ 15000, *et seq.*

21
22 3. As set forth herein, Respondent violated CEQA by failing to adequately analyze and
23 mitigate the Project’s significant public safety risks associated with the large number of motor
24 vehicles, bicycles, and pedestrians that will have to cross numerous heavily-trafficked at-grade
25 railroad crossings in the Project vicinity in order to access the Project.

26 4. A writ of mandate is necessary to direct the City to set aside Resolution No. 89045 and
27

1 Ordinance No. 13681 and to compel the City to properly analyze the Project’s significant and
2 unavoidable public safety risks in compliance with CEQA.

3 **PARTIES**

4 5. Petitioner **Capitol Corridor Joint Powers Authority** (“CCJPA”) is a statutory joint
5 powers authority authorized pursuant to the Intercity Passenger Rail Act of 1996 (S.B. 457,
6 Chapter 263, codified at Cal. Govt. Code § 14070 et seq), and formed pursuant Article 1, Chapter
7 5, Division 7, Title 1, Sections 6500 et seq. of the California Government Code, for the primary
8 purpose of managing the Capitol Corridor Rail Service, which encompasses a 170-mile rail
9 corridor in Placer, Sacramento, Yolo, Solano, Contra Costa, Alameda, San Francisco, and Santa
10 Clara Counties. The Capitol Corridor Rail Service serves several rail stations along the Highway
11 80, 680, and 880 corridors, including the Oakland Jack London station. Adjacent to the Project
12 site, CCJPA operates thirty (30) weekday trains and twenty-two (22) weekend trains on tracks
13 owned by Union Pacific Railroad (“UPRR”).
14

15 6. Respondent **City of Oakland** is, and at all times mentioned herein was, a municipal
16 corporation organized as a Charter City under the Constitution of the State of California.

17 7. Respondent **City Council of the City of Oakland** is, and at all times mentioned herein
18 was, the elected governing body of the City, with jurisdiction over consideration and approval of
19 the Project.
20

21 8. Real Party in Interest **The Port of Oakland**, legally named as the City of Oakland, a
22 municipal corporation, acting by and through its Board of Port Commissioners (“the Port”) is a
23 department of the City that is governed and managed by the Board of Port Commissioners and its
24 appointed staff. Under the Charter of the City of Oakland, the Port Board has the “complete and
25 exclusive power” to control and manage Port Areas, which include more than 800 acres of land on
26 waterfront property. In connection with the Project, the City Council approved Ordinance No.
27

1 13681 approving the relinquishment by the Board of Port Commissioners to the City Council
2 jurisdictional responsibilities necessary to approve, permit, and administer project approvals for
3 the Project.

4 9. Real Party in Interest **The Oakland Athletics Investment Group, LLC** is the Project
5 Applicant that proposes to acquire the approvals and property rights required to construct a new
6 Major League Baseball ballpark, as well as significant residential, entertainment, office, hotel, and
7 retail (mixed-use) development, in order to create the Oakland Waterfront Ballpark District on
8 what is now the Port of Oakland's Charles P. Howard Terminal site. Petitioner is informed and
9 believes, and on that basis alleges, that the Project Applicant is a limited liability company with its
10 principal place of business in Oakland, doing business as the Oakland Athletics, a Major League
11 Baseball team.

13 10. Petitioner does not currently know the true names of DOES 1 through 20 inclusive, and
14 therefore names them by such fictitious names. Petitioner will seek leave from the Court to amend
15 this Petition to reflect the true names and capacities of DOES 1 through 20 inclusive once those
16 names are known to Petitioner.

17 11. Petitioner does not currently know the true names of ROES 1 through 20 inclusive, and
18 therefore names them by such fictitious names. Petitioner will seek leave from the Court to amend
19 this Petition to reflect the true names and capacities of ROES 1 through 20 inclusive once those
20 names are known to Petitioner.

22 **JURISDICTION AND VENUE**

23 12. Jurisdiction of this Court is invoked pursuant to Code of Civil Procedure § 1085 and Public
24 Resources Code § 21168.5, or in the alternative, Code of Civil Procedure § 1094.5 and Pub.
25 Resources Code § 21168.

26 13. Venue is proper in this Court because the Project is located within the City of Oakland and

1 County of Alameda, which is also the location in which the causes of action alleged in this
2 Petition arose.

3 **STANDING AND PROCEDURAL ALLEGATIONS**

4 14. CCJPA is directly and adversely affected by the Project, and has a direct and substantial
5 beneficial interest in the City’s full and complete compliance with CEQA before proceeding to
6 approve it. CCJPA commented on the draft EIR (“DEIR”) and raised objections to the final EIR
7 (“FEIR”) in opposition to the Project in the course of the City proceedings.
8

9 15. Specifically, CCJPA has a direct and substantial interest in the City’s identification,
10 evaluation, and mitigation of reasonably foreseeable direct and indirect physical changes in the
11 environment that the City concedes will be caused by the Project. The Project’s “substantial
12 transportation hazards” will be borne not just by the public, but also CCJPA, as any fatalities and
13 collisions occurring on its track could result in significant liability exposure and operational
14 delays.

15 16. On April 1, 2022, CCJPA’s attorney sent, by electronic and first class mail, a Notice of
16 Commencement of Action pursuant to Public Resources Code § 21167.5 to the City and City
17 Attorney’s office informing the City of CCJPA’s intent to file the instant legal action. A true and
18 accurate copy of this Notice is attached hereto and incorporated herein by reference as **Exhibit A**.

19 17. In accordance with Pub. Res. Code § 21167.7, on April 1, 2022, CCJPA’s attorney sent, by
20 first class mail, a copy of its Verified Petition on the Attorney General’s office to give notice of
21 CCJPA’s intent to bring this proceeding. A true and accurate copy of such notice is attached
22 hereto and incorporated herein by reference as **Exhibit B**.

23 18. On April 1, 2022, CCJPA complied with the requirements of CEQA § 21167.6 by
24 concurrently filing a request concerning preparation of the Record of Proceedings relating to this
25 action. A true and correct copy of such notice is attached hereto and incorporated herein by
26

1 reference as **Exhibit C**. Pursuant to CEQA § 21168.6.7(g)(8), the City is required to certify the
2 Record of Proceedings to this Court within ten (10) days of service of this Petition.

3 19. The Project was certified by the Governor of the State of California as a leadership project
4 under California Public Resources Code §§ 21182-21184 and, pursuant to California Public
5 Resources Code § 21168.6.7(c), is subject to California Rule of Court Rule 2.2223.

6 20. CCJPA has performed all conditions precedent to filing this action and have exhausted any
7 and all available administrative remedies to the extent required by law.

8 21. CCJPA has no other plain, speedy and adequate remedy in the ordinary course of the law
9 unless this Court grants the requested writ of mandate. In the absence of such remedy, the City's
10 improper action will remain in effect in violation of law.

12 **FACTUAL BACKGROUND**

13 **A. CCJPA's Operations in the Project Vicinity**

14 22. The Project site is located in the Jack London District of Oakland, directly across from
15 UPRR mainline tracks and the Oakland Jack London Square station on and through which
16 CCJPA runs 30 weekday and 22 weekend trains. The UPRR tracks run at-grade along the north
17 boundary of the Project site, within the railroad right-of-way adjacent to and parallel between the
18 eastbound and westbound lanes of Embarcadero West. Two railroad tracks exist, with a third
19 track at some locations.

20 23. The Project is proposed to include a 35,000-seat baseball stadium and event venue (with
21 games, concerts and other events estimated at 354 events per year); up to 3,000 new residential
22 units; up to 1,500,000 square feet of new office/commercial uses, 270,000 square feet of retail
23 uses, a 3,500-seat (50,000 square foot) indoor performance venue for "year-round" events; and
24 hotel uses in one or more buildings with up to 400 rooms.

25 24. If constructed, the Project will host up to 35,000 people on the day of games, in addition to
26

1 thousands of additional motorists, bicyclists, and pedestrians who will presumably work and live
2 in, and otherwise utilize, the over 2 million square feet of mixed-use development proposed.

3 25. The UPRR rail line utilized by CCJPA to provide passenger service runs at-grade across
4 Market Street and Martin Luther King Junior Way as well as Clay, Washington, Broadway,
5 Franklin, Webster, and Oak Streets. There are two UPRR mainline tracks through all the at-grade
6 crossings, except at Market Street and Oak Street where there are three tracks. In addition to
7 CCJPA's 30 weekday and 22 weekend passenger trains, the UPRR rail line also accommodates
8 up to 15 freight trains per day and additional passenger trains operated by Amtrak.
9

10 **B. Preparation and Certification of the EIR**

11 26. On November 30, 2018, the City issued a Notice of Preparation ("NOP") of an
12 environmental impact report for the Project. On January 7, 2019, CCJPA submitted comments
13 relating to the necessary scope of environmental review for the Project and outlining various
14 issues that needed to be analyzed in the EIR related to CCJPA's operations in the Project area, as
15 well as the Project's proximity to the highly active rail corridor.

16 27. On February 26, 2021, the City released the DEIR. The DEIR concluded that operation of
17 the Project would result in a permanent and substantial transportation hazard, as well as
18 contribute to a cumulative transportation hazard, as a result of additional multimodal traffic (e.g.,
19 motorists, pedestrians, bus riders, bicyclists) traveling across the at-grade railroad crossings on
20 Embarcadero. The DEIR proposed implementation of Mitigation Measures TRANS-3a (at-grade
21 railroad crossing improvements) and TRANS-3b (single pedestrian overcrossing) to reduce the
22 transportation hazard, but not to a less-than-significant level.
23

24 28. The DEIR acknowledged that full grade separation would reduce the transportation
25 hazards to pedestrians, bicyclists, and vehicle drivers to less than significant. However, the
26 "[p]rovision of a grade-separated crossing prior to commencement of Project construction was
27

1 deemed infeasible given the length of time it would take to design, get approval for, and construct
2 a new grade-separated crossing and the stated Project objective to complete construction of the
3 new ballpark, together with any infrastructure required within a desirable timeframe and to
4 maintain the Oakland Athletics' competitive position within MLB.”

5 29. On April 27, 2021, CCJPA submitted timely comments on the DEIR identifying legal
6 inadequacies and factual omissions and errors in the document. CCJPA's comment letter
7 identified issues and concerns with the DEIR's analysis, conclusions, and proposed mitigation
8 related to, *inter alia*: construction and use of fencing along the UPRR rail line; construction and
9 use of a multi-use path on the west side of the UPRR rail line; improvements (or lack thereof) to
10 the numerous at-grade crossings; analysis of at-grade crossing volumes; analysis of additional
11 grade separations; the design and construction of a proposed pedestrian and bicycle overcrossing;
12 and impacts on rail operations, including CCJPA's passenger service.

13
14 30. On April 21, 2021, the City Council held a hearing on the DEIR at which Robert Padgette,
15 Managing Director of CCJPA, made oral comments reiterating CCJPA's comments on and
16 concerns with the DEIR's analysis and conclusions.

17 31. On December 17, 2021, the City issued the FEIR, inclusive of responses to comments,
18 changes to the text of the DEIR, a Mitigation Monitoring and Response Plan (“MMRP”), and
19 numerous technical appendices.

20
21 32. On February 17, 2022, CCJPA submitted a comment letter on the FEIR noting the
22 numerous ways in which the FEIR failed to adequately address the comments and concerns raised
23 in the CCJPA comment letter.

24 33. Specifically, CCJPA's February 17 letter asserted:

- 25 a. The City lacked substantial evidence to reject additional grade separated crossings,
26 either in the form of new or revised mitigation measures or as an alternative;

- 1 b. The City lacked substantial evidence to reject closure of at-grade crossings to
2 pedestrian traffic on game days as a feasible mitigation measure;
- 3 c. The FEIR failed to analyze the reasonably foreseeable impacts resulting from
4 implementation of Mitigation Measure TRANS-3a;
- 5 d. The FEIR analysis of the reduction in impacts from implementation of Mitigation
6 Measures TRANS-3a and TRANS-3b was fundamentally flawed;
- 7 e. The City's proposed (and since adopted) CEQA findings concerning Alternative 3:
8 The Proposed Project with Grade Separation Alternative, is not supported by substantial
9 evidence;
- 10 f. The City's proposed (and since adopted) Statement of Overriding Consideration
11 violated CEQA because the City failed to consider and adopt all feasible mitigation.
12

13 34. Despite the concerns raise by CCJPA and numerous other commenters, on February 17,
14 2022, the City Council voted 6-2 to adopt Resolution No. 89045 (a) certifying the Environmental
15 Impact Report for the Oakland Waterfront Ballpark District Project (ER 18-016) as recommended
16 by the Planning Commission; (b) adopting CEQA findings on impacts and mitigation measures for
17 the proposed Project with Grade Separation Alternative (Alternative 3), and rejection of other
18 alternatives and certain mitigation measures as infeasible; (c) adopting a Statement of Overriding
19 Considerations; and (d) adopting a Mitigation Monitoring and Reporting Program. The City
20 Council also voted 6-2 to adopt Ordinance No. 13681 (a) approving, pursuant to Article VII of the
21 Oakland City Charter, the relinquishment by the Board of Port Commissioners to the City Council
22 Jurisdictional responsibilities necessary to approve, permit, and administer project approvals for
23 the Proposed Oakland Waterfront Ballpark District Project; and (b) making findings under CEQA.
24

25 35. On March 1, 2022, the City Council voted on the same lines to adopt Resolution No.
26 89045 and Ordinance No. 13681, upon their second reading.

FIRST CAUSE OF ACTION
(Violation of CEQA, Pub. Res. Code § 21000, *et seq.*)

1
2
3 36. Petitioner incorporates by reference each and every allegation set forth above.

4 37. CEQA requires a lead agency for a project to prepare an EIR that complies with the
5 requirements of the statute.

6 38. In approving this Project, the City certified an EIR that fails to comply with CEQA in at
7 least the following ways:

- 8 a. Failed to adequately analyze an alternative that would avoid or substantially lessen
9 public safety impacts, and to adequately analyze and justify its findings of
10 infeasibility;
- 11 b. Failed to consider and adopt feasible mitigation measures that would reduce or
12 substantially lessen a significant and unavoidable impact;
- 13 c. Failed to analyze the reasonably foreseeable impacts resulting from implementation
14 of certain mitigation measures;
- 15 d. Improperly deferred impact analysis and mitigation measures;
- 16 e. Failed to adequately analyze the cumulative impacts of the Project;
- 17 f. Failed to adequately respond to public comments.

18
19 39. In support of its adoption of Resolution No. 89045 and Ordinance No. 13681, the City
20 adopted findings that are contrary to law and not supported by substantial evidence in the record,
21 including but not limited to its finding that all reasonably feasible mitigation measures had been
22 adopted, and approving the Project in reliance of those defective findings.

23 40. As a result of the foregoing defects, the City prejudicially abused its discretion by:
24 certifying an EIR that does not comply with CEQA and approving the Project in reliance on a
25 defective EIR; refusing to amend and recirculate the EIR in response to significant errors,
26

1 omissions, and new information presented by the public during the comment period; and adopting
2 inadequate and legally defective findings and approving the Project in reliance on those findings.

3 41. Because the City acted unlawfully and prejudicially abused its discretion, its certification
4 of the EIR and approval of the Project must be set aside.

5 **PRAYER FOR RELIEF**

6 **WHEREFORE**, CCJPA prays for relief as follows:

- 7 1. For a peremptory writ of mandate setting aside and voiding the City's (1) certification of
8 the EIR and (2) adoption of the Jurisdictional Ordinance in reliance thereon, and all
9 subsequent approvals relating to the Project;
10
11 2. For a judicial determination that the City's certification of the EIR for the Project is
12 unlawful, an abuse of discretion, and of no legal effect;
13
14 3. For injunctive relief restraining the City from taking any further actions to approve the
15 Project pending a judgment in this action and the City's full compliance with CEQA;
16
17 4. For CCJPA's costs and attorneys' fees pursuant to California Code of Civil Procedure
18 section 1021.5; and
19
20 5. For such other and further relief as the Court finds proper.

21 DATED: April 4, 2022

TODD W. SMITH, ATTORNEY AT LAW

22 By: Todd W. Smith
23 Todd W. Smith
24 Attorney for Petitioner
25 Capitol Corridor Joint Powers Authority
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VERIFICATION

I am a party to the above action. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE and know the contents thereof.

The statements therein are true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 1ST day of April, 2022 at Oakland, California.



Robert Padgette
Managing Director
Capitol Corridor Joint Powers Authority

EXHIBIT A

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BYRON K. TOMA (SBN 96656)
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Office of the General Counsel
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Oakland, CA 94604-2688
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11 Attorneys for Petitioner
12 Capitol Corridor Joint Powers Authority

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF ALAMEDA**

15 **CASE NO. CIV**

16 **CAPITOL CORRIDOR JOINT POWERS
AUTHORITY,**

17 **Petitioner,**

18 **v.**

19 **CITY OF OAKLAND, a municipal corporation;
20 CITY COUNCIL OF THE CITY OF
OAKLAND; and DOES 1 through 20,**

21 **Respondents,**

**REQUEST FOR PREPARATION OF
RECORD OF PROCEEDINGS
PURSUANT TO CAL. PUB. RESC. CODE
§ 21167.6**

22
23 **OAKLAND ATHLETICS INVESTMENT
GROUP, LLC, and PORT OF OAKLAND legally
24 named as the City of Oakland, a municipal
25 corporation, acting by and through its Board of
Port Commissioners, and ROES 1-20,**

26 **Real Parties in Interest.**
27

1 PLEASE TAKE NOTICE, under Public Resources Code § 21167.6(a), Capitol Corridor
2 Joint Powers Authority (“Petitioner”) hereby requests that Respondents City of Oakland and City
3 Council of the City of Oakland (collectively, “the City”) compile and lodge with the Superior
4 Court of Alameda the record of proceedings related to the following actions taken by the City:

5 (1) Adoption of Resolution No. 89045 C.M.S (A) Certifying The Environmental Impact
6 Report For The Oakland Waterfront Ballpark District Project (ER18-016) As Recommended
7 By The Planning Commission; (B) Adopting California Environmental Quality Act (CEQA)
8 Findings On Impacts And Mitigation Measures for the Proposed Project With Grade
9 Separation Alternative (Alternative 3), And Rejection Of Other Alternatives And Certain
10 Mitigation Measures As Infeasible; (C) Adopting A Statement Of Overriding Considerations;
11 And (D) Adopting A Mitigation Monitoring and Reporting Program; and

12 (2) Approval of Ordinance No. 13681 (A) Approving, Pursuant To Article VII Of The
13 Oakland City Charter, The Relinquishment By The Board Of Port Commissioners To The City
14 Council Jurisdictional Responsibilities Necessary To Approve, Permit, And Administer
15 Project Approvals For The Proposed Oakland Waterfront Ballpark District Project To Be
16 Developed On That Portion Of The Port Area That Is Commonly Known As The Charles P.
17 Howard Terminal And Is Located Along The Inner Harbor Of The Oakland-Alameda Estuary;
18 And (B) Making Appropriate Findings Under The California Environmental Quality Act.

19
20 DATED: April 3, 2022

TODD W. SMITH, ATTORNEY AT LAW

21
22
23 By: Todd W. Smith
24 Todd W. Smith
25 Attorneys for Petitioner
26 Capitol Corridor Joint Powers Authority
27
28

1 **PROOF OF SERVICE**

2 I am an attorney and a member of the State Bar of California, with my place of business in the
3 City of San Rafael, County of Marin, State of California, and make this service at my direction. I
4 am over the age of eighteen years, and not a party to the within action. My business address is
5 Todd W. Smith, Attorney at Law, 314 Mountain View Ave., San Rafael, CA 94901. On April 4,
6 2022, I served the document(s) titled REQUEST FOR PREPARATION OF RECORD OF
7 PROCEEDINGS PURSUANT TO CAL. PUB. RESC. CODE § 21167.6 on the parties in this
8 action as follows:

9 CITY OF OAKLAND, a municipal corporation, and
10 CITY COUNCIL OF THE CITY OF OAKLAND,
11 Respondents

12 C/O Oakland City Attorney's Office
13 1 Frank H. Ogawa Plaza, 6th Floor
14 Oakland, CA 94612
15 claims@oaklandcityattorney.org

16 X **(BY MAIL)** I caused each envelope, with postage thereon fully prepaid, to be placed
17 in the United States mail at the Office of the United States Post Service located at 910 D
18 Street, San Rafael, CA 94901, during the regularly posted business hours of 9:30AM to
19 5PM.

20 _____ **(BY FACSIMILE)** The above-referenced document was transmitted by facsimile
21 transmission and the transmission was reported as complete and without error to the
22 numbers listed in the above service list.

23 _____ **(BY EMAIL TRANSMISSION)** The above-referenced document was transmitted
24 via electronic transmission to the persons at the electronic-email addresses indicated above.

25 _____ **(BY PERSONAL SERVICE)** I delivered to an authorized courier or driver
26 authorized by to receive documents to be delivered on the same date. A proof of service
27 signed by the authorized courier will be filed forthwith.

28 I declare under penalty of perjury that the foregoing is true and correct. Executed April 4,
2022, at San Rafael, California.

By: Todd W. Smith
Todd W. Smith

EXHIBIT B

1 TODD W. SMITH (SBN 235566)
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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

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15 **CASE NO. CIV**

16 **CAPITOL CORRIDOR JOINT POWERS
AUTHORITY,**

17 **Petitioner,**

18 **v.**

19 **CITY OF OAKLAND, a municipal corporation;
20 CITY COUNCIL OF THE CITY OF
OAKLAND; and DOES 1 through 20,**

NOTICE TO ATTORNEY GENERAL

21 **Respondents,**

22 **OAKLAND ATHLETICS INVESTMENT
23 GROUP, LLC, and PORT OF OAKLAND legally
24 named as the City of Oakland, a municipal
25 corporation, acting by and through its Board of
Port Commissioners, and ROES 1-20,**

26 **Real Parties in Interest.**
27

1 To the Attorney General of the State of California:

2 PLEASE TAKE NOTICE, under Public Resources Code § 21167.7 and Code of Civil
3 Procedure § 288, that on April 4, 2022, Capitol Corridor Joint Powers Authority (“Petitioner”) will
4 file the attached Verified Petition for Writ of Mandate under the provision of the California
5 Environmental Quality Act, California Public Resources Code §§ 21000 et seq (“CEQA”) against
6 City of Oakland (“Respondent”) in Alameda County Superior Court.

7 The Petition alleges that Respondent violated CEQA and abused their discretion in taking
8 the following actions: (1) Adoption of Resolution No. 89045 C.M.S (A) Certifying The
9 Environmental Impact Report For The Oakland Waterfront Ballpark District Project (ER18-016)
10 As Recommended By The Planning Commission; (B) Adopting California Environmental Quality
11 Act (CEQA) Findings On Impacts And Mitigation Measures for the Proposed Project With Grade
12 Separation Alternative (Alternative 3), And Rejection Of Other Alternatives And Certain
13 Mitigation Measures As Infeasible; (C) Adopting A Statement Of Overriding Considerations; And
14 (D) Adopting A Mitigation Monitoring and Reporting Program; and (2) approval of Ordinance
15 No. 13681 (A) Approving, Pursuant To Article VII Of The Oakland City Charter, The
16 Relinquishment By The Board Of Port Commissioners To The City Council Jurisdictional
17 Responsibilities Necessary To Approve, Permit, And Administer Project Approvals For The
18 Proposed Oakland Waterfront Ballpark District Project To Be Developed On That Portion Of The
19 Port Area That Is Commonly Known As The Charles P. Howard Terminal And Is Located Along
20 The Inner Harbor Of The Oakland-Alameda Estuary; And (B) Making Appropriate Findings
21 Under The California Environmental Quality Act.

22
23 DATED: April 3, 2022

TODD W. SMITH, ATTORNEY AT LAW

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25
26 By: Todd W. Smith
27 Todd W. Smith
28 Attorneys for Petitioner
Capitol Corridor Joint Powers Authority

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PROOF OF SERVICE

I am an attorney and a member of the State Bar of California, with my place of business in the City of San Rafael, County of Marin, State of California, and make this service at my direction. I am over the age of eighteen years, and not a party to the within action. My business address is Todd W. Smith, Attorney at Law, 314 Mountain View Ave., San Rafael, CA 94901. On April, 2022, I served the document(s) titled NOTICE TO ATTORNEY GENERAL as follows:

Office of the Attorney General
1515 Clay Street
Oakland, CA 94612-1499

X **(BY MAIL)** I caused each envelope, with postage thereon fully prepaid, to be placed in the United States mail at the Office of the United States Post Service located at 910 D Street, San Rafael, CA 94901, during the regulary posted business hours of 9:30AM to 5PM.

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I declare under penalty of perjury that the foregoing is true and correct. Executed April 4, 2022, at San Rafael, California.

By: Todd W. Smith
Todd W. Smith

EXHIBIT C

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6 MARY WILKE (216723)
Office of the General Counsel
7 Capitol Corridor Joint Powers Authority
8 300 Lakeside Drive – 23rd Floor
Oakland, CA 94604-2688
9 Telephone: (510) 464-6025
10 Facsimile:(510) 464-6049

11 Attorneys for Petitioner
12 Capitol Corridor Joint Powers Authority

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF ALAMEDA**

15 CAPITOL CORRIDOR JOINT POWERS
16 AUTHORITY,

17 Petitioner,

18 v.

19 CITY OF OAKLAND, a municipal corporation;
20 CITY COUNCIL OF THE CITY OF
OAKLAND; and DOES 1 through 20,

21 Respondents,

22
23 OAKLAND ATHLETICS INVESTMENT
24 GROUP, LLC, and PORT OF OAKLAND legally
25 named as the City of Oakland, a municipal
corporation, acting by and through its Board of
Port Commissioners, and ROES 1-20,

26 Real Parties in Interest.
27

CASE NO. CIV

**REQUEST FOR PREPARATION OF
RECORD OF PROCEEDINGS
PURSUANT TO CAL. PUB. RESC. CODE
§ 21167.6**

1 PLEASE TAKE NOTICE, under Public Resources Code § 21167.6(a), Capitol Corridor
2 Joint Powers Authority (“Petitioner”) hereby requests that Respondents City of Oakland and City
3 Council of the City of Oakland (collectively, “the City”) compile and lodge with the Superior
4 Court of Alameda the record of proceedings related to the following actions taken by the City:

5 (1) Adoption of Resolution No. 89045 C.M.S (A) Certifying The Environmental Impact
6 Report For The Oakland Waterfront Ballpark District Project (ER18-016) As Recommended
7 By The Planning Commission; (B) Adopting California Environmental Quality Act (CEQA)
8 Findings On Impacts And Mitigation Measures for the Proposed Project With Grade
9 Separation Alternative (Alternative 3), And Rejection Of Other Alternatives And Certain
10 Mitigation Measures As Infeasible; (C) Adopting A Statement Of Overriding Considerations;
11 And (D) Adopting A Mitigation Monitoring and Reporting Program; and

12 (2) Approval of Ordinance No. 13681 (A) Approving, Pursuant To Article VII Of The
13 Oakland City Charter, The Relinquishment By The Board Of Port Commissioners To The City
14 Council Jurisdictional Responsibilities Necessary To Approve, Permit, And Administer
15 Project Approvals For The Proposed Oakland Waterfront Ballpark District Project To Be
16 Developed On That Portion Of The Port Area That Is Commonly Known As The Charles P.
17 Howard Terminal And Is Located Along The Inner Harbor Of The Oakland-Alameda Estuary;
18 And (B) Making Appropriate Findings Under The California Environmental Quality Act.

19
20 DATED: April 3, 2022

TODD W. SMITH, ATTORNEY AT LAW

21
22
23 By: Todd W. Smith
24 Todd W. Smith
25 Attorneys for Petitioner
26 Capitol Corridor Joint Powers Authority
27
28

1 **PROOF OF SERVICE**

2 I am an attorney and a member of the State Bar of California, with my place of business in the
3 City of San Rafael, County of Marin, State of California, and make this service at my direction. I
4 am over the age of eighteen years, and not a party to the within action. My business address is
5 Todd W. Smith, Attorney at Law, 314 Mountain View Ave., San Rafael, CA 94901. On April 4,
6 2022, I served the document(s) titled REQUEST FOR PREPARATION OF RECORD OF
7 PROCEEDINGS PURSUANT TO CAL. PUB. RESC. CODE § 21167.6 on the parties in this
8 action as follows:

9 CITY OF OAKLAND, a municipal corporation, and
10 CITY COUNCIL OF THE CITY OF OAKLAND,
11 Respondents

12 C/O Oakland City Attorney's Office
13 1 Frank H. Ogawa Plaza, 6th Floor
14 Oakland, CA 94612
15 claims@oaklandcityattorney.org

16 X **(BY MAIL)** I caused each envelope, with postage thereon fully prepaid, to be placed
17 in the United States mail at the Office of the United States Post Service located at 910 D
18 Street, San Rafael, CA 94901, during the regularly posted business hours of 9:30AM to
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25 _____ **(BY PERSONAL SERVICE)** I delivered to an authorized courier or driver
26 authorized by to receive documents to be delivered on the same date. A proof of service
27 signed by the authorized courier will be filed forthwith.

28 I declare under penalty of perjury that the foregoing is true and correct. Executed April 4,
2022, at San Rafael, California.

By: Todd W. Smith
Todd W. Smith