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September 12, 2012

Via Electronic and U.S. Mail

Los Angeles City Planning Commission, Major Projects
Via electronic mail to: henry.chu@lacity.org

Re: Convention and Event Center Project
Final Environmental Impact Report (Case No. ENV 2011-0585-EIR)

Dear Commissioners:

Thank you for the opportunity to comment on the Final Environmental Impact Report (FEIR) for the proposed Convention and Event Center Project ("Proposed Project" or "Project"). The Legal Aid Foundation of Los Angeles (LAFLA) writes these comments on behalf of the Play Fair at Farmers Field coalition (the "Coalition"). LAFLA was founded in 1929 and is the frontline law firm for poor and low-income people in Los Angeles County. LAFLA is committed to promoting access to justice, strengthening communities, and effecting systemic change through representation, advocacy, and community education. The Coalition is focused on protecting environmental and public health in the surrounding communities and comprises member and supporter groups that work in and around the Project area. The Coalition is committed to outreach, training, and mobilization of low-income communities to participate in and give input on the full development process for the Proposed Project.

We, member groups of the Coalition, and the Coalition itself, submitted previous comments critiquing the Project, notably our May 21, 2012 comments addressing the Draft Environmental Impact Report (DEIR) ("Comment Letter"), which are incorporated herein by reference. This letter is to clarify that the problems we identified in our May 21 letter were largely unaddressed in the FEIR completed by the Department of City Planning. The EIR for the Project remains inadequate.

To remedy these flaws, we ask that the Commission not take the recommended actions, but instead send the project back to the Planning Department to: (1) revise and recirculate the EIR for additional comment and review before certification, or, alternatively (2) prepare a supplemental EIR for public comment and review.

I. The Environmental Process for this Project is Constitutionally Flawed

At the outset, we renew our objections upon constitutional grounds set forth in our Comment Letter, and note that we filed a lawsuit in the Superior Court of California, County of Los Angeles, Central District on August 30, 2012, entitled Fair Play at Farmers Field Coalition v. State of California (BC491200) and attached to this letter.

II. The FEIR Fails to Comply with CEQA

As we outlined in our Comment Letter, preparation of an EIR is governed by the California Environmental Quality Act (Public Resource Code, sections 21000, et seq. (CEQA)) and its implementing regulations (California Code of Regulations, title 14, sections 15000, et seq. (CEQA Guidelines)). The preparation of an EIR is subject to a public comment process that guarantees the public participation that is so fundamental to CEQA. The lead agency is entrusted with the responsibility of "provid[ing] public agencies and the public in general with detailed information about the effects which a proposed project is likely to have on the environment; [listing] ways in which significant effects of such a project might be minimized; and [indicating] alternatives to such a project." (*See* Pub. Res. Code § 21061 *see also* CEQA Guidelines, § 15002, subd. (a).) Importantly, in complying with CEQA and with this guarantee of public participation, the agency must evaluate and prepare written response to environmental issues raised by persons who reviewed the Draft EIR. (CEQA Guidelines, § 15088, subd. (a).) The agency's responses to comments must genuinely address and respond to the issues raised by the commenter; conclusory or evasive responses are legally insufficient, as are mere excuses. (*Cleary v. County of Stanislaus* (1981) 118 Cal. App.3d 348, 3 55-357; *People v. County of Kern* (1974) 39 Cal. App.3d 830, 841-842.) The agency has failed to comply with these requirements with regard to the proposed project.

A. The Project's Boundaries Do Not Include the Entirety of Planned Development

CEQA does not permit chopping a large project into pieces in a manner that submerges environmental concerns. Doing so is improper "piecemealing." See *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal. 4th 1112 (*Laurel Heights II*). In our previous Comment Letter, we pointed out that despite the fact that the goal of the Project is "to create a sports and entertainment center recognized at a local, regional, national, and international level", the EIR fails to include the entirety of said sports and entertainment center in defining the Project's boundaries. The City responds that because no physical changes are proposed to other parts of the existing sports and entertainment center (at this time), those parts of the sports and entertainment center need not be included in the EIR, and that even if they were included, they would not change the analysis. (FEIR III-494).

We find these arguments unpersuasive. Without including the remainder of the sports and entertainment center in the EIR, the public cannot know what kinds of changes are planned or anticipated in response to this major change in land use right next door. Certainly, the new project will generate new patrons for existing businesses, which means more traffic, more public safety concerns, etc. If the City's stated goal is to build a single, unified sports and entertainment center that will include both the existing facilities as well as the new Convention and Event Center, the City should analyze the impact of the whole center as a single Project, rather than "piecemealing" the environmental review process by carving up the Project boundaries to exclude part of the center from consideration.

B. The Project Objectives Remain Impermissibly Narrow

In our Comment Letter, we criticized the Project's objectives as having been artificially narrowed, such that only the Proposed Project could possibly meet them. CEQA Guidelines require that a statement of objectives not be artificially narrow, but instead should state the "underlying purpose of the project". (CEQA Guidelines § 15124; id., § 15124, subd. (b).) We cited a number of authoritative cases to support our contention that a statement of objectives as narrow as that stated

for the Proposed Project is impermissible, including *California Oak Foundation v. Regents of University of California* (2010) 188 Cal.App.4th 227 [holding that objectives stated broadly serve the purpose of assisting in the development and evaluation of a reasonable range of alternatives] and *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143 [objectives should be broad enough to permit a reasonable range of alternatives] . The City's response fails to address our Comment in any substance:

> "The seven primary objectives address a range of key issues, including modernization and marketability of the Convention Center, the construction of an Events Center that complements adjacent uses, implementation of General Plan objectives that revitalize the area, a design that promotes the spectator experience and is consistent with smart growth, maximization of existing and planned transportation infrastructure, minimization of disturbance to Convention Center operations, and promotion of economic development and job creation. Thus, these objectives are not impermissibly narrow." (FEIR III-499)

The conclusion that the objectives are not "impermissibly narrow" is a conclusory statement made without foundation. (FEIR III-499). The City simply summarizes the FEIR's flawed objectives, providing neither analysis nor citation to support its conclusion. Far from being the "broad goals that assist in the development and evaluation of a reasonable range of alternatives" required by CEQA, the City's objectives are so specific that they describe only one possible project, the Proposed Project. The Project's statement of objectives should be broadened into a statement of underlying purpose that can be used to evaluate a reasonable range of alternatives.

C. Transit Mode Share Projects Remain Overly Optimistic

The City failed to address our comments criticizing the overly optimistic transit mode share projections. In their Response to Comment No. 16-22: Traffic Impacts of the Proposed Project, the FEIR states:

> "The Draft EIR estimates that 18.5 percent to 27.5 percent of patrons will either take transit or walk/bike, which means that fully 72.5 percent to 81.5 percent will use automobiles. Travel to/from a major sporting or entertainment event is different from regular commute travel activity, because the focus on one specific activity at one destination location at a particular time makes transit a far more attractive alternative to some patrons (to avoid the perceived inconvenience of dealing with traffic, finding parking, and paying for parking). Moreover, data from other stadiums in similar downtown locations well served by transit show that attendees do use transit." (FEIR III-533)

First, whether stated in the inverse or not, the City's prediction that 27% of stadium patrons will arrive on public transit is neither realistic nor supported with evidence. Indeed, the City fails to address the obvious issue that Angelenos who are able to afford professional football game tickets, which can average well above $100, are also those who historically have been least likely to use public transit. Simply claiming that transit is a "far more attractive alternative" without providing evidentiary support is conclusory and cursory. Even if transit were in fact a more attractive alternative, this directional analysis does not account for the huge predicted increase in transit use. Rather, as discussed in our Comment Letter, the City relies on inapplicable data from other stadiums, while ignoring and possibly even suppressing much more relevant data from the Staples Center right next door. The City's mere restatement of its argument is not a "good faith, reasoned analysis in response," and thus is in violation of CEQA. (CEQA Guidelines, § 15088, subd. (c).)

Therefore, the FEIR should be revised to reflect a more realistic assessment of the potential non-auto share.

The City's failure to collect, disclose and consider in its analysis current rates of transit use at the Staples Center is particularly worrisome. The location and similar function of the Staples Center, albeit with substantially fewer patrons, makes it the most directly relevant comparison. We find it hard to believe that Applicant, who owns the Staples Center, cannot make that data available. Additionally, none of the three reasons offered by the City in support of its prediction of increased transit use for stadium events as compared to Staples Center events provide any information as to the *size* of the purported increase. The City first argues that since attendee parking will be further from the stadium than it has been from the Staples Center, more patrons will use transit rather than endure longer walks. But the City does not specify how much further these walks would be, which would enable more accurate assessment the scope of the impact. Next, the City points to the planned enhancement of the Pico Metro Station capacity, but again offers no information about how many more patrons it believes this will yield or why. Finally, the City promises that transit use will be more heavily promoted for stadium events than it has been historically. (FEIR III-18) But the Staples Center already heavily promotes transit, including offering transit incentives. For example, the Staples website currently advertises:

> "Staples Center works to encourage public transportation through partnerships with teams like the Los Angeles Kings who offer ticket discounts to metro riders as well as offering secure bike racks for guest use. Staples Center fans attending events are encouraged to take the Metro and other forms of public transportation to the venue, several of the teams offer ticket packages in conjunction with Metro. The venue has also installed a sufficient supply of bike racks on the venue property."[1]

The L.A. Clippers and Kings both currently offer discounts of up to half off the price of a game ticket to transit riders who show their Metro tickets and passes at the box office.[2] The City introduces no evidence about the impact of transit promotion on ridership in general. In addition, the FEIR is vague as to the specific nature and reasonably anticipated impact of the planned incentives. Without critical data, such as the transit mode share of Staples patrons, or quantifying their directional predictions, the notion that more than a quarter of Angelenos will travel to games on public transit seems optimistic at best.

The City also improperly relies on commitments made outside of the environmental review process as evidence that its projections are accurate. In Topical Response No. 1 (Page III-18), the City notes,

> "[i]n addition, the Proposed Project is bound by the terms of SB 292 to achieve the lowest auto use in the nation for an NFL stadium, which will require higher levels of non-auto use than estimated in the Draft EIR. If the Project has not achieved the SB 292 requirement by the fifth year of operation, then the City must impose additional mitigation measures."

The City fails to address how the Project would be evaluated in its requirement to reach a high level of non-auto use. It is also unclear as to what additional mitigation measures would be

[1] http://staplescenter.com/about/environment, accessed 9/9/12 at 11:57 a.m.
[2] http://www.metro.net/news/simple_pr/go-metro-and-save-tickets-clippers/, accessed 9/9/12 at 11:54 a.m.

imposed so that the requirement is met. The FEIR should be revised to include this important information.

At the very least, the developer should be required to: 1) commit to ticket bundling that ensures ease of use by event attendees and that all costs/subsidies will be covered by the developer or the pool of purchasers (not MTA); 2) contribute funds to increase rapid bus service on event and game days, as well as during the construction activities that impact local traffic; and 3) commit to operating shuttle buses from a variety of locations.

D. Significant Impacts to Transit Remain Unmitigated

Our Comment letter alleged a number of undisclosed and/or unmitigated impacts to public transit services. The City's Response to Comment No. 16-24 notes:

> "The Draft EIR analyzed existing and future transit service and found that there is sufficient transit service capacity to accommodate the Pre-Event Hour (inbound trips) for a Weekday Evening Event... It also concludes that additional service capacity would be needed on some transit lines at other times, because of the reduced service operated during off-peak periods (nighttime and weekends)… [t]he Draft EIR concludes that on weekends, the necessary capacity increases would be modest because they would represent adding only a few rail cars or buses…As identified in the Draft EIR, the total level of service needed for events would at no time exceed or generally even approach the level of service currently operating during the typical weekday peak period for transit use. Because the increase in transit service associated with the Proposed Project could be accommodated by the existing transit fleet, the transit operators would not need to purchase any new transit vehicles." (FEIR III-539)

The City's response to our Comment is inadequate. The City asserts without foundation that the existing transit fleet can accommodate the increased anticipated demand.(One wonders, given all of this excess capacity that current exists within the transit system, why overcrowding on MTA buses continues to be a bone of contention between advocates for transit riders and Metro?[3]) The City also cites to "new fare-paying patrons" who would presumably improve the funding for transit. Given the fact that every Metro ride is publicly-subsidized[4], it's seems unlikely that new riders would represent a financial net gain for the system. In fact, the EIR was revised to note that,

Additional Metro rail/bus service required to accommodate patron demand would be subject to MTA Board approval as part of MTA's annual operational budget. However, if for some reason Metro does not add the requisite number of additional rail cars, a significant and unavoidable impact would remain. (FEIR II-28)

The "significant and unavoidable" impact to transit will remain regardless of whether or not the MTA Board approves additional Metro rail/bus service, given MTA's ongoing structural operational budget deficit. Unless the Applicant is required to contribute to the cost of providing the additional service required by the anticipated demand, the funds for providing that service will

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[3] http://blogs.laweekly.com/informer/2011/06/los_angeles_bus_cuts_mta.php, accessed 9/11/12 ("…L.A. has the most crowded bus system after New York.")

[4] http://reason.com/archives/2011/12/27/la-metros-light-rail-arguments-off-track, accessed 9/11/12 at 6:12 p.m. ("Transit is heavily subsidized — in Los Angeles County and elsewhere. The correct figures: Metro currently subsidizes on average 72 percent of a bus fare and about 76 percent of a rail fare.")

inevitably create additional harms to existing transit riders, who are already facing fare increases and service cuts.

The City cannot ignore this significant environmental issue and must revise the FEIR to provide analysis on additional feasible mitigation measures.

E. The Parking and Traffic Management Plans Remain Insufficiently Detailed and Inadequately Funded

In our Comment Letter, we noted that although the neighborhood traffic and parking impacts can be expected to be severe not only in the Pico-Union neighborhood, but also in South Park and South Los Angeles, the EIR provided for a Parking and Traffic Management Plan only for the Pico-Union neighborhood. In response, the City revised Mitigation Measure B.1-9 to include South Park and South Los Angeles in the Neighborhood Traffic and Parking Management Plan. (FEIR III-543). Unfortunately, however, the amount of funding provided for the creation of these plans ("up to" $325,000) remains the same, even though the Plan now covers three different neighborhoods instead of one. (FEIR II-24-25). In addition, this program needs to include specific commitments for community involvement, a specific timeframe for planning and implementation, and the specific amount of money available to actually implement protection measures identified by the communities. The funding cannot only be for the Planning Department to implement the process – it must provide for the implementation of real mitigation and protection measures. The FEIR should be revised and recirculated to include funding sufficient to expand the Neighborhood Traffic and Parking Management Plan to all three neighborhoods, along with more specifics as to the measures that will be undertaken.

F. Certain Light Pollution Impacts Remain Undisclosed and/or Unmitigated

Our Comment Letter discussed the failure of the Draft EIR to adequately address the question of light pollution, mainly from the array of electronic billboards slated to be constructed in and around the Event Center. In their Response to Comment 16-49, the City states:

> "Subsequent to publication of the Draft EIR the Project signage plans were modified, and the maximum total number of digital displays to be included within the Project was reduced to 30. Refer to the updated signage graphics provided in Subsection II in Section II, Corrections and Additions, of this Final EIR. As the Applicant has reduced the number of proposed digital displays, impacts associated with this type of signage would be reduced from that analyzed in the Draft EIR. As such, the Proposed Project impacts would now be less than the less than significant impacts described in the Draft EIR." (FEIR III-582).

While we appreciate the slight reduction in the number of planned electronic billboards (41 to 30), we continue to reject the characterization of the pollution from said billboards as "less than significant" especially in light of the issues raised in our comments for which we received no adequate response.

G. Certain Noise Impacts Remain Undisclosed and/or Unmitigated

Our Comment Letter pointed out that the DEIR disclosed significant, unmitigated noise impacts from the Proposed Project, and urged additional measures to address those impacts.

Unfortunately, the FEIR includes no additional measures to address noise impacts, which remain significant and unmitigated. (FEIR III-594).As noted in our Comment Letter, studies of noise exposure show that noise can lead to annoyance, loss of sleep, stress-related heart health issues, and hearing loss.[5] The U.S. Environmental Protection Agency has warned that exposure to such high noise levels is a health risk:

> "[I]n that noise may contribute to the development and aggravation of stress related conditions such as high blood pressure, coronary disease, ulcers, colitis, and migraine headaches . . . Growing evidence suggests a link between noise and cardiovascular problems. There is also evidence suggesting that noise may be related to birth defects and low birth-weight babies. There are also some indications that noise exposure can increase susceptibility to viral infection and toxic substances."[6]

Children are particularly sensitive to excessive noise, and their academic performance or cognitive development may suffer when exposed to excessive noise.[7] The FEIR should be revised and recirculated to address the unmitigated noise impacts of the Proposed Project.

H. Certain Air Quality Impacts Remain Undisclosed and/or Unmitigated

The City failed to analyze the reproductive health impacts in the health risk assessment. Their response to that was that "established" methodologies were used. These allegedly "established" methods are inadequate and have not kept pace with our growing understanding of the reproductive impacts of air pollutants such as diesel exhaust, SOX, NOX and particulate matter and ozone. The FEIR only looks at respiratory and cancer risks. Not conducting an analysis of the reproductive and developmental impacts of increased particulate matter and diesel exhaust, along with other air pollutants, falls short of best practices and is particularly troubling given that there are about 80,000 women of child bearing age who live in Pico Union, South Los Angeles and downtown LA.

In the last 10 years we have seen a growing body of scientific literature, mostly population studies, investigating the possible adverse effects of ambient air pollution on birth outcomes. While more research is needed in this area one, a recent article reviewing the literature found that evidence "is sufficient to infer a causal relationship between particulate air pollution and respiratory deaths in the post neonatal period.[8] Several studies have observed associations between elevated concentrations of CO and PM10both early and late in pregnancy and risk of term low birth rate and

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[5] *See*, e.g., Babisch, et al., Traffic Noise and Risk of Myocardial Infarction, Epidemiology, Vol.16, No.1, Jan. 2005, pp. 33-40; FHA, Highway Traffic Noise in the United States, April 2000, p. 1; Griefahn et al., Disturbed Sleep Patterns and Limitation of Noise, Noise and Health, Vol. 6, No. 22, Jan. – Mar. 2004, pp. 27-33; Skanberg, Adverse Health Effects in Relation to Urban Residential Soundscapes, Journal of Sound and Vibration (2002) 250(1), pp. 151-155; Clark and Stansfield, The Effect of Transportation Noise on Health and Cognitive Development: A Review of Recent Evidence, International Journal of Comparative Psychology, 2007, 20, 145-158.

[6] EPA Noise Effects Handbook, 1981, available at http://www.nonoise.org/library/handbook/handbook.htm.

[7] Kawada, The Effect of Noise on Children, J. Nippon Medical School, 2004: 71(1), pp. 5-10; World Health Organization, Guidelines for Community Noise, 1999; World Health Organization, Burden of Disease from Environmental Noise 2011, available at http://www.euro.who.int/__data/assets/pdf_file/0008/136466/e94888.pdf.

[8] Birth Outcomes and Prenatal Exposure to Ozone, Carbon Monoxide, and Particulate Matter: Results from the Children's Health Study Muhammad T. Salam, Joshua Millstein, Yu-Fen Li, Frederick W. Lurmann, Helene G. Margolis, and Frank D. Gilliland Department of Preventive Medicine, University of Southern California, Keck School of Medicine, Los Angeles, California, USA; Sonoma Technology Inc., Petaluma, California, USA; Air Resources Board, State of California, Sacramento, California, USA

preterm birth for women residing in the SoCAB and giving birth between 1994 and 2000.[9] Some studies suggests that that ambient air pollution, perhaps specifically traffic emissions during early and late pregnancy and/or factors associated with residence near a roadway during pregnancy, may affect fetal growth. Further, pregnancy complications may increase susceptibility to these effects in late pregnancy.[10] Given this extensive evidence pointing to the adverse impacts of ambient air pollution on birth outcomes, the FEIR should be revised and recirculated to address the extensive ambient air pollution that will result from the Proposed Project.

I. Impacts to Population and Housing Remain Undisclosed and Unmitigated

Our Comment Letter, and another related comment letter submitted by Health Impact Partners (FEIR III-213-219), critiqued in considerable detail the City's conclusion that the Project will have a less than significant impact on population and housing. The City rejected our authoritative evidence and supporting documentation out of hand, continuing to insist that the Project will not have a significant impact on population and housing. We reiterate our previous comments that the City erred in its conclusions with respect to the impacts on population and housing, and urge that the EIR by revised and recirculated to address these issues, both in terms of the Project itself, as well as the cumulative impacts of the Project in conjunction with other development in the area.

The City falsely claims that MR&E's Response to the HIP report found that the claim of an eight percent increase in surrounding rents due to the presence of an NFL stadium was unsubstantiated by the cited source. In fact, the Feng and Humphries paper in question includes the following:

> "Carlino and Coulson (2004) used data from 53 of the 60 largest metropolitan statistical areas from 1993 and 1999 and found that non-economic impacts, what they called social benefits and compensating differentials, flow from NFL franchises to central cities and their associated metropolitan areas. According to this story, cities that gained an NFL team had higher quality of life than other cities, which translates into higher housing values or rents or lower wage rates. *Their results indicate that the presence of an NFL franchise raised housing rents by approximately 8 percent in central cities.* [emphasis added]"[11]

There is evidence to show a nexus between a project of this size and location and the resulting indirect, negative impacts on affordable housing. Data and information documenting potential indirect impacts on population and housing include:

- More than 2,100 units of extremely low-income housing in just South Park and the Historic Core alone have been demolished, converted, illegally vacated, had substantial increases in rents, or otherwise negatively impacted since the LA Live approvals.

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[9] Local Variations in CO and Particulate Air Pollution and Adverse Birth Outcomes in Los Angeles County, California, USA Michelle Wilhelm1 and Beate Ritz

[10] Ambient air pollutant concentrations during pregnancy and the risk of fetal growth restriction. Rich DQ, Demissie K, Lu SE, Kamat L, Wartenberg D, Rhoads GG. Source UMDNJ, Department of Epidemiology, Piscataway, NJ 08854, USA. richda@umdnj.edu

[11] Xia Feng and Sean Humphries, *Assessing the Economic Impact of Sports Facilities on Residential Property Values a Spatial Hedonic Approach*, International Association of Sports Economics, (August 2008)..

- Four affordable housing buildings were demolished within two blocks of LA Live, eliminating 121 units of extremely low-income housing and replacing them with parking lots serving LA Live.

- In the decade since the development of the Staples Center and LA Live (2000 – 2010), surrounding neighborhoods experienced: 1) Five times the increase as in the City of Los Angeles for the percent of non-family households; 2) Substantial growth in people ages 20-24 and 55-59; and 3) Much greater increases than the City in White and Asian populations, but a decrease in the Hispanic and the Black populations.

- The City itself reported to the Council's Ad Hoc Committee for this project on August 27, 2012 that there had been a 159% increase in population in Downtown LA from 1999 to 2012, and an increase in housing units of almost 30,000. This report explicitly lists as "context" for these changes as the 1999 opening of the Staples Center, 2007 opening of LA Live, and 2010 opening of the JW Marriott and the verbal report linked the developments to the neighborhood changes.

- The project proposes almost 2,000 low-wage permanent jobs at the site. At the current living wage of $24,856 cited in the Community Benefits Program, a family of four can afford $480 in rent for a 3-bedroom unit. These units are simply not available in the surrounding communities, creating a jobs-housing imbalance. The EIR responds to this issue by saying the majority, if not all, of workers will already live in the surrounding communities, but provides no mechanisms for achieving this and sets only a 50% goal for local hiring in the Community Benefits Program.

In addition, the EIR does not account for the actual parking needs for the stadium and, in fact, some of the parking lots immediately surrounding the site and identified to serve the stadium are in development for other uses (for example, a Marriott Courtyard under construction on Olympic and Francisco, recent announcement of large mixed use development on the surface lot at Pico and Flower). This will expand parking pressures beyond the project perimeter and further into residential areas, increasing the risk for further housing demolitions to meet parking needs.

More data on this topic could be made available to the public. Developments that depend upon low income workers have been shown to have a public cost associated with the additional need for affordable housing. Many jurisdictions have adopted linkage fees based on an analysis of the costs associated with the particular kind of development. While Los Angeles does not have such a fee, the Planning and Housing Departments did commission a study of an affordable linkage fee. Upon information and belief, such a study analyzed projects such as this one, and includes a formula for determining the linkage fee. Unfortunately, in violation of the California Public Records Act, the City refuses to release this study. In addition, the City recently completed an Affordable Housing Benefit Fee study, which analyzes the impacts of different types of development on the City's affordable housing needs. Yet when requested in a public records request, the City refused to provide this study to the public as required by the California Public Records Act. This study could help quantify the impacts of this large project on affordable housing needs in the community.

Additional affordable housing construction could also help to meet the Project's and the City's goal of increasing use of public transit. The proposed project has a heavy emphasis on transit expansion in a relatively transit-rich space. Studies have shown that locating affordable housing near improved and expanded transit provides multiple benefits, including increasing transit ridership and

reducing greenhouse gas emissions.

In order to mitigate the indirect impacts on affordable housing and the jobs/housing imbalance created by the project, the developer should, among other things, be required to provide funding for the preservation and new development of affordable housing at extremely low-income levels. Our Coalition recommends a contribution of $2 million per year for each year of project operation, with an upfront contribution of $5 million.

J. Certain Aesthetic Impacts Remain Undisclosed and/or Unmitigated

Our Comment Letter pointed out that the City failed to disclose the full impacts of planned electronic billboards by failing to take into account research showing that the effects of electronic billboard light pollution extend beyond just questions related to the intensity of light, but also to the effects of continuously changing images, colors, and light, as well as failing to consider the effects on a wider variety of locations. (FEIR III-582). In response, the Applicant has reduced the number of permitted billboards in the Project, and granted authority to the Director of City Planning "to limit the refresh rate on any animated sign or electronic message display sign visible from the freeway to no more frequently than once every 4 seconds, with an interval between messages of not less than 1 second, and with an unchanged intensity of illumination". (Mitigation Measure D.2-3). While we appreciate these responses, the FEIR nonetheless must include a much more thorough consideration of this light pollution.

Also unaddressed in the FEIR is our comment about the problematic locations of the receptors. The City reiterates their claim that the sites chosen are reflective of the variety of conditions in the area. This reiteration is an inadequate response to our comment. We urge the City to revise and recirculate the FEIR to address concerns about electronic billboards.

K. Improvements to Open and Green Space Planning are Needed

It is simply not clear whether the planned open and green space will be accessible, affordable and useful to surrounding communities. The plans for game/event days are clear, but the operating and programming for other 300 days per year are vague or unstated. Among other things, our Coalition recommends:

- At least three community meetings or workshops with local residents to gather input on the design and programming of Gilbert Lindsay Park and other on-site open/green spaces.

- A financial partnership with one or more non-profits to help develop and oversee community programming to ensure long-term access to Gilbert Lindsay Park and use by local community residents and community-based organizations.

- Ensure local vendors have access to Gilbert Lindsay Park on both event and non-event days, including very small mom and pop vendors. In addition, very small vendors should be allowed to sell goods in AEG-controlled parking lots on game and event days.

L. Significant Impacts to Public Safety are Undisclosed and/or Unmitigated

The FEIR acknowledges the Project's may have significant impacts on the City's public safety personnel, including police and fire personnel. In Appendix U of the DEIR, LAPD stated,

"[i]n the absence of mitigation, the scope of the proposed Project could require increases in staffing levels at Central and Newton Areas, or creation of additional LAPD entities, to meet those needs." LAPD also recommended that "the EIR thoroughly analyze the proposed venue and attendant impact upon the surrounding areas to determine whether there is a need for enhanced staffing in Rampart Area… and Southwest Area…." The developer should be required to pay for all increased police and fire costs directly (as is being required of the developer of the proposed stadium in the City of Industry). The City cites elaborate plans for Comprehensive Security Plan, Traffic Management Plan and a Memorandum of Agreement with LAPD, but maintains that all of that will be accomplished without creating any impact on existing public safety resources. This seems unlikely.

Additionally, because the over-concentration of police already in downtown will be compounded on event/game days (approximately 5 times the number of officers per resident in Downtown than in other surrounding communities), our Coalition recommends that the City of Los Angeles and the Developer commit to the creation of a community based public safety task force that meets regularly starting from ground-breaking and for a minimum of five years after project completion. The task force will have fair and equitable representation of low-income residents of surrounding communities.

In our Comment Letter, we also raised civil rights concerns about the effect of aggressive policing models designed primarily to protect property in a community composed predominantly of low-income, people of color. The City responded in a cursory way, asserting that the Applicant's policing will be limited to private property, and the Applicant is required to abide by all antidiscrimination law. (Response to Comment No. 16-61). The City's response fails to address how the federal non-discrimination policies will be enforced. This is particularly important considering the distinction and likely segregation between the visiting population and the low-income, predominately non-white population inhabiting the surrounding area. Further analysis is needed to combat the displacement, immobility, and civil rights violations that may affect the surrounding community.

We also raised concerns about negative impacts to emergency response times. (Comment No. 16-62). The City responded by simply reiterating inadequate and vague mitigation measures, citing the MOA requirement that negative impacts to response time not occur without specifying how the City will satisfy that requirement, and asserting without support that "significant impacts to response times and police protection services would not occur. " (Response to Comment 16-62). The City's conclusory response is both groundless and unpersuasive, and does not constitute a satisfactory response under CEQA.

M. The FEIR's Alternatives Analysis was Flawed

The City failed to respond to our criticism that they had impermissibly relied on an unsubstantiated threat by the Applicant to excuse the City's failure to properly consider alternatives. The City "cannot avoid an objective consideration of an alternative simply because, prior to commencing CEQA review, an applicant made substantial investments in the hope of gaining approval for a particular alternative." *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 736. Rather, to deem an alternative infeasible, the lead agency must provide "evidence [that] the additional costs or lost profits are so severe [that] the project would become impractical." *Id.* Yet, as we pointed out in our comment letter, the DEIR repeatedly deems alternatives infeasible because Applicant has threatened to abandon the project if it is not approved in Applicant's

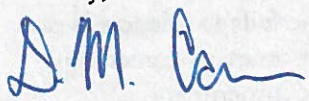
preferred location. (DEIR, Summary, p. I-177) ("[A] private developer, including the Event Center Applicant, would not finance the West Hall unless it can construct the Event Center [stadium]"); (DEIR, Summary, p. I-179) ("Without the Event Center, a private developer, including the Event Center Applicant, would not finance the project…."). Rather than address this impermissible reliance on Applicant's threat, and the dearth of other evidence that the additional costs are so severe as to make the project impractical, the City continues to offer even balder acknowledgements of its singular reliance on Applicant's threats:

> "The Event Center Applicant has informed the City that it would not make such payments, and there would be no new tax revenues, unless the Event Center Applicant is able to develop the Event Center. If the Event Center applicant does not make the bond payments, the City would have to make the payments out of General Fund revenues. Given its current fiscal difficulties, the City does not currently have the funds to make such payments. Therefore, it is highly unlikely that the Convention Center would be modernized in the foreseeable future unless the Event Center is developed. (FEIR III-616).

We reiterate our contention that the City's analysis of potential alternatives is insufficient under CEQA.

The City must revise and recirculate the EIR. Alternatively, it must prepare a supplemental EIR.

Sincerely,



D. Malcolm Carson
Legal Aid Foundation of Los Angeles, on behalf of the Play Fair at Farmers Field Coalition

Attachment: Conformed Copy of Complaint for Declaratory Relief (Case No. BC491200)

CONFIRMING COPY

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COUNTY OF LOS ANGELES

AUG 30 2012

John A. Clarke, Executive Officer/Clerk
BY Mary Flores, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

BC491200

Play Fair at Farmers Field Coalition, an unincorporated association; Pete Ares, an individual; Steve Richardson, an individual; Karl Manheim, an individual; and Gary Williams, an individual.

Plaintiffs,

vs.

State of California,

Defendant.

Case No.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. **Violations of California Constitution, Article VI, §10**
2. **Violations of California Constitution, Article IV, §16**
3. **Declaratory Relief under Code of Civil Procedure §1060**
4. **Declaratory Relief under Code of Civil Procedure §1060**
5. **Violations of Code of Civil Procedure §526a**
6. **Violations of Code of Civil Procedure §526a**

INTRODUCTORY STATEMENT

1. This lawsuit challenges the constitutionality of recent amendments to the Public Resources Code wherein the state legislature granted special treatment to a special interest for the potential construction of a new football stadium in downtown Los Angeles ("Proposed Project"). To be known as "Farmer's Field," this massive project will greatly affect the lives of people living downtown, in Pico Union, and South Los Angeles as the likely adverse effects include increased traffic congestion, respiratory ailments, and housing displacement. The Farmer's Field portion of the Proposed Project alone is a 1,700,000 gross square foot "event center" that would primarily function as the home stadium for one or possibly two National Football League teams, as well as a venue to host a variety of other events, such as trade shows, international soccer matches, ESPN X games, rodeos and World Wrestling Entertainment events.

2. Ever since the California Environmental Quality Act ("CEQA") was enacted in 1970, nearly all challenges to environmental impact reports ("EIR") for new projects have been filed in and resolved by the superior courts of this State. In 2011, however, the Legislature enacted Senate Bill No. 292 ("SB 292"). Subsection (d)(1) of Public Resources Code §21168.6.5 now specifies that "[a]n action or proceeding to attack, set aside, void, or annul" the EIR for the Proposed Project "shall be commenced by filing a petition for a writ of mandate with the Second District Court of Appeal. . . ."

3. This recent addition to the Public Resources Code violates Article VI, §10 of the California Constitution, which provides, in pertinent part, that "[t]he Supreme Court, courts of appeal, superior courts, and their judges. . . have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition." By requiring that any mandamus action to challenge the EIR for the Proposed Project be filed exclusively in the Second District Court of Appeal, Public Resources Code §21168.6.5(d)(1) strips the superior courts (and the Supreme Court) of their original jurisdiction over these proceedings and so should be declared unconstitutional.

4. Public Resources Code §21168.6.5 also violates Article IV, §16(b) of the California Constitution, which provides that "[a]ll laws of a general nature have uniform operation. A local or special statute is invalid in any case if a general statute can be made applicable." As described in the Legislative Council's Digest, Public Resources Code §21168.6.5 creates "specified administrative and judicial review procedures for the administrative and judicial review of the EIR and approvals granted for a project related to the development of **a specified stadium in the City of Los Angeles.**" (emphasis supplied.)

5. Subsection(j) of Public Resources Code §21168.6.5 in particular prohibits the court, in any action against subsequent project approvals, from staying or enjoining the construction or operation of the project at the Proposed Project, unless a limited number of criteria are met. However, projects that are subject to CEQA may require subsequent project approvals. Public Resources Code §21168.9 is a law of general applicability regarding projects subject to CEQA and it requires a court to mandate that any project found to be out of compliance be suspended until the public agency can bring the project into compliance. Public Resources Code §21168.6.5 (j)(1) denies the court of the power to enjoin a project and plaintiffs of the right to seek the relief they are entitled to under the general CEQA statute. Article IV, §16 of the Constitution does not countenance this attempted enactment of a special or local statute when a general statute can be made applicable.

6. Plaintiffs in this lawsuit include a coalition of community based organizations focused on protecting environmental and public health in the communities surrounding the Proposed Project, and individuals who will be impacted by the Proposed Project as they live and/or work less than two miles from the Proposed Project.

7. On April 5, 2012, the Draft EIR was released for the Proposed Project. On May 21, 2012, Plaintiff Play Fair at Farmers Field Coalition submitted a detailed comment letter outlining its concerns regarding the lack of mitigation measures in the EIR to protect the mostly low-income residents living adjacent to the Proposed Project. On September 13, 2012, the City of Los Angeles Planning Commission is scheduled to hold a hearing on the Final EIR for the Proposed Project. Despite a number of objections by the Play Fair at Farmers Field Coalition, the Final EIR for the Proposed Project is likely to receive approval from the City of Los Angeles Planning Commission at the September 13, 2012 hearing and to receive approval from the Los Angeles City Council shortly thereafter. Under Public Resources Code §21168.6.5(d)(1), any lawsuit challenging the Final EIR must then be filed in the Second District Court of Appeal no later than 30 days after this approval by the City Council.

8. Public Resources Code §21168.6.5 greatly impairs the legal rights of aggrieved citizens, such as Plaintiff Play Fair at Farmers Field Coalition, to bring a CEQA challenge to the EIR for the Proposed Project. Plaintiffs have accordingly brought this lawsuit to seek injunctive and declaratory relief to prohibit Defendant State of California from continuing to implement and enforce the unconstitutional provisions of Public Resources Code §21168.6.5.

PARTIES AND VENUE

Plaintiffs

9. Plaintiff Play Fair at Farmers Field Coalition ("Coalition") is an unincorporated association committed to protecting the environmental and public health of the communities surrounding the proposed downtown Los Angeles Stadium and Convention Center project. The Coalition includes such community based organizations as Los Angeles Community Action Network and Physicians for Social Responsibility- LA. These organizations have members who live in the impacted communities surrounding the Proposed Project and/ or advocate for public policy that affects the impacted residents. These organizations as well as their members also have paid taxes to the State of California within one year of the commencement of this action. The Coalition engages in outreach, training, and mobilization of low-income communities to participate in and give input on the full development process for the proposed downtown stadium. Much of the Coalition's work has focused on ensuring that SB 292 does not prevent communities from having a voice in shaping a major development – one that could have negative impacts on their health. To that end the Coalition has provided extensive comments regarding deficiencies in the Draft EIR for the Proposed Project and participated in a Health Impact Assessment of the Proposed Project.

10. Plaintiff Pete Ares is a 61-year old man who owns the home in South Los Angeles where he was raised. Mr. Ares currently lives with his adult son and daughter in that home, which is about a mile and a half from the Proposed Project. Mr. Ares works part time as a phlebotomist at Kaiser Permanente. He is a member of the Coalition and is concerned about the impacts of the Proposed Project on his family and his neighbors. Mr. Ares has paid taxes to the State of California within one year before the commencement of this action.

11. Plaintiff Steve Richardson was born and raised in downtown Los Angeles, and has lived there for the better part of fifty years. He lives just over a mile from the Proposed Project. Mr. Richardson has been employed as a community organizer for the Los Angeles Community Action Network since 2005. He is very concerned about the potential impacts of the Proposed Project on his community, and participated on the Resident Panel for the Health Impact Assessment done by the Coalition and researchers. Mr. Richardson is a member of the Coalition and has paid a tax to the State of California within one year before the commencement of this action.

12. Plaintiff Karl Manheim is a resident of the County of Los Angeles. He is a Professor at Loyola Law School, which is in the impacted area about a half a mile from the Proposed Project. Professor

Manheim has taught courses in constitutional law and has served as counsel on cases involving environmental law, civil rights and liberties, takings, municipal law and federalism. He has also published articles on California Constitutional Law. Professor Manheim believes in ensuring equal access to the courts, especially for those who are not rich and powerful, and in preserving the protections for people under the California and U.S. Constitutions. Professor Manheim has paid a tax to the State of California within one year before the commencement of this action.

13. Plaintiff Gary Williams is a resident of the County of Los Angeles. He is a Professor at Loyola Law School, which is in the impacted area about a half a mile from the Proposed Project. Professor Williams has taught the Civil Rights Litigation Seminar and courses in Ethical Lawyering, Evidence, Libel, Slander and the First Amendment, and Privacy and the First Amendment. Professor Williams is the holder of the Johnnie L. Cochran, Jr. Chair in Civil Rights at Loyola. Before joining the faculty at Loyola Law School, he served as staff counsel for the Agricultural Labor Relations Board and as staff attorney and later assistant legal director for the ACLU Foundation of Southern California. Professor Williams believes in the principle of equal justice before the law and is dedicated to ensuring equal access to the courts, especially for those who are not rich and powerful. Professor Williams believes that preserving the protections of the California and U.S. Constitutions for all people is essential. Professor Williams has paid a tax to the State of California within one year before the commencement of this action.

Defendants

14. Defendant State of California acted through the combined acts of it Legislature, in enrolling SB 292, and its Governor, in approving the bill.

Venue

15. Plaintiffs reside in the County of Los Angeles. The California Attorney General, representing and defending the State of California and its officers, maintains an office in Los Angeles. The Proposed Project is in the County of Los Angeles. Venue is therefore proper in the Los Angeles County Superior Court, pursuant to Code of Civil Procedure §§395 and 401.

STATEMENT OF FACTS

16. The Legislature enacted CEQA in 1970. The goal behind CEQA is to compel government at all levels to make decisions with environmental consequences in mind.

17. The EIR is the heart of CEQA and the integrity of the process is dependent on the adequacy of the EIR. Public Resources Code §21151 provides that "[a]ll local agencies shall prepare. . . an environmental impact report on any project that they intend to carry out or approve which may have a significant effect on the environment." The EIR serves to provide public agencies and the public in general with information about the effect that a proposed project is likely to have on the environment and to "[i]dentify ways that environmental damage can be avoided or significantly reduced." (Cal. Code Regs., tit. 14, §15002, subd. (a)(2) ("Guidelines").

18. In addition to "provid[ing] public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment" (Public Resources Code §21061), the EIR must "describe feasible measures which could minimize significant adverse impacts" and "describe a range of reasonable alternatives to the project." Guidelines, §§15126.4, subd. (a)(1), 15126.6, subd. (a). Among the alternatives, the report must evaluate "[t]he specific alternative of 'no project[.]' " (Guidelines, §15126, subd. (e)(1).) These sections reflect the legislative policy "that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects. . . ." Public Resources Code §21002.

19. To effectuate this policy, Public Resources Code §21081 requires a public agency to make certain specific findings attesting to its consideration of the need for the mitigation measures identified in the EIR. The findings must be supported by substantial evidence on the record. Guidelines, §15091. If the project has a significant effect on the environment, the agency may approve the project only upon finding that it has "[e]liminated or substantially lessened all significant effects on the environment where feasible" and that any unavoidable significant effects on the environment are "acceptable due to overriding concerns" specified in Public Resources Code §21081. (Guidelines, §15092, subd. (b)(2)(A) & (B).)

20. Ever since the enactment of CEQA, nearly all challenges to EIRs have been brought as writs of mandate in the superior courts of California. Pursuant to Public Resources Code §21167.1(a), a challenge to an EIR shall be given "preference over all other civil actions, in the matter of setting the action or proceeding for hearing or trial, and in hearing or trying the action or proceeding." Public Resources Code §21167.1(b) in turn provides that "the superior courts in all counties with a population of more than 200,000 shall designate one or more judges to develop expertise in this division and related land use and environmental laws, so that the judges will be available to hear, and quickly

resolve," these types of actions or proceedings. At all times material herein, Los Angeles Superior Court has designated several judges who have developed expertise in CEQA actions and who are available to hear, and quickly resolve, those actions.

21. On September 27, 2011, the Governor approved SB 292. (A true and correct copy of this legislation is attached hereto as Exhibit A.) SB 292 took effect on January 1, 2012. SB 292 added §21168.6.5 to the Public Resources Code.

22. SB 292 applies only to a single project in downtown Los Angeles referred to in the statute as the "proposed Convention Center Modernization and Farmers Field Project," i.e., the Proposed Project. SB 292 does not even encompass other possible sites for the potential stadium within Los Angeles County, but rather targets one site and one developer.

23. SB 292 alters various aspects of the CEQA review process for the Proposed Project, including the requirements for pursuing legal action to address certification of the EIR for the Proposed Project and CEQA compliance. SB 292, for example, obligates CEQA petitioners to file their original actions to the Proposed Project only in the Second District Court of Appeal. No provision of the California Constitution delegates authority to the Legislature and the Governor for this jurisdictional limitation.

24. The Proposed Project is described in the Draft EIR as located on 68 acres located in downtown Los Angeles adjacent to the STAPLES Center and LA LIVE, generally bounded by the Caltrans right-of-way adjacent to the SR-110 Harbor Freeway to the west; Chick Hearn Court to the north; Figueroa Street to the east; and Venice Boulevard to the south.

25. According to the American Community Survey, 38% of individuals within the impacted neighborhoods live below the poverty level compared to 20% in the City of Los Angeles as a whole. Poverty is particularly pronounced for children in the area with an estimated half living under poverty level compared to 28% in the City as a whole.

26. In a study by the Economic Roundtable entitled "Economic Study of the Rent Stabilization Ordinance and the Los Angeles Housing Market- 2009" and prepared for the Los Angeles Housing Department, the City of Los Angeles has seen a 65% increase in the price index for rental housing from 1997-2006, compared to 24% for all other consumer costs.

27. In a 2006 report, the Los Angeles County Department of Public Health generated an Economic Hardship Index, which looked at a combination of factors including crowded housing, percent of persons living below the federal poverty level, unemployment, education, and income. Based on the Economic Hardship Index, Human Impact Partners recently found that the communities surrounding

the Proposed Project -downtown, Pico Union, and the northern portions of South Los Angeles- earned rankings indicating a very high level of economic hardship. According to the Human Impact Partners' "Findings and Recommendations of the Rapid Health Impact Assessment of the Proposed Farmers Field Development" ("HIA"), the high proportion of lower income residents and residents of color indicates that the impacted neighborhoods are currently home to a vulnerable population that faces greater risk of poor health outcomes and are more susceptible to neighborhood conditions such as unaffordable or substandard housing, poor quality schools, lack of appropriate job opportunities, unsafe streets, and inaccessible goods and services, because they lack the resources to improve their living and working conditions. This same population is also more vulnerable to the disruption of services and other negative impacts caused by the type of displacement likely to result from the construction of the proposed project without proper mitigation. The Coalition counts among its membership many low income individuals in these impacted neighborhoods. These members, along with individual plaintiffs, all of whom live and/or work near the Proposed Project, will suffer the environmental and health related ill effects.

28. On April 5, 2012, the City of Los Angeles issued the Draft EIR for the Proposed Project.

29. On May 21, 2012, the Coalition submitted a 77- page comment letter on the Draft EIR the Department of Planning for the City of Los Angeles. The Coalition's letter commented on the unconstitutionality of SB 292, the insufficiency and/or inadequacy of the project description, boundaries, objectives and environmental impacts, the inadequacy of the mitigation measures, particularly regarding land use, transportation and traffic, parking, air quality, groundwater, housing and population, aesthetics, noise, and public safety/ services, and finally the inadequate discussion of alternatives.

30. Human Impact Partners submitted the draft HIA as public comment. The HIA was finalized and released publically on July 12, 2012.

31. On or about August 20, 2012 the City of Los Angeles Planning Commission announced its intention to hold a hearing on the Final EIR for the Proposed Project on September 12, 2012.

32. Plaintiffs are informed and believe, and based upon such information and belief allege that the Final EIR for the Proposed Project is likely to be substantially the same as the Draft EIR, the Los Angeles Planning Commission is likely to approve the Final EIR on September 13, 2012, or a few days later, and the Los Angeles City Council is likely to approve the Final EIR soon thereafter.

33. Plaintiff Coalition intends to file a petition for writ of mandate to present a CEQA challenge to the Final EIR for the Proposed Project if, as expected, the Final EIR is the same or substantially the same as the Draft EIR. But for SB 292, the Coalition would have filed this petition for writ of mandate in the Los Angeles Superior Court.

34. An actual controversy has arisen and now exists between plaintiffs and defendants concerning their respective rights and duties. Plaintiffs contend that SB 292's amendments to the Public Resources Code, in whole or in part, are unconstitutional, while defendants contend otherwise. A judicial determination is necessary and appropriate at this time because the challenged provisions of SB 292 are facially unconstitutional.

35. Unless the Court grants equitable relief, Defendants' enforcement of SB's 292's amendments to the Public Resources Code will cause irreparable harm to Plaintiffs and others for which they have no adequate remedy at law.

FIRST CAUSE OF ACTION:
[Violations of California Constitution, Article VI, §10]

36. Plaintiffs re-allege and incorporate paragraphs 1-35.

37. Article VI, §10 of the California Constitution ("Constitution") provides, in pertinent part, that: "The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition." (Cal. Const., art. VI, §10.)

38. CEQA petitions ordinarily sound in mandamus and most often challenge actions of the administrative agency tasked with lead agency responsibility for approving environmental review documents or exemptions claimed under CEQA. (Pub. Res. Code §21167 *et seq.*) Responsible and trustee agencies have independent CEQA responsibilities but are directed to rely on the lead agency's environmental review, whose final status depends on the outcome of any timely filed CEQA challenges. In bringing CEQA challenges to any of these decision-makers, petitioners in a CEQA action have the choice under the Constitution of pursuing their claims in the superior courts, courts of appeal, or Supreme Court, as proceedings for extraordinary relief in the nature of mandamus. Each of these courts has original but not exclusive jurisdiction over mandamus claims.

39. SB 292 added a new Public Resources Code §21168.6.5(c)(1)(A), which provides that "Notwithstanding any other law, the procedures set forth in subdivision (d) shall apply to any action or proceeding brought to attack, review, set aside, void, or annul the certification of the environmental

impact report for the project or the granting of any initial project approvals." Pub. Res. Code §21168.6.5(c)(1)(a).

40. SB 292 also added a new Public Resources Code §21168.6.5(d). Subdivision (d)(1) provides: "An action or proceeding to attack, set aside, void, or annul a determination, finding, or decision of the lead agency certifying the environmental impact report or granting one or more initial project approvals **shall** be commenced by filing a petition for a writ of mandate with the Second District Court of Appeal and shall be served on the respondent and the real party in interest within 30 days of the filing by the lead agency of the notice required by subdivision (a) of Section 21152." Pub. Res. Code §21168.6.5(d)(1) (emphasis added).

41. SB 292 added other provisions to the Public Resources Code expanding on the requirement that the petition for writ of mandate must be filed in the Second District Court of Appeal. For example, subdivision (d)(2)-(9) set forth the procedures for the writ petition that must be filed with the Second District Court of Appeal. Pub. Res. Code §21168.6.5(d)(2)–(9). Similarly, subdivision (e)(1) provides, in pertinent part, that "the draft and final environmental impact shall include a notice" that "ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN SECTION 21168.6.5 OF THE PUBLIC RESOURCES CODE AND MUST BE FILED WITH THE SECOND DISTRICT COURT OF APPEAL." Pub. Res. Code §21168.6.5(e)(1) (capital letters in original).

42. Through the above-mentioned provisions of SB 292, the State of California has effected an unconstitutional exclusion of original jurisdiction in courts other than the courts of appeal and has deprived CEQA litigants of their rights to pursue a writ of mandate in the superior courts in violation of Article VI, §10, of the Constitution.

43. SB 292 included a severability provision. Subdivision (k) states that "The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application." Pub. Res. Code §21168.6.5(k).

44. Several provisions in Public Resources Code §21168.6.5 cannot be severed from the proviso in subdivision (d)(1) that a CEQA challenge the Proposed Project must be commenced in the Second District Court of Appeal.

45. For the aforementioned reasons, the above-mentioned provisions of Public Resources Code §21168.6.5 must be declared facially unconstitutional and should be enjoined from enforcement.

SECOND CAUSE OF ACTION
[Violations of California Constitution, Article IV, §16]

46. Plaintiffs re-allege and incorporate paragraphs 1-45.

47. Article IV, §16(b) of the Constitution provides "All laws of a general nature have uniform operation. A local or special statute is invalid in any case if a general statute can be made applicable."

48. Public Resources Code §21167 *et seq.* is a law of general applicability regarding environmental projects subject to CEQA that sets forth the process for challenging such projects. Public Resources Code §21168.9, for instance, requires a court to mandate that any project found to be out of compliance with CEQA be suspended until the public agency can bring the project into compliance. Projects that are subject to CEQA often require numerous subsequent project approvals.

49. As described by the Legislative Council Digest, SB 292 establishes "specified administrative and judicial review procedures for the administrative and judicial review of the EIR and approvals granted for a project related to the development of **a specified stadium in the City of Los Angeles.**" (SB 292, leg council digest (1) [emphasis supplied].) SB 292 does not even apply to other possible football stadium projects, but rather specifically applies to the Proposed Project. SB 292 also prohibits the court, in any action against subsequent project approvals, from staying or enjoining the construction or operation of the project, unless certain narrow criteria are met. Pub. Res. Code §21168.6.5(j)(1).

50. SB 292 violates Article IV, §16(b) of the Constitution in that it is a special or local statute when a general statute, namely CEQA, can be made applicable.

51. The same day that SB 292 was enacted, Assembly Bill No. 900 ("AB 900") was enacted. AB 900 is a more general statute that specifies similar expedited CEQA procedures for a broader class of qualifying projects. AB 900 applies to "environmental leadership development projects" that have similar criteria to SB 292. (AB 900 is, however, currently the subject of a constitutional challenge in Case No. RG 12626904 in the Superior Court of the State of California, County of Alameda).

52. SB 292 further violates Article IV, §16(b) of the Constitution in that it is a special or local statute when another general statute, namely AB 900, can be made applicable.

53. For the aforementioned reasons, Public Resources Code §21168.6.5 in its entirety must be declared facially unconstitutional and should be enjoined from its enforcement.

THIRD CAUSE OF ACTION
[Declaratory Relief under Code of Civil Procedure §1060]

54. Plaintiffs re-allege and incorporate paragraphs 1-53.

55. Under Code of Civil Procedure §1060, plaintiffs are interested persons entitled to declaratory relief, addressing the parties' respective rights and duties and resolving the actual controversy between plaintiffs and defendants as to whether SB 292 violates Article VI, §10 of the Constitution.

56. For the aforementioned reasons, the Court should declare that provisions of Public Resources Code §21168.6.5 that violate Article VI, §10 of the Constitution are facially unconstitutional and therefore void.

FOURTH CAUSE OF ACTION
[Declaratory Relief under Code of Civil Procedure §1060]

57. Plaintiffs re-allege and incorporate paragraphs 1-56.

58. Under Code of Civil Procedure §1060, plaintiffs are interested persons entitled to declaratory relief, addressing the parties' respective rights and duties and resolving the actual controversy between plaintiffs and defendants as to whether SB 292 violates Article IV, §16 of the Constitution.

59. For the aforementioned reasons, the Court should declare that Public Resources Code §21168.6.5, in its entirety, is facially unconstitutional and therefore void.

FIFTH CAUSE OF ACTION
[Violations of Code of Civil Procedure §526a]

60. Plaintiffs re-allege and incorporate paragraphs 1-59.

61. Plaintiffs bring this cause of action as taxpayers under Code of Civil Procedure §526a. Each Plaintiff has paid a tax within the past year to the State of California.

62. Defendant's adoption and enforcement of SB 292, violates Article VI, §10 of the Constitution. Unless the relief prayed for is granted, Defendant will continue to conduct the taxpayer funded activities in an illegal and wasteful manner.

SIXTH CAUSE OF ACTION
[Violations of Code of Civil Procedure §526a]

63. Plaintiffs re-allege and incorporate paragraphs 1-62.

64. Plaintiffs bring this cause of action as taxpayers under Code of Civil Procedure §526a. Each Plaintiff has paid a tax within the past year to the State of California.

65. Defendant's adoption and enforcement of SB 292, violates Article IV, §16 of the Constitution. Unless the relief prayed for is granted, Defendant will continue to conduct the taxpayer funded activities in an illegal and wasteful manner.

WHEREFORE, Plaintiffs pray for a judgment as follows:

1. For declaratory relief that SB 292, and the resulting additions to Public Resources Code §21168.6.5, violate Article VI, §10, of the Constitution and all such unconstitutional provisions are therefore void and unenforceable;

2. For declaratory relief that SB 292, and the resulting additions to Public Resources Code §21168.6.5, violate Article IV, §16 , of the Constitution and all provisions are unconstitutional and therefore void and unenforceable;

3. For a preliminary and permanent injunction enjoining Defendant from enforcing: (a) those provisions in Public Resources Code §21168.6.5 that require any CEQA challenge to the Proposed Project to be brought in the Second District Court of Appeal (for violations of Art. VI, §10, of the Constitution),

4. For a preliminary and permanent injunction enjoining Defendant from enforcing: the entirety of Public Resources Code §21168.6.5 (for violations of Art. IV, §16, of the Constitution);

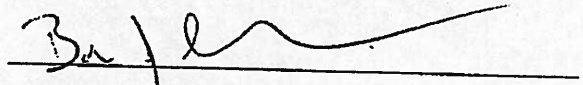
5. For the costs of the action herein incurred;

6. For attorneys' fees pursuant to Code of Civil Procedure §1021.5; and

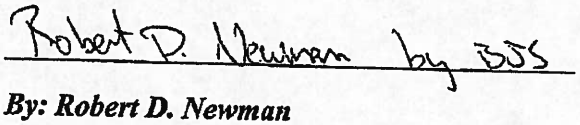
7. For such other and further relief as the Court deems proper.

Dated: August 30, 2012

Legal Aid Foundation of Los Angeles
Hadsell Stormer Richardson & Renick, LLP
Robert D. Newman, Attorney at Law



By: Barbara J. Schultz



By: Robert D. Newman

Attorneys for Plaintiffs

EXHIBIT A

shall be commenced by filing a petition for a writ of mandate with the Second District Court of Appeal and shall be served on the respondent and the real party in interest within 30 days of the filing by the lead agency of the notice required by subdivision (a) of Section 21152.

(2) The petitioner shall file and serve the opening brief in support of the petition for writ of mandate within 40 days of the filing of the petition for a writ of mandate.

(3) The respondent and real party in interest shall file and serve any brief in opposition to the petition for writ of mandate within 25 days of the filing of the opening brief.

(4) The petitioner shall file and serve the reply brief within 20 days of the filing of the last opposition brief to the petitioner's opening brief.

(5) Except as provided in paragraph (6), parties to the action shall comply with all applicable California Rules of Court in the filing of the petition for writ of mandate and the briefs.

(6) (A) Rule 8.220 of the California Rules of Court shall not apply to the time periods set forth in paragraphs (2) to (4), inclusive.

(B) If a petitioner fails to file the opening brief pursuant to paragraph (2), the Court of Appeal shall dismiss the petition.

(C) If the respondents and real party in interest fail to file the brief in opposition pursuant to paragraph (3), the Court of Appeal shall decide the petition for writ of mandate based on the record, the opening brief, and any oral argument by the petitioner.

(7) Except upon a showing of extraordinary good cause, the Court of Appeal shall not grant any extensions of time to the deadlines specified in this subdivision. Any extension shall be limited to the minimum amount the Court of Appeal deems to be necessary.

(8) The Court of Appeal may, on its motion or upon request from a party, appoint a special master to assist the Court of Appeal in conducting the expedited judicial review required pursuant to this subdivision. If the Court of Appeal appoints a special master, the applicant shall pay all reasonable costs for the special master, not to exceed one hundred fifty thousand dollars ($150,000). If the Court of Appeal determines that the cost of the special master may exceed one hundred fifty thousand dollars ($150,000), it may request that additional funds be provided by the applicant and, if the applicant agrees to provide the funding, shall use the funds to pay the additional costs of the special master.

(9) The Court of Appeal shall hold a hearing and issue a decision on all petitions for writ of mandate filed pursuant to this subdivision within 60 days of the filing of the last timely reply brief.

(10) (A) A petition for review of the decision rendered by the Court of Appeal shall be filed with the Supreme Court and served on all parties to the petition for writ of mandate within 15 days of the decision.

(B) Any opposition to the petition for review shall be filed and served within 15 days of the filing of the petition for review.

(C) The Supreme Court shall render a decision on the petition for review within 30 days after the filing of the petition for review or within 15 days

SEC. 2. Section 21168.6.5 is added to the Public Resources Code, to read:

21168.6.5. (a) For the purposes of this section, the following definitions shall apply:

(1) "Applicant" means a private entity or its affiliates that proposes the project and its successors, heirs, and assignees.

(2) "Initial project approval" means any actions, activities, ordinances, resolutions, agreements, approvals, determinations, findings, or decisions taken, adopted, or approved by the lead agency required to allow the applicant to commence the construction of the project, as determined by the lead agency.

(3) "Project" means a project that substantially conforms to the project description for the Convention Center Modernization and Farmers Field Project set forth in the notice of preparation released by the City of Los Angeles on March 17, 2011.

(4) "Stadium" means, except as the context indicates otherwise, the stadium built pursuant to the project for football and other spectator events.

(5) "Subsequent project approval" means any actions, activities, ordinances, resolutions, agreements, approvals, determinations, findings, or decisions by the lead agency required for, or in furtherance of, the project that are taken, adopted, or approved following the initial project approvals until the project obtains certificates of occupancy.

(6) "Trip ratio" means the total annual number of private automobiles arriving at the stadium for spectator events divided by the total annual number of spectators at the events.

(b) (1) This section does not apply to the project and shall become inoperative on the date of the release of the draft environmental impact report and is repealed on January 1 of the following year, if the applicant fails to notify the lead agency prior to the release of the draft environmental impact report for public comment that the applicant is electing to proceed pursuant to this section.

(2) The lead agency shall notify the Secretary of State if the applicant fails to notify the lead agency of its election to proceed pursuant to this section.

(c) (1) (A) Notwithstanding any other law, the procedures set forth in subdivision (d) shall apply to any action or proceeding brought to attack, review, set aside, void, or annul the certification of the environmental impact report for the project or the granting of any initial project approvals.

(B) Notwithstanding any other law, the procedures set forth in subdivision (j) shall apply to any action or proceeding brought to attack, review, set aside, void, or annul any subsequent project approvals.

(2) Notwithstanding any other law, the procedure set forth in subdivision (f) shall apply to the certification of the environmental impact report for the project and to any initial project approvals.

(d) (1) An action or proceeding to attack, set aside, void, or annul a determination, finding, or decision of the lead agency certifying the environmental impact report or granting one or more initial project approvals

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The overall unemployment rate in California is 12.0 percent, in Los Angeles County it is 13.3 percent, and in the City of Los Angeles it is 14.6 percent.

(b) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) requires that the environmental impacts of development projects be identified and mitigated. The act also guarantees the public an opportunity to review and comment on the environmental impacts of a project and to participate meaningfully in the development of mitigation measures for potentially significant environmental impacts.

(c) The Los Angeles Convention Center's West Hall is an old and outmoded facility that is inadequate to serve the city's visitor and convention needs. It was constructed 40 years ago and must be replaced to provide a modern, expanded, and more efficient convention hall adequate to meet the city's and region's needs.

(d) The Los Angeles Convention Center, the City of Los Angeles, and the region would greatly benefit from the addition of a multipurpose event center capable of hosting a wide range of events including conventions, exhibitions, and sporting events, as well as artistic and cultural events.

(e) The proposed Convention Center Modernization and Farmers Field Project is a public-private partnership that will result in the replacement of West Hall with a new convention hall and the construction of a new state-of-the-art stadium and multipurpose event center. The stadium will be completely privately financed and the convention hall will be financed from revenues generated by the stadium at no risk to the city's general fund.

(f) The project will generate an estimated 12,000 full-time jobs during construction and 11,000 permanent jobs at the Los Angeles Convention Center and in the hospitality and related industries. It is anticipated that the development of additional hotels, restaurants, and retail uses in the vicinity of the project would generate additional jobs in excess of these estimates.

(g) The project also presents an unprecedented opportunity to implement innovative measures that will significantly reduce traffic and air quality impacts from the project and fully mitigate the greenhouse gas emissions resulting from passenger vehicle trips attributed to the project, which will result in emission reductions and traffic mitigations that will be the best in the nation compared to other comparable stadiums in the United States. The project is located in downtown Los Angeles near several major rail transit facilities and is situated to maximize opportunities to encourage nonautomobile modes of travel to the stadium and convention center.

(h) It is in the interest of the state to expedite judicial review of the Convention Center Modernization and Farmers Field Project as appropriate while protecting the environment and the right of the public to review, comment on, and, if necessary, seek judicial review of, the adequacy of the environmental impact report for the project.

Senate Bill No. 292

CHAPTER 353

An act to add and repeal Section 21168.6.5 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 27, 2011. Filed with Secretary of State September 27, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 292, Padilla. California Environmental Quality Act: administrative and judicial review procedures: City of Los Angeles: stadium.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA establishes administrative procedures for the review and certification of the EIR for a project and judicial review procedures for any action or proceeding brought to challenge the lead agency's decision to certify the EIR or to grant project approvals.

This bill would establish specified administrative and judicial review procedures for the administrative and judicial review of the EIR and approvals granted for a project related to the development of a specified stadium in the City of Los Angeles. Because the lead agency would be required to use these alternative procedures for administrative review of the EIR if the project applicant so chooses, this bill would impose a state-mandated local program. The bill would require the lead agency and applicant to implement specified measures, as a condition of approval of the project, to minimize traffic congestion and air quality impacts that may result from spectators driving to the stadium.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) This bill would make legislative findings and declarations as to the necessity of a special statute for the development of a stadium in the City of Los Angeles.

after the filing of the opposition to the petition for review, whichever is earlier.

(11) All briefs and notices filed pursuant to this subdivision shall be electronically served on parties pursuant to Rule 8.71 of the California Rules of Court. Each party to the petition shall provide an electronic service address at which the party agrees to accept the service.

(12) (A) No provision of law that is inconsistent or conflicts with this subdivision shall apply to a petition for a writ of mandate subject to this subdivision, including, but not limited to, any of the following:

(i) Section 21167.4.

(ii) Subdivisions (a) through (d), inclusive, and (g) through (i), inclusive, of Section 21167.6.

(iii) Subdivision (f) of Section 21167.8.

(iv) Section 21167.6.5.

(v) Sections 66031 through 66035, inclusive, of the Government Code.

(B) Except as provided in this section, including subparagraph (A), the requirements of this division are fully applicable to the project.

(e) (1) The draft and final environmental impact report shall include a notice in not less than 12-point type stating the following:

THIS EIR IS SUBJECT TO SECTION 21168.6.5 OF THE PUBLIC RESOURCES CODE, WHICH PROVIDES, AMONG OTHER THINGS, THAT THE LEAD AGENCY NEED NOT CONSIDER CERTAIN COMMENTS FILED AFTER THE CLOSE OF THE PUBLIC COMMENT PERIOD FOR THE DRAFT EIR. ANY JUDICIAL ACTION CHALLENGING THE CERTIFICATION OF THE EIR OR THE APPROVAL OF THE PROJECT DESCRIBED IN THE EIR IS SUBJECT TO THE PROCEDURES SET FORTH IN SECTION 21168.6.5 OF THE PUBLIC RESOURCES CODE AND MUST BE FILED WITH THE SECOND DISTRICT COURT OF APPEAL. A COPY OF SECTION 21168.6.5 OF THE PUBLIC RESOURCES CODE IS INCLUDED IN THE APPENDIX TO THIS EIR.

(2) The draft environmental impact report and final environmental impact report shall contain, as an appendix, the full text of this section.

(f) (1) Within 10 days after the release of the draft environmental impact report, the lead agency shall conduct an informational workshop to inform the public of the key analyses and conclusions of that report.

(2) Within 10 days before the close of the public comment period, the lead agency shall hold a public hearing to receive testimony on the draft environmental impact report. A transcript of the hearing shall be included as an appendix to the final environmental impact report.

(3) (A) Within five days following the close of the public comment period, a commenter on the draft environmental impact report may submit to the lead agency a written request for nonbinding mediation. The lead agency and applicant shall participate in nonbinding mediation with all commenters who submitted timely comments on the draft environmental

impact report and who requested the mediation. Mediation conducted pursuant to this paragraph shall end no later than 35 days after the close of the public comment period.

(B) A request for mediation shall identify all areas of dispute raised in the comment submitted by the commenter that are to be mediated.

(C) The lead agency shall select one or more mediators who shall be retired judges or recognized experts with at least five years experience in land use and environmental law or science, or mediation. The applicant shall bear the costs of mediation.

(D) A mediation session shall be conducted on each area of dispute with the parties requesting mediation on that area of dispute.

(E) The lead agency shall adopt, as a condition of approval, any measures agreed upon by the lead agency, the applicant, and any commenter who requested mediation. A commenter who agrees to a measure pursuant to this subparagraph shall not raise the issue addressed by that measure as a basis for a petition for writ of mandate challenging the lead agency's decision to certify the environmental impact report or to grant one or more initial project approvals.

(4) The lead agency need not consider written comments submitted after the close of the public comment period, unless those comments address any of the following:

(A) New issues raised in the response to comments by the lead agency.

(B) New information released by the public agency subsequent to the release of the draft environmental impact report, such as new information set forth or embodied in a staff report, proposed permit, proposed resolution, ordinance, or similar documents.

(C) Changes made to the project after the close of the public comment period.

(D) Proposed conditions for approval, mitigation measures, or proposed findings required by Section 21081 or a proposed reporting and monitoring program required by paragraph (1) of subdivision (a) of Section 21081.6, where the lead agency releases those documents subsequent to the release of the draft environmental impact report.

(E) New information that was not reasonably known and could not have been reasonably known during the public comment period.

(5) (A) The lead agency shall file the notice required by subdivision (a) of Section 21152 within five days after the last initial project approval.

(B) If the notice required by subdivision (a) of Section 21152 is filed after June 1, 2013, this section shall become inoperative as of June 1, 2013, and is repealed as of January 1, 2014.

(C) In the event this section is repealed pursuant to subparagraph (B), the lead agency shall notify the Secretary of State.

(g) (1) For a petition for writ of mandate filed pursuant to this section, the lead agency shall prepare and certify the record of the proceedings in accordance with this subdivision and in accordance with Rule 3.1365 of the California Rules of Court. The applicant shall pay the lead agency for all costs of preparing and certifying the record of proceedings.

report for the project or in granting the initial or subsequent project approvals.

(4) The obligations imposed pursuant to this subdivision and subdivision (h) supplement, and do not replace, mitigation measures otherwise imposed on the project pursuant to this division.

(j) (1) An action or proceeding to attack, set aside, void, or annul a determination, finding, or decision of the lead agency granting a subsequent project approval shall be subject to the requirements of Chapter 6 (commencing with Section 21165).

(2) (A) In granting relief in an action or proceeding brought pursuant to this subdivision, the court shall not stay or enjoin the construction or operation of the project unless the court finds either of the following:

(i) The continued construction or operation of the project presents an imminent threat to the public health and safety.

(ii) The project site contains unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values that would be materially, permanently, and adversely affected by the continued construction or operation of the project.

(B) If the court finds that clause (i) or (ii) is satisfied, the court shall only enjoin those specific project activities that present an imminent threat to public health and safety or that materially, permanently, and adversely affect unforeseen important Native American artifacts or unforeseen important historical, archaeological, or ecological values.

(k) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique need for the development of the stadium in the City of Los Angeles, otherwise known as Farmers Field, in an expeditious manner.

O

Football League team. If the trip ratio at the stadium is more than 90 percent of the trip ratio at the other stadium with the lowest trip ratio, the lead agency shall, within six months following the receipt of the report, require the applicant to implement additional feasible measures that the lead agency determines pursuant to subparagraph (E) will be sufficient for the stadium to achieve the target specified in paragraph (2) of subdivision (h).

(E) Any trip reduction measure used at other stadiums serving a National Football League team shall be presumed to be feasible unless a preponderance of the evidence demonstrates that the measure is infeasible. The lead agency's decision whether to adopt any mitigation measures pursuant to subparagraph (D) other than those used at another stadium serving a National Football League team shall be governed by the substantial evidence test. This subparagraph does not require the applicant to bear the cost of improving the capacity or performance of transit facilities other than the following:

(i) Temporarily expanding the capacity of a public transit line, as needed, to serve stadium events.

(ii) Providing private charter buses or other similar services, as needed, to serve stadium events.

(iii) Paying its fair share of the cost of measures that expand the capacity of a public fixed or light rail station that is used by spectators attending stadium events.

(F) Any action or proceeding to attack, review, set aside, void, or annul a determination, finding, or decision of the lead agency regarding the additional mitigation measures pursuant to subparagraph (D) shall be commenced within 30 days following the lead agency's filing of the notice required by subdivision (a) of Section 21152 and shall be governed by this division. The procedures set forth in subdivision (d) shall not apply to that action or proceeding. Notwithstanding any other law, compliance or noncompliance with this paragraph shall not result in the stadium being required to cease or limit operations.

(G) If the lead agency requires the applicant to implement additional measures pursuant to subparagraph (D), the applicant shall submit the report described in subparagraph (B) to the lead agency following the conclusion of each subsequent season until the lead agency determines that the applicant has achieved a trip ratio at the stadium that is not more than 90 percent of the trip ratio at any other stadium serving a National Football League team for two consecutive seasons or until the applicant submits the required report following the conclusion of the 10th season, whichever occurs earlier. Nothing in this subparagraph affects the ongoing obligations of the applicant pursuant to subdivision (h) and this subdivision.

(H) All obligations of the applicant set forth in this subdivision or imposed upon the applicant by the lead agency pursuant to this subdivision shall run with the land.

(3) This subdivision and subdivision (h) shall not serve as a basis for any action or proceeding to attack, set aside, void, or annul a determination, finding, or decision of the lead agency in certifying the environmental impact

(2) Achieve and maintain a trip ratio that is no more than 90 percent of the trip ratio at any other stadium serving a team in the National Football League.

(i) (1) As a condition of approval of the project subject to this section, the lead agency shall require the applicant to implement measures that will meet the requirements of this division and paragraph (1) of subdivision (h) by the end of the first season during which a National Football League team has played at the stadium. To maximize public health, environmental, and employment benefits, the lead agency shall place the highest priority on feasible measures that will reduce greenhouse gas emissions on the stadium site and in the neighboring communities of the stadium. Offset credits shall be employed by the applicant only after feasible local emission reduction measures have been implemented. The applicant shall, to the extent feasible, place the highest priority on the purchase of offset credits that produce emission reductions within the city or the boundaries of the South Coast Air Quality Management District.

(2) To ensure that the stadium achieves a trip ratio that is no more than 90 percent of the trip ratio at any other stadium serving a team in the National Football League, the applicant shall implement the necessary measures as follows:

(A) Not later than the date of the certification of the environmental impact report for the project, the lead agency shall develop and adopt a protocol to implement this subdivision pursuant to this division and subdivision (h), including, but not limited to, criteria and guidelines that will be used to determine the trip ratio.

(B) Following the conclusion of the second, third, fourth, and fifth seasons during which a National Football League team has played at the stadium, the applicant shall prepare a report to the lead agency that describes the measures it has undertaken to reduce trips based on the protocol developed and adopted pursuant to subparagraph (A), the trip ratio at the stadium, and the results of those measures. The report shall also include a summary of publicly available data and other data gathered by the applicant regarding average vehicle ridership, nonpassenger automobile modes of arrival, and trip reduction measures undertaken at other stadiums serving a team in the National Football League.

(C) Following the lead agency's review of the report submitted following the fourth season, the lead agency shall determine whether adequate data is available to determine whether the trip ratio at stadium events is more than 90 percent of the trip ratio at any other stadiums serving a National Football League team. If the lead agency concludes that adequate data does not exist, the lead agency shall take necessary steps to collect, or cause to be collected, the data reasonably necessary to make the determination. The applicant shall pay the reasonable costs of collecting the data pursuant to subdivision (a) of Section 21089.

(D) Following the lead agency's review of the report submitted following the fifth season, the lead agency shall determine the trip ratio at stadium events and the lowest trip ratio at any other stadium serving a National

(2) No later than the date of the release of the draft environmental impact report, the lead agency shall make available to the public in a readily accessible electronic format the draft environmental impact report and all other documents submitted to or relied on by the lead agency in the preparation of the draft environmental impact report. A document prepared by the lead agency or submitted by the applicant after the date of the release of the draft environmental impact report that is a part of the record of the proceedings shall be made available to the public in a readily accessible electronic format within five business days after the document is prepared or received by the lead agency.

(3) The lead agency shall encourage written comments on the project to be submitted in a readily accessible electronic format, and shall make any such comment available to the public in a readily accessible electronic format within five days of its receipt.

(4) Within seven business days after the receipt of any comment that is not in an electronic format, the lead agency shall convert that comment into a readily accessible electronic format and make it available to the public in that format.

(5) The lead agency shall indicate in the record of the proceedings comments received that were not considered by the lead agency pursuant to paragraph (4) of subdivision (f) and need not include the content of the comments as a part of the record.

(6) Within five days after the filing of the notice required by subdivision (a) of Section 21152, the lead agency shall certify the record of the proceedings for the approval or determination and shall provide an electronic copy of the record to a party that has submitted a written request for a copy. The lead agency may charge and collect a reasonable fee for the electronic copy, which shall not exceed the reasonable cost of reproducing that copy.

(7) Within 10 days after being served with a petition for a writ of mandate pursuant to paragraph (1) of subdivision (d), the lead agency shall lodge a copy of the certified record of proceedings with the Court of Appeal.

(8) Any dispute over the content of the record of the proceedings shall be resolved by the Court of Appeal. Unless the Court of Appeal directs otherwise, a party disputing the content of the record shall file a motion to augment the record at the time it files its initial brief.

(9) The contents of the record of proceedings shall be as set forth in subdivision (e) of Section 21167.6.

(h) It is the intent of the Legislature that the project minimize traffic congestion and air quality impacts that may result from private automobile trips to the stadium through the requirements of this division as supplemented, pursuant to subdivision (i), by the implementation of measures that will do both of the following:

(1) Achieve and maintain carbon neutrality by reducing to zero the net emissions of greenhouse gases, as defined in subdivision (g) of Section 38505 of the Health and Safety Code, from private automobile trips to the stadium.