

1 JEFFREY L. ANDERSON (State Bar No. 157982)  
Cohen & Durrett, LLP  
2 2100 Northrop Avenue, Ste. 900  
Sacramento, California 95825  
3 Telephone: (916) 927-8797  
Facsimile: (916) 927-8798

4 PATRICK M. SOLURI (State Bar No. 210036)  
5 SOLURI MESERVE, A LAW CORPORATION  
1010 F Street, Suite 100  
6 Sacramento, California 95814  
Telephone: (916) 455-7300  
7 Facsimile: (916) 244-7300

**FILED**  
**Superior Court Of California,**  
**Sacramento**  
**05/03/2013**  
**amacias**  
**By \_\_\_\_\_, Deputy**  
**Case Number:**  
**34-2013-80001481**

8 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF SACRAMENTO

10  
11 COALITION FOR RESPONSIBLE  
12 ARENA DEVELOPMENT,

13 Petitioner and Plaintiff,

14 v.

15 CITY OF SACRAMENTO, and DOES 1  
16 through 20, inclusive,

17 Respondents and Defendants.  
18

**CASE NO.:**

**VERIFIED PETITION FOR WRIT OF  
MANDATE TO ENFORCE REQUEST  
FOR RECORDS UNDER PUBLIC  
RECORD ACT [Gov. Code § 6259];  
COMPLAINT FOR DECLARATORY  
RELIEF [Government Code § 6258] and  
COMPLAINT FOR INJUNCTIVE  
RELIEF [Gov. Code § 6258]**

19  
20  
21  
22  
23 DEPARTMENT 14  
24  
25  
26  
27  
28

1 Petitioner and Plaintiff COALITION FOR RESPONSIBLE ARENA DEVELOPMENT  
2 (“Petitioner”) hereby petitions this Court for a writ of mandate under Government Code section  
3 6259 to enforce Petitioner’s request for public records under California’s Public Records Act,  
4 for declaratory relief and injunctive relief pursuant to Government Code section 6258.

5 **PARTIES**

6 1. Petitioner and Plaintiff COALITION FOR RESPONSIBLE ARENA  
7 DEVELOPMENT is an unincorporated association of Sacramento residents and taxpayers who  
8 are concerned about the City of Sacramento’s financial contribution to a proposed  
9 Entertainment and Sports Complex (“ESC”). Members of Petitioner include, among others,  
10 Isaac Gonzalez, who is a resident and taxpayer of the City of Sacramento.

11 2. Respondent and Defendant CITY OF SACRAMENTO (“the City”) is a  
12 municipal corporation organized under the laws of the State of California.

13 3. Petitioner is unaware of the true names and capacities of RESPONDENTS and  
14 DEFENDANTS DOES 1 – 20, and sues such respondents and defendants herein by fictitious  
15 names. Petitioner is informed and believes, and based on such information and belief alleges  
16 that the fictitiously named respondents and defendants are also responsible for the injury to  
17 Petitioner alleged herein. When the true identities and capacities of these respondents and  
18 defendants have been determined, Petitioner will, with leave of the Court, if necessary, amend  
19 this petition and complaint to insert such identities and capacities.

20 **GENERAL ALLEGATIONS**

21 4. Petitioner realleges and incorporates by reference the allegations in paragraphs 1  
22 through 3 as if fully set forth herein.

23 5. On or about March 26, 2013, the City Council voted to approve a term sheet  
24 (“Term Sheet”) for the construction and financing of a new ESC. The City staff report, dated  
25 March 23, 2013, publicly released only one business day prior to the March 26th vote of the  
26 City Council approving the Term Sheet, provided that the City would contribute City-owned  
27 real property having an aggregate value of \$37,980,000 in order to facilitate the proposed ESC  
28 project. A true and correct copy of Page 9 of the City’s staff report detailing the various City-

1 owned properties that will be conveyed to the private investors is attached hereto as Exhibit A,  
2 and is incorporated herein by this reference.

3 6. Petitioner alleges on information and belief that City Manager John Shirey,  
4 Mayor Kevin Johnson and others, have conspired to provide a “secret subsidy” to the private  
5 investor group (“Sacramento Investor Group”) who desires to purchase the Sacramento Kings  
6 from the Maloof family, in an effort to prevent the Kings franchise from being purchased by  
7 another investment group (“Seattle Investor Group”) and relocated from Sacramento to Seattle.

8 7. Petitioner alleges on information and belief that the Sacramento Investor Group  
9 previously informed City Manager and Mayor Johnson that the Kings franchise was only worth  
10 approximately \$400 million, and not the \$525 million being offered by the Seattle Investor  
11 Group. Petitioner further alleges on information and belief that the Sacramento Investor Group  
12 demanded compensation from the City in order to make up the difference between their  
13 estimated value of \$400 million and the \$525 million required to match the Seattle Investor  
14 Group. Petitioner alleges on information and belief that the City Manager John Shirey, Mayor  
15 Johnson and others conspired to provide the Sacramento Investor Group this subsidy for its  
16 acquisition of the Kings franchise – and do so in a manner that would not be disclosed to the  
17 public.

18 8. Specifically, Petitioner alleges on information and belief that City Manager John  
19 Shirey, Mayor Johnson, and others, conspired with the Sacramento Investor Group to provide  
20 secret compensation that would be conveyed vis-a vis three “sweeteners” to the Sacramento  
21 Investor Group that were not included in the publicly-disclosed ESC subsidy value of \$258  
22 million. Petitioner alleges on information and belief that the three “sweeteners” that have to  
23 date include the conveyance of City-owned parking facilities, various billboard leases, and the  
24 aforementioned City-owned real estate which the City Manager John Shirey, Mayor Johnson  
25 and others have intentionally undervalued in the Term Sheet. On information and belief, the  
26 true value of the properties to be conveyed to the Sacramento Investor Group is far greater than  
27 the indicated value of \$37,980,000 set forth in the Term Sheet.

1 **FIRST CAUSE OF ACTION**  
2 **(REQUEST TO WRIT OF MANDATE TO ENFORCE REQUEST FOR RECORDS**  
3 **UNDER PUBLIC RECORDS ACT)**

4 9. Petitioner realleges and incorporates by reference the allegations in paragraphs 1  
5 through 8 as if fully set forth herein.

6 10. On April 5, 2013, counsel for Petitioner prepared and served on the City a written  
7 request to inspect or receive copies of the public records, including:

- 8 • All emails, and attachment to emails, dated January 2013 to the present, between  
9 City Manager John Shirey and City employees Howard Chan, Richard Sanders or  
10 Desmond Parrington.
- 11 • All emails, and attachments to such emails, dated January 2013 to the present,  
12 between Assistant City Manager John Dangberg and City employees Howard  
13 Chan, Richard Sanders or Desmond Parrington.
- 14 • All emails, and attachments to emails, to and from the Mayor's Chief of Staff,  
15 Daniel Conway, regarding the ESC or the City-owned parcels to be conveyed to  
16 private investors pursuant to the ESC's "term sheet."

17 Petitioner's request reasonably described the requested records and was made in accordance  
18 with the City's procedures for obtaining access to or copies of public records. A copy of  
19 Petitioner's counsel's written public records request to the City, dated April 5, 2013, is attached  
20 hereto as Exhibit B, and is hereby incorporated herein by this reference.

21 11. Following the City's utter failure to respond as required by law to the April 5,  
22 2013 public records request, on April 22, 2013, Petitioner's counsel sent a letter protesting the  
23 City's failure to respond and further asserting that "the City is now in violation of Government  
24 Code section 6253." A true and correct copy of that letter, dated April 22, 2013, is attached  
25 hereto as Exhibit C, and is hereby incorporated herein by this reference.

26 12. As of the date of the filing of this Petition and Complaint, the City has refused,  
27 and continues to refuse, to respond as required by law to the public records request and has  
28 failed to provide any justification for its failure to respond or asserted any exemption that  
justify the City not providing the requested documents.

1 13. Petitioner claims it is entitled to disclosure of the requested records pursuant to  
2 the Public Records Act (Gov. Code § 6253), that no exemption to the Public Records Act  
3 applies, and in any event, the City has waived its right to assert any exemption by virtue of its  
4 complete failure to even respond to the public records request.

5 14. Petitioner was at all times herein mentioned ready to tender the appropriate  
6 amount in fees to cover the City's costs in providing access to or copies of the aforementioned  
7 records.

8 15. Petitioner has exhausted all administrative remedies required in order to file this  
9 action.

10 16. Petitioner has no adequate remedy at law in that an action for monetary damages  
11 or other relief will not compensate Petitioner for deprivation of access to the information that  
12 Petitioner is seeking.

13 17. As a result of the City's ongoing refusal to comply with the requirements of the  
14 Public Records Act, Petitioner has, and will continue to incur, costs and attorneys' fees in an  
15 amount according to proof and Petitioner claims costs and attorneys' fees pursuant to  
16 Government Code section 6259(d).

17 **SECOND CAUSE OF ACTION**  
18 **(DECLARATORY RELIEF)**

19 18. Petitioner realleges and incorporates by reference the allegations in paragraphs 1  
20 through 17 as if fully set forth herein.

21 19. An actual controversy has arisen and now exists between Petitioner and  
22 Respondents concerning their respective rights and duties in that Petitioner contends that  
23 Respondent has violated the Public Records Act by failing to facilitate access to or copies of  
24 public records responsive to Petitioner's public records request dated April 5, 2013, or to even  
25 respond to said request in a manner required by law. The City's conduct constitutes an  
26 unlawful infringement upon Petitioner's legal rights.

27 20. To resolve this controversy, Petitioner desires a judicial determination and  
28 declaration of the legal issues set forth above in the First Cause of Action.



1 WHEREFORE, Petitioner and Plaintiff prays for judgment as follows:

2 1. For a peremptory writ of mandate directing the CITY OF SACRAMENTO to  
3 disclose the public records requested by Petitioner or to show cause why the CITY OF  
4 SACRAMENTO should not do so;

5 2. For a declaration that the records referred to herein are subject to disclosure under  
6 the Public Records Act (Gov. Code § 6253) and that either the City, by failing entirely to  
7 respond to Petitioner's Public Records Act request has waived the right to object or,  
8 alternatively, that disclose is not prohibited under any relevant exemption;

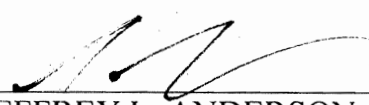
9 3. For a permanent injunction, enjoining the CITY OF SACRAMENTO, and any of  
10 its agents, servants, and employees, and all persons acting under, in concert with, or for the  
11 CITY OF SACRAMENTO to provide Petitioner with access to or copies of the aforementioned  
12 records upon payment of a fee covering the costs to the CITY OF SACRAMENTO of  
13 providing such access or copies;

14 4. For costs of suit and reasonable attorneys' fees as determined by the Court  
15 pursuant to Government Code section 6259, subdivision (d) and Code of Civil Procedure  
16 section 1021.5;

17 5. For such other and further relief as the Court may deem proper.  
18

19 Dated: May 3, 2013

COHEN & DURRETT, LLP

20  
21 By:   
22 JEFFREY L. ANDERSON  
23 Attorney for Petitioner and Plaintiff

24 Dated: May 3, 2013

SOLURI MESERVE,  
A LAW CORPORATION

25  
26 By:   
27 PATRICK M. SOLURI  
28 Attorney for Petitioner and Plaintiff

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

I, Isaac Gonzalez, am a member of the named Petitioner and Plaintiff in the above-entitled action. I have read the foregoing petition and complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

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

Executed in Sacramento, California on May 3, 2013.



ISAAC GONZALEZ, Member  
Coalition for Responsible Arena Development



# **EXHIBIT A**

## Costs of Public Parking Finance Model

There are substantial expenses associated with the transaction. These costs are the result of transaction fees, which means that the City's advisors get paid once the City completes the transaction to lease out its parking assets. Those funds would not come from the City but would come from the proceeds of the transaction.

### **City-owned Land Transfers**

The City owns several properties that could generate revenue for the ESC. Under the proposed Term Sheet, these properties would be transferred to the Investor Group and it would be responsible for providing the cash equivalent land value toward the development of the ESC. CBRE was retained by the City to determine the value of City-owned land assets. Based on their recent update dated February 26, 2013, the value of the land assets listed below is estimated at \$37.98 million. The value of the Natomas property is based on the assumption that the current development moratorium is lifted.

<b>One-Time Revenues</b>	<b>Value Estimate</b>
Natomas – City Parcel (100 acres)	\$19,990,000
3 <sup>rd</sup> Street and Capitol Mall (Lot X)	9,970,000
2 <sup>nd</sup> Street and O Street (Lot Y)	470,000
Haggin Oaks at Business 80 (approx. 60 acres)	3,920,000
800 K Street (includes multiple parcels)	1,600,000
4 <sup>th</sup> and J Street	2,030,000
<b>TOTAL</b>	<b>\$37,980,000</b>

Source: CBRE, *Revenue Generation Study - Broker Opinion of Value* prepared for the City of Sacramento, February 26, 2013.

### **Master Owner Participation Agreement (MOPA) Funds**

The sources of City funds include Master Owner Participation Agreement (MOPA) funds. The MOPA funds were set aside for Downtown development projects from proceeds after the sale of the Sheraton Grand hotel. The MOPA funds are intended to facilitate planning and implementation of projects in downtown Sacramento and the ESC project is an eligible use of those funds. Use of the MOPA funds requires approval from both the City of Sacramento and CIM and David S. Taylor Interests per the terms of the agreement. The City has received that approval.

### **County Possessory Interest Tax**

On February 28, 2012, the Sacramento County Board of Supervisors approved a resolution supporting a financial contribution from the County for the ESC. The Board agreed to contribute new possessory interest tax (PIT) revenue generated by the ESC. The County has agreed to contribute

# **EXHIBIT B**



tel: 916.455.7300 · fax: 916.244.7300  
1010 F Street, Suite 100 · Sacramento, CA 95814

April 5, 2013

**SENT VIA EMAIL (records@cityofsacramento.org)**

Shirley Concolino, City Clerk  
Office of the City Clerk  
City of Sacramento  
915 I Street, Historic City Hall, 1st Floor  
Sacramento, California 95814

**RE: Public Records Act Request**

Dear Ms. Concolino:

Pursuant to the provisions of the California Public Records Act (Gov. Code, §§ 6250 et seq.), please make available the following documents pertaining to the recent proposal for an Entertainment and Sports Complex (“ESC”). A “term sheet” of the ESC was recently approved on March 26, 2013:

1. All emails, and attachments to emails, dated January 2013 to the present, between City Manager John Shirey and City employees Howard Chan, Richard Sanders or Desmond Parrington.
2. All emails, and attachments to such emails, dated January 2013 to the present, between Assistant City Manager John Dangberg and City employees Howard Chan, Richard Sanders or Desmond Parrington.
3. All emails, and attachments to emails, to and from the Mayor’s Chief of Staff, Daniel Conway, regarding the ESC or the City-owned parcels to be conveyed to private investors pursuant to the ESC’s “term sheet.”

The public agency is required to make the records “promptly available.” (Gov. Code, § 6253.) We understand that these documents are stored electronically on the City’s servers rather than as hard copy files.

Ms. Concolino  
PRA Request  
April 5, 2013  
Page 2 of 2

Please contact me if you have any questions regarding this request. Thank you in advance for your assistance with this matter.

Very truly yours,

**SOLURI MESERVE**  
A Law Corporation

By:



Patrick M. Soluri

PS/mre

# **EXHIBIT C**



a law corporation  
tel: 916.455.7300 · fax: 916.244.7300  
1010 F Street, Suite 100 · Sacramento, CA 95814



2100 Northrop Avenue, Suite 900  
Sacramento, California 95825  
(916) 927-8797 www.cohendurrett.com (916) 927-8798 fax

April 22, 2013

**SENT VIA EMAIL (imuller@cityofsacramento.org)**

John Shirey  
City Manager  
City of Sacramento  
915 I Street, 5th Floor  
Sacramento, CA 95814

**RE: Notice of Violation of the California Public Records Act**

Dear Mr. Shirey:

On April 5, 2013, we submitted a request for public records to the City of Sacramento (“City”) pursuant to the California Public Records Act, Government Code section 6250, et seq. (See Attachment A.) The City had ten days to respond to our request regarding the availability of the documents. (Gov. Code, § 6253.) Even though the requested electronic files could have been retrieved directly from the City’s servers in a manner of minutes (pursuant to the City Clerk’s standard practice for handling such requests), it has now been well beyond ten days and no response whatsoever has been received. Thus, the City is now in violation of Government Code section 6253.

We previously received information indicating that you and Mayor Johnson had entered into a secret agreement with the proposed Sacramento investor group regarding purchase of the Sacramento Kings NBA franchise. It is our understanding that the investor group informed you and the Mayor that the Kings franchise was not worth the \$525 million being offered by the Seattle investor group, and the investor group demanded compensation from the City in order to make up the difference between their estimated value of \$400 million and the required \$525 million to acquire the Kings. This secret compensation would be conveyed vis-à-vis three “sweeteners” to the investor group that are not included in the publicly-disclosed Arena subsidy in the amount of \$258 million. These three “sweeteners,” include the conveyance of parking facilities, billboard leases and intentionally understated fair market value of the City-owned real estate.

Mr. Shirey  
April 22, 2013  
Page 2 of 2

Our prior Public Records Act request sought documents relevant to this secret subsidy agreement for the acquisition of the Kings franchise. The City's inexplicable failure to even respond to our Public Records Act request, much less provide the requested documents, represents a patent violation of law and further suggests that the City is sanitizing its records to remove evidence of this secret compensation agreement. Pursuant to Government Code section 6258, we are now entitled to initiate proceedings for injunctive relief, declaratory relief or a writ of mandate to correct the City's unlawful conduct.

Very truly yours,

**SOLURI MESERVE**  
A Law Corporation

By:   
Patrick M. Soluri

**COHEN & DURRETT, LLP**  
Attorneys At Law

By:   
Jeffrey L. Anderson

Attachment: Attachment A - April 5, 2013 Public Records Act Request Letter

cc: Mayor Kevin Johnson  
Councilmember Angelique Ashby  
Councilmember Allen Warren  
Councilmember Steve Cohn  
Councilmember Steve Hansen  
Councilmember Jay Schenirer  
Councilmember Kevin McCarty  
Councilmember Darrell Fong  
Councilmember Bonnie Pannell  
City Attorney James C. Sanchez  
City Clerk Shirley Concolino



# **ATTACHMENT A**



tel: 916.455.7300 · fax: 916.244.7300  
1010 F Street, Suite 100 · Sacramento, CA 95814

April 5, 2013

**SENT VIA EMAIL (records@cityofsacramento.org)**

Shirley Concolino, City Clerk  
Office of the City Clerk  
City of Sacramento  
915 I Street, Historic City Hall, 1st Floor  
Sacramento, California 95814

**RE: Public Records Act Request**

Dear Ms. Concolino:

Pursuant to the provisions of the California Public Records Act (Gov. Code, §§ 6250 et seq.), please make available the following documents pertaining to the recent proposal for an Entertainment and Sports Complex (“ESC”). A “term sheet” of the ESC was recently approved on March 26, 2013:

1. All emails, and attachments to emails, dated January 2013 to the present, between City Manager John Shirey and City employees Howard Chan, Richard Sanders or Desmond Parrington.
2. All emails, and attachments to such emails, dated January 2013 to the present, between Assistant City Manager John Dangberg and City employees Howard Chan, Richard Sanders or Desmond Parrington.
3. All emails, and attachments to emails, to and from the Mayor’s Chief of Staff, Daniel Conway, regarding the ESC or the City-owned parcels to be conveyed to private investors pursuant to the ESC’s “term sheet.”

The public agency is required to make the records “promptly available.” (Gov. Code, § 6253.) We understand that these documents are stored electronically on the City’s servers rather than as hard copy files.

Ms. Concolino  
PRA Request  
April 5, 2013  
Page 2 of 2

Please contact me if you have any questions regarding this request. Thank you in advance for your assistance with this matter.

Very truly yours,

**SOLURI MESERVE**  
A Law Corporation

By:



Patrick M. Soluri

PS/mre