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KEKER, VAN NEST & PETERS LLP
JOHN W. KEKER - # 49092
jkeker@keker.com
DANIEL PURCELL - # 191424
dpurcell@keker.com
EDUARDO E. SANTACANA - # 281668
esantacana@keker.com
LEAH PRANSKY - # 302246
lpransky@keker.com
633 Battery Street
San Francisco, CA 94111-1809
Telephone: 415 391 5400
Facsimile: 415 397 7188

Attorneys for Counter-Claimant
OAKLAND-ALAMEDA COUNTY COLISEUM AUTHORITY

EXEMPT FROM FILING FEES—CAL. GOV. CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO

CPF-19-516542

OAKLAND-ALAMEDA COUNTY
COLISEUM AUTHORITY,

Counter-Claimant,

v.

GOLDEN STATE WARRIORS, LLC,

Counter-Defendant.

Case No. CaseNumber

**OAKLAND-ALAMEDA COUNTY
COLISEUM AUTHORITY'S PETITION
TO CONFIRM FINAL ARBITRATION
AWARD AND FOR ENTRY OF
JUDGMENT**

[C.C.P. § 1285]

Date: April 10, 2019
Time: 9:30 a.m.
Dept: 302

RESERVATION NO.: 02070410-14

FILED
San Francisco County Superior Court
FEB 11 2019
CLERK OF THE COURT
BY: *[Signature]*
Deputy Clerk

1 The Oakland-Alameda County Coliseum Authority (“the Authority”) hereby petitions this
2 Court under California Code of Civil Procedure sections 1285 and 1286 to confirm a final
3 arbitration award in its favor. In support of this petition, the Authority states:

4 1. The Authority is a joint powers authority formed pursuant to an Amended and
5 Restated Joint Powers Agreement dated December 17, 1996 between the City of Oakland and the
6 County of Alameda, and is the successor to the Oakland-Alameda County Coliseum, Inc., a
7 dissolved California nonprofit public-benefit corporation. The Authority is the governmental
8 agency that operates and manages the Oakland-Alameda County Coliseum Complex in the City
9 of Oakland, County of Alameda, State of California. The Coliseum Complex includes the
10 Oakland Coliseum and Oracle Arena (“the Arena”).

11 2. Respondent Golden State Warriors, LLC (“Warriors”) is a California limited
12 liability company which operates the Golden State Warriors, a National Basketball Association
13 franchise that plays its home games at Oracle Arena and is the Arena’s primary tenant.

14 3. Prior to 1996, the Warriors played their home basketball games at the Oakland-
15 Alameda County Coliseum Complex at a facility then known as the Oakland-Alameda County
16 Coliseum Arena, which opened in 1966. In 1996, the Warriors’ lease to play in the Oakland-
17 Alameda County Coliseum Arena expired. Rather than extending that lease, GSW desired to
18 obtain a new facility with a larger seating capacity capable of holding 20,000 patrons, and with
19 additional amenities available at newer facilities housing other NBA teams, such as luxury boxes
20 and suites and improved sight lines. After a lengthy negotiation, the parties agreed to a full-scale
21 renovation of the original arena, developing a plan to construct a modern facility on the same site
22 and to use public financing to raise the needed initial capital.

23 4. In July 1996, GSW and the Authority agreed to and signed a License Agreement
24 (“License Agreement”), which provided for the complete refurbishment of the Arena into the
25 state-of-the-art “New Arena.” A true and correct copy of the License Agreement is attached
26 hereto as **Exhibit 1** and incorporated herein by reference.

27 5. While the License Agreement contemplated that the Authority would issue \$140
28 million in bonds (“the Project Debt”) to generate the initial capital necessary to fund the project,

1 the deal required the Warriors to repay the Project Debt over time, from a combination of revenue
2 sources, including an annual contribution from premium seating revenues, *id.* § 7.3.2. The
3 Authority and the Warriors anticipated that repayment of the Project Debt would take up to 30
4 years and would be complete by June 30, 2027.

5 6. The initial term of the Warriors' license to play basketball at the Arena under the
6 July 1996 License Agreement was 20 years, beginning at the start of the 1997-98 NBA season
7 and ending on June 30, 2017. Ex. 1 § 6.1. The License Agreement also gave the Warriors four
8 unilateral options to extend the license, each for an additional five-year term, adding up to a total
9 of 20 additional years. *Id.* § 6.2.

10 7. Sections 6.3 and 6.4 of the License Agreement governed the Warriors' obligation
11 to continue paying Project Debt in the event they elected to cease playing basketball in Oakland
12 at the Arena. Under section 6.3, the Warriors had no right to terminate the license during the first
13 ten years of the license term, through June 30, 2007. After June 30, 2007 and until June 30,
14 2017—from years 10 to 20 of the initial license term—the Warriors could terminate the license
15 by paying to the Authority a one-time, lump-sum termination fee equaling the total amount of
16 then-outstanding Project Debt. Ex. 1 § 6.3. In the event the Warriors elected to terminate under
17 section 6.3 and pay this lump-sum termination fee, the Warriors would then be entitled to receive
18 back from the Authority, on an annual basis, 50% of the profits (if any) received by the Authority
19 from continued operation of the Arena.

20 8. While section 6.3 of the License Agreement governed the Warriors' right to leave
21 Oakland between year 10 and year 20 of the original license term, section 6.4 governed what
22 would happen if the Warriors left Oakland after year 20 but before full repayment of the Project
23 Debt. Ex. 1 § 6.4. Under section 6.4, if the Warriors bring an end to license prior to June 30,
24 2027—the date by which the parties expected the Project Debt to be fully repaid—the Warriors
25 would be obligated to pay the Authority, on a yearly basis, the full amount of scheduled service
26 on the Project Debt due that year, less any profits generated by the Authority from continued
27 operation of the Arena. *Id.* Unlike section 6.3, which required a lump-sum payment of the total
28 amount of debt service in exchange for ending the lease prior to the end of the initial 20-year

1 term, section 6.4 required the Warriors to make only annual payments of debt service amounts as
2 they came due, in the event the Warriors left Oakland after 20 years but before the Project Debt
3 was fully repaid. *Id.*

4 9. In May 2012, the Warriors announced that, on the expiration of the initial 20-year
5 term of the license on June 30, 2017, the team would relocate from Oakland to a new arena to be
6 built in San Francisco. The Warriors broke ground on construction of the San Francisco arena in
7 January 2017. But by that time, it appeared likely that the new arena would not be completed and
8 ready to host Warriors home games until the start of the 2019-20 NBA season in fall 2019.
9 Accordingly, the Authority and the Warriors negotiated and executed an amendment to the
10 License Agreement providing for a stopgap two-year extension of the Warriors' tenancy, to allow
11 the Warriors to continue playing in Oakland through June 30, 2019. The amendment further gave
12 the Warriors three unilateral one-year options to further extend the term of the license, potentially
13 through June 30, 2022. A true and correct copy of this amendment, titled Amendment No. 4 and
14 executed by the parties on April 5, 2017, is attached hereto as **Exhibit 2** and incorporated herein
15 by reference. When the parties executed this amendment, they specifically preserved the debt-
16 service obligations set forth in section 6.4 of the original License Agreement. Ex. 2 § 4.1
17 (“[e]xcept as expressly set forth ... no term or provision of the License Agreement, including, but
18 not limited to, any obligations of Licensee under *Paragraph 6* of the License Agreement to make
19 payments with respect to Project Debt, is being amended or modified.”) (emphasis in original).

20 10. Section 39 of the License Agreement provides that all disputes “arising under or
21 related to the License Agreement or the relationship established pursuant to the License
22 Agreement” shall be resolved by arbitration. *See* Ex. 1 § 39.1; *see generally id.* at 40-44. Section
23 39 also explicitly provides that the confirmation and entry of judgment based on any arbitrator’s
24 decision shall be governed by California Code of Civil Procedure sections 1285 et seq. *See id.*
25 § 39.3.11.

26 11. On October 6, 2017, the Warriors initiated an arbitration proceeding under section
27 39 of the License Agreement. In their demand for arbitration, the Warriors sought a declaration
28 that, upon the expiration of the two-year extension to their license on June 30, 2019, their

1 obligation to pay Project Debt to the Authority under section 6.4 of the License Agreement would
2 cease, and the Warriors would have no further contractual obligation to make any payments to the
3 Authority for Project Debt after that date.

4 12. On October 16, 2017, the Authority timely filed a counterclaim for a declaration
5 that, directly contrary to the Warriors' claim, section 6.4 of the License Agreement imposed a
6 continuing obligation on the Warriors to make annual Project Debt payments through June 30,
7 2027, no matter whether the Warriors brought their license to play in Oakland to an end by
8 terminating the license during the license term or declining to exercise their unilateral option to
9 extend the license term and thus allowing the license to lapse.

10 13. Prior to the arbitration hearing, the parties briefed the contested issue of which side
11 bore the burden of proof. The Warriors argued that the Authority was the party seeking
12 affirmative relief on the License Agreement and thus had the burden of proving that the
13 Agreement required the Warriors to continue making Project Debt contributions after they left the
14 Arena. The Authority argued that the parties shared the burden of proof.

15 14. The ensuing arbitration hearing before Arbitrator Rebecca J. Westerfield addressed
16 both parties' competing claims for declaratory relief. The arbitration hearing was held in San
17 Francisco at the offices of the American Arbitration Association from July 23-25, 2018. The
18 Authority and the Warriors appeared through counsel, making opening statements, examining and
19 cross-examining witnesses, and presenting documentary evidence and deposition testimony.

20 15. The parties filed post-hearing briefs on August 24, 2018, and the Arbitrator heard
21 closing arguments on September 10, 2018.

22 16. On October 25, 2018, Arbitrator Westerfield rendered an Interim Award in favor
23 of the Authority, ruling that section 6.4 of the License Agreement imposed a continuing
24 obligation on the Warriors to make annual Project Debt contributions to the Authority through
25 June 30, 2027, whether or not the Warriors continued to play basketball in Oakland and no matter
26 how the Warriors brought their license to play at the Arena to an end. Arbitrator Westerfield also
27 invited the Authority, as the prevailing party in the arbitration, to seek recovery of its attorneys'
28 fees and costs under section 39.3.5 of the License Agreement.

1 17. The parties then briefed the Authority's entitlement to recover attorneys' fees and
2 costs under section 39.3.5, with the final brief on that issue being filed and served on December
3 20, 2018.

4 18. On January 18, 2019, Arbitrator Westerfield issued her Final Award, affirming her
5 Interim Award with respect to the Warriors' continuing obligation to repay Project Debt under
6 section 6.4 of the License Agreement, and awarding the Authority \$705,413.12 in attorneys' fees
7 and \$57,954.01 in recoverable costs. Arbitrator Westerfield specifically provided that her Final
8 Award was binding and confirmable. A true and correct copy of the Final Award is attached
9 hereto as **Exhibit 3** and incorporated herein by reference.

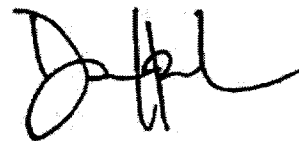
10 19. WHEREFORE, Petitioner Oakland-Alameda County Coliseum Authority prays
11 for judgment as follows:

- 12 A. For an Order confirming the Arbitrator's Final Award;
13 B. For entry of judgment in conformity with the Arbitrator's Final Award;
14 C. For attorneys' fees and costs of suit under section 39.3.5 of the License
15 Agreement, Ex. 1 § 39.3.5; and
16 D. For such other relief as the Court may deem proper.

17 Dated: February 8, 2019

KEKER, VAN NEST & PETERS LLP

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21 By:



DANIEL PURCELL
Attorneys for Counter-Claimant
OAKLAND-ALAMEDA COUNTY
COLISEUM AUTHORITY, a public
joint powers authority