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CITIZENS FOR A BETTER EUREKA

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF HUMBOLDT

CITIZENS FOR A BETTER EUREKA,

Petitioner and Plaintiff,

vs.

CITY OF EUREKA, CITY OF EUREKA
CITY COUNCIL, and DOES 1 to 10,
inclusive,

Respondents and Defendants.

Case No.:

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND ATTORNEYS' FEES**

CEQA Action

[Public Resources Code, §§ 21000, et seq.; Cal.
Code of Civil Procedure, §§ 525, 1060, 1085
and/or 1094.5]

Petitioner and Plaintiff CITIZENS FOR A BETTER EUREKA (“Petitioner”) hereby petitions the Court for a writ of mandate against respondents and defendants CITY OF EUREKA (“City”) and the CITY OF EUREKA CITY COUNCIL (“City Council”) (collectively, “Respondent”), and by this Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and for Attorneys’ Fees (“Verified Petition”) alleges as follows:

INTRODUCTION AND SUMMARY

1. This is a public interest citizen suit to enforce the California Environmental Quality Act, Public Resources Code (“PRC”) Section 21000 et seq. (“CEQA”).

2. CEQA is California's preeminent environmental law. It requires all public agencies to examine the potential adverse impacts of their actions before taking them. It is designed to protect California's environmental resources from uninformed and agency actions.

3. CEQA requires Respondent to fully examine the impacts of its actions and to carefully consider alternatives and mitigation measures that would reduce those impacts. CEQA prohibits public agencies from approving a project as proposed “if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects” of the project. (PRC § 21002.)

4. Petitioner challenges Respondent's unlawful actions taken on or about April 4, 2023, including Respondent's adoption of a "Resolution of the City Council of the City of Eureka finding the project qualifies for a Class 12 Surplus Government Property exemption from CEQA and authorizing the reduction or removal of public parking from the parking lot at 5th and D Streets to facilitate development of Affordable Housing Projects" (the "Project"). According to the staff report prepared in connection with the Project, the City Council's action would eliminate up to 34 parking spaces in order to "maximize the available area on the site for development of affordable housing".

5. The City Council's decision to approve the Project is based, at least in part, on a parking availability study that utilized data collected in August 2021, during the COVID-19 pandemic, and which as consequence shows underutilization of on-street and off-street parking. The staff report prepared in connection with the Project asserts, on the basis of the flawed traffic

1 study that “there is ample on-street parking the vicinity of the lot to accommodate the reduction or
2 removal of the parking spaces”. The staff report failed to report that the referenced parking data
3 was collected in August 2021, and failed to report that the referenced parking study itself states
4 that “Parking occupancy rose from 2016 to 2019, then decreased in 2021. This decrease is likely
5 related to the COVID-19 pandemic and accompanying economic impacts as well as the associated
6 increase in office workers working remotely.”

7 6. The staff report also misleadingly asserted that the “site is also well served by
8 alternative transportation options with easy access to bus stops, and bike lanes”. The City core
9 draws customers, employees, and traffic from across the County and surrounding region, including
10 numerous areas not served by public transportation and also not within biking distance to
11 downtown Eureka. It is untrue that existing public transportation modes are adequate to allow
12 residents to get to and from work, shopping, schools, medical appointments, and to all the other
13 places necessary to carry on normal life.

14 7. As acknowledged in the staff report, the “parking lot at 5th and D was purchased
15 with funds from the City of Eureka’s Parking Assessment District (PAD).” This means that City
16 businesses paid for the purchase of this parking lot (and others) for the express purpose of
17 providing parking for those businesses. It is unclear that the City has the legal authority to eliminate
18 the 5th and D parking spaces without providing alternative parking spaces elsewhere in close
19 proximity.

20 8. The proposed redevelopment of the City-owned 5th and D Street site, which is
21 currently dedicated to parking uses, would have significant secondary environmental impacts,
22 including traffic-related impacts, air quality related impacts, and public safety impacts. Although
23 largely outside the scope of this litigation, the City’s proposal would also have significant adverse
24 economic impacts to local businesses. These concerns and others were articulated to the City at
25 its April 4, 2023 hearing on the Project.

26 9. Petitioners and other commenters presented substantial evidence that the Project
27 may cause a number of significant environmental impacts at the April 4, 2023 hearing. Potentially
28 significant impacts relate to traffic, air quality, and public safety.

10. At the April 4, 2023 hearing, Petitioners and other commenters also informed the City that the City’s action is not exempt from the California Environmental Quality Act (CEQA) pursuant to the Section 15312 of the CEQA Guidelines (Class 12 exemption), as asserted in the staff report. While CEQA Guidelines Section 15312 exempts the sale of surplus property from CEQA review, in this case, the “the whole of [the] action” that has “a potential for resulting” in a direct or reasonably foreseeable indirect physical change to the environment is not merely the surplus-sale of the lot, but the redevelopment of the lot into affordable housing. (CEQA Guidelines, § 15378(a).) The City’s action, to exempt the surplus sale of the lot without considering the redevelopment of the lot, a future use that is expressly identified in the staff report, is classic “piecemealing” in conflict with CEQA.

11. By not analyzing the entire Project’s impacts on the environment, Respondent violated CEQA and the CEQA Guidelines (Title 14, California Code of Regulations, §§ 15000 *et seq.* (“CEQA Guidelines”)).

12. Through this Verified Petition Petitioners seek to compel Respondent to properly analyze, disclose, and mitigate the potential significant adverse environmental impacts associated with the Project.

PARTIES

13. Petitioner CITIZENS FOR A BETTER EUREKA (“CBE”) is an unincorporated, volunteer community organization that works to protect and enhance the quality of life in and economic vitality of the City of Eureka. CBE members offer input into local land use and planning decisions and economic decisions affecting the City, and have participated in the City’s various actions regarding parking, affordable housing, and downtown revitalization. CBE members include, but are not limited to, Dan Marchett, Andy Cleveland, Cindy Olsen, Shane Blackwell, Michelle Constantine, John Fullerton, Sondra Kirtley, Chuck Ellsworth, Laura Bringhurst, Jorge Bravo, Holly Blackwood, Ben Smith, Anthony Mantova, Mike Munson, Jim Morrison, Marion Brady, Roger Miller, Connie Miller, Nancy Flemming, Susan Santsche, Chris Lehto, Rebecca Blanc, Christopher Larsen, Jennifer Rudick, Nina Chadwich, Frank Jager, Steve Cunningham, Lacy Cunningham, Ray Conti, Rod Anderson, and Security National Properties Servicing

1 Company, LLC (“SN”), which is part of a larger family of entities of which 200 are employed in
2 downtown Eureka, making SN one of the largest employers in the City and the broader region.
3 CBE members include local business owners, financial professionals, lawyers, medical
4 professionals, former members of the City Council, and former City Mayors. CBE was duly
5 authorized to and does bring this action in a representative capacity on behalf of its members and
6 in the public interest.

7 14. Respondent CITY OF EUREKA (“City”) is, and at all times herein mentioned was,
8 a political and geographic subdivision of the State of California. The City is, and at all relevant
9 times was, responsible for administering and carrying out its laws and all applicable federal and
10 state laws. The City is the “lead agency” for purposes of Public Resources Code Section 21067,
11 with principal responsibility for conducting environmental review of the Project.

12 15. Respondent CITY OF EUREKA CITY COUNCIL (“City Council”) is, and at all
13 times herein mentioned was, the duly elected legislative body of Respondent City. As the decision-
14 making body for the Project, the City was charged with ensuring compliance with CEQA in
15 connection with reviewing and approving the Project. On or about October 18, 2022, the City
16 Council adopted Resolution No. 2022-58 approving the Project and adopting the Addendum.
17 Respondent did not thereafter file a notice of determination.

18 16. Petitioners are unaware of the true names and capacities of Respondents DOES 1
19 through 10, and sues such respondents by fictitious names. On information and belief, the
20 fictitiously named respondents are also responsible for the actions described in this Verified
21 Petition. When the true identities and capacities of these respondents have been determined,
22 Petitioners will amend this Petition to insert such identities and capacities. Each of the unnamed
23 respondents is the agent and/or employee of Respondents, and each performed acts on which this
24 action is based within the course and scope of such respondent’s agency and/or employment.

25 17. Hereafter, Respondents City, City Council, and DOES 1 through 10, inclusive, are
26 referred to collectively as “Respondent”.

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1 **JURISDICTION AND VENUE**

2 18. Respondent has taken final agency actions by approving the Project. Respondents
3 had a duty to comply with CEQA prior to exercising their discretion to approve the Project.

4 19. This Court has jurisdiction over the matters alleged in this Verified Petition
5 pursuant to Code of Civil Procedure (“CCP”) Sections 526 (injunctive relief), 527 (injunctive
6 relief), 1060 (declaratory relief), 1085 (traditional mandate), and 1094.5 (administrative mandate),
7 and PRC Sections 21168 and/or 21168.5 (judicial review under CEQA).

8 20. The Court has jurisdiction to issue declaratory and injunctive relief pursuant to CCP
9 Sections 1060 and 525 *et seq.*, respectively.

10 21. Venue for this action properly lies in the Superior Court for the State of California
11 in and for the County of Humboldt pursuant to CCP Sections 393(b), 394, and 395. Respondent
12 and the Project are located within the County of Humboldt. The environmental impacts from the
13 Project that are the subject of this lawsuit would occur in Humboldt County, and the Project would
14 affect the interests of County residents and City residents, including Petitioner, and its members,
15 their employees, and their customers.

16 **STANDING AND EXHAUSTION OF ADMINISTRATIVE REMEDIES**

17 22. Pursuant to CCP 367, Petitioner CBE has standing to sue if any of its members
18 would otherwise have standing to sue on their own behalf; the interests CBE seeks to protect in
19 this lawsuit are germane to its purposes; and neither the claim asserted nor the relief requested
20 requires participation of its individual members in the lawsuit.

21 23. Petitioner has standing to assert the claims alleged in this Verified Petition because
22 Petitioner’s members are beneficially interested in this matter. Petitioners would be detrimentally
23 affected by the Project to the extent that the Project contributes to significant traffic impacts, air
24 quality impacts, and public safety impacts that impair Petitioners’ ability to attract and retain
25 customers and qualified employees, increased costs for employee health insurance and security,
26 decreased customer traffic, and to otherwise continue operating as a going concern within the City.
27 CBE member SN also is beneficially interested in the matter as the owner of property adjacent to
28 City-owned property (the lot at 5th and D Streets) that is proposed for redevelopment under the

1 Project. Because Petitioner SN's employees currently utilize that property for parking, the Project
2 will have a direct and substantial impact on Petitioner and its employees. Further, the interests
3 CBE seeks to protect in this lawsuit, relating to traffic impacts, air quality, and public safety
4 particularly in the City core, are germane to the organization's objectives to improve quality of life
5 in the City and the City's economic vitality. Lastly, the claims asserted in this Verified Petition do
6 not require participation by individual CBE members.

7 24. Petitioner and its members have an independent beneficial interest in Respondent
8 performing its public duties and in the faithful execution of the law by public officers.

9 25. Prior to Respondent's decision to approve the Project, Petitioner's members
10 actively participated in the administrative process and objected to the Project.

11 26. Petitioner has performed any and all conditions precedent to filing the instant action
12 and have exhausted available administrative remedies to the extent possible and required by law.
13 Respondent's actions are final and no further administrative appeal procedures are provided by
14 state or local law. Petitioner and other members of the public presented orally and/or in writing
15 their specific objections to the Project during the administrative process.

16 **STATUTE OF LIMITATIONS**

17 27. Petitioner incorporates by reference each and every allegation set forth above.

18 28. On April 4, 2023, Respondent City Council adopted Resolution No. 2023-____,
19 thereby approving the Project and determination that the Project was exempt from CEQA.

20 29. On information and belief, Respondent did not file a notice of exemption following
21 its approval of the Project.

22 30. Pursuant to subdivision (c)(5) of Section 15112 of the CEQA Guidelines, the statute
23 of limitations for a CEQA challenge where none of CEQA's shorter time limits applies is 180 days
24 after either (a) the public agency's decision to carry out or approve the project, or (b)
25 commencement of the project if the project is undertaken without a formal decision by the public
26 agency.

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31. Pursuant to subdivision (d) of Public Resources Code Section 21167, an action challenging an agency's determination that a project is exempt from CEQA must be filed within 35 days after the filing of a notice of exemption by the agency.

32. This Verified Petition was filed in Humboldt County Superior Court on or before May 4, 2023 – within 30 days of the date the City Council approved the Project.

33. Petitioner filed this Verified Petition prior to the expiration of any and all applicable statutes of limitations.

NOTICE OF CEQA SUIT

34. On April 28, 2023, Petitioner sent by email and mail a letter to the City Clerk and to the City Attorney, giving notice to Respondent of Petitioner's intent to file this lawsuit seeking to invalidate Respondent's actions approving the Project. (See **Exhibit A**.) This letter satisfied Petitioner's obligation under PRC Section 21167.5.

35. Petitioner will provide notice of this action to the Attorney General of the State of California by serving a true and correct copy of this Verified Petition along with a notice of its filing, as required by PRC Section 21167.7 and CCP Section 388.

PREPARATION OF THE RECORD

36. Pursuant to PRC Section 21167.6, subdivision (b)(2), Petitioner elects to prepare the administrative record of proceedings in this action. (See **Exhibit B**.)

ARBITRARY AND CAPRICIOUS ACTIONS

37. Petitioner brings this action on the basis, among others, of Government Code Section 800, and other applicable laws, which entitles petitioners to attorneys' fees in actions such as this to overturn agency decisions that are arbitrary and capricious.

PRIVATE ATTORNEY GENERAL DOCTRINE

38. Petitioner brings this action as private attorneys general pursuant to CCP Section 1021.5, and any other applicable legal theory, to enforce important rights affecting the public interest.

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39. Issuance of the relief requested in this Verified Petition will (1) confer a significant benefit on the general public by requiring Respondent to carry out its duties under CEQA before approving the Project, and will (2) result in the enforcement of important rights affecting the public interest by ensuring the Project is subject to adequate review under CEQA and its significant impacts mitigated to the extent possible.

40. The necessary and financial burden of enforcement are such as to make an award of attorneys' fees appropriate in this case.

41. Pursuant to CCP Section 388, Petitioner will serve a copy of this Verified Petition on the California Attorney General to give notice that Petitioners brought this lawsuit as a private attorney general under CCP Section 1021.5.

RELIEF REQUESTED

42. Petitioner seeks an alternative writ of mandamus, a peremptory writ of mandamus, temporary and permanent injunctive relief, costs, and attorneys' fees.

A. Alternative and Peremptory Writs of Mandamus (CCP §§ 1085, 1087; PRC §§ 21168.5, 21168.9)

43. Petitioner seeks alternative and peremptory writs of mandate pursuant to CCP Section 1085, which provides that a writ of mandate “may be issued by any court . . . to any inferior tribunal, corporation, board or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station,” and CCP Section 1087, which provides that “It]he writ may be either alternative or peremptory.”

44. Petitioner also seeks alternative and peremptory writs of mandate pursuant to PRC Sections 21168.5 and 21168.9. The former statute, applicable in traditional mandamus actions involving alleged violations of CEQA, provides as follows:

In any action or proceeding, other than an action or proceeding under section 21168, to attack, review, set aside, void or annul a determination, finding, or decision of a public agency on the grounds of noncompliance with [CEQA], the inquiry shall extend only to whether there has been a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.

1 45. PRC Section 21168.9 authorizes a court, after determining that a respondent agency
2 has violated CEQA, to issue a peremptory writ of mandate requiring the agency to void or suspend
3 decisions for which CEQA compliance was necessary, or to take other steps necessary to bring its
4 decisions into compliance with CEQA. Petitioner requests that, pursuant to subdivision (a)(1) of
5 Section 21168.9, the court issue a peremptory writ requiring the City to void its approval of the
6 Project.

7 46. Section 21168.9, subdivision (b), provides that “[t]he trial court shall retain
8 jurisdiction over the public agency's proceedings by way of a return to the peremptory writ until
9 the court has determined that the public agency has complied with [CEQA].”

10 47. Petitioner seeks alternative and peremptory writs of mandate on the grounds that,
11 by approving the Project without first properly complying with CEQA, Respondents prejudicially
12 abused their discretion within the meaning of Public Resources Code Section 21168.5.

13 **B. Temporary and Permanent Injunctive Relief**

14 48. Petitioner requests injunctive relief pursuant to CCP Sections 526, 527, and 3422,
15 which provide that the Court may issue temporary and/or permanent injunctive relief, including a
16 preliminary injunction, if the plaintiff or petitioner meets specified criteria.

17 49. Respondents’ actions will result in irreparable harm to Petitioner and the public at
18 large in that the Project as approved may cause significant environmental impacts that have not
19 been evaluated and for which no mitigations have been adopted. As was described earlier and will
20 be discussed more fully, *infra*, such impacts include, but are not limited to, those involving traffic,
21 air quality, and public safety.

22 50. Petitioner has no plain, speedy, or adequate remedy in the ordinary course of law.
23 No money damages or other legal remedy could adequately compensate Petitioner for the harms
24 described in the preceding paragraphs.

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1 **C. Attorneys' Fees and Costs**
2 **(CCP §§ 1021.5, 1032; Gov. Code, § 800)**

3 51. This litigation involves the enforcement of an important right affecting the public
4 interest. Accordingly, if Petitioner is successful in prosecuting this action, Petitioner will confer a
5 substantial benefit on the citizens of the region and state and, therefore, will be entitled to an award
6 of reasonable attorneys' fees pursuant to CCP Section 1021.5.

7 52. Petitioner also brings this action pursuant to Government Code Section 800, which
8 awards petitioners up to \$7,500.00 in attorneys' fees in actions to overturn agency decisions, such
9 as those at issue herein, that are arbitrary and capricious.

10 53. Additionally, Petitioner requests reimbursement for costs pursuant to CCP Section
11 1032, subdivision (b), which provides that "[except as otherwise expressly provided by statute, a
12 prevailing party is entitled as a matter of right to recover costs in any action or proceeding."

13 **LEGAL BACKGROUND**

14 54. CEQA is California's primary statutory mandate for environmental protection. It
15 applies to all state and local agencies, and requires them to "first identify the [significant]
16 environmental effects of projects, and then to mitigate those adverse effects through the imposition
17 of feasible mitigation measures or through the selection of feasible alternatives." (*Sierra Club v.*
18 *State Board of Forestry* (1994) 7 Cal.4th 1215, 1233.) Its most important substantive imperative
19 requires "public agencies to deny approval of a project with significant adverse effects when
20 feasible alternatives or feasible mitigation measures can substantially lessen such effects." (*Sierra*
21 *Club v. Gilroy City Council* (1990) 222 Cal.App.3d 30, 41.)

22 55. CEQA's mandate for detailed environmental review "ensures that members of the
23 [governmental decision-making body] will fully consider the information necessary to render
24 decisions that intelligently take into account the environmental consequences" of their proposed
25 action. (*Mountain Lion Foundation v. Fish and Game Commission* (1997) 16 Cal.4th 105, 133;
26 PRC §§ 21080.5(d)(2)(D), 21091(d)(2); CEQA Guidelines § 15088.) The CEQA process thus
27 "protects not only the environment but also informed self-government." (*Citizens of Goleta Valley*
28 *v. Board of Supervisors* (1990) 52 Cal.3d 553, 564.)

56. California “public agencies” must comply with CEQA when they approve discretionary projects. (PRC § 21080(a).)

57. Respondent is a “public agency” as defined in CEQA. (PRC § 21063.)

58. Under CEQA, the term “project” applies to activities that may cause “either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (PRC § 21065.) Under the CEQA Guidelines, the term “project” is defined as “the whole of an action” that has “a potential for resulting” in a direct or reasonably foreseeable indirect physical change to the environment. (CEQA Guidelines § 15378(a).) The broad reach of the term “project” means three things: (1) when examining an activity to determine whether it could affect the physical environment, an agency must consider the entire activity that is the subject of its approval (CEQA Guidelines § 15378(a)); (2) the project is the activity that is approved by a public agency, not the approval itself (CEQA Guidelines § 15378(c)); and (3) a public agency action that will not have an immediate effect on the environment but that has the potential to result in a reasonably foreseeable physical change in the environment indirectly is a project under CEQA (PRC § 21065; CEQA Guidelines § 15378(a)).

59. A lead agency may not split a single project into smaller actions; doing so results in piecemeal environmental review that fails to consider the environmental consequences of the entire project.

FIRST CAUSE OF ACTION

Violation of CEQA

(CCP § 1094.5, PRC § 21000 *et seq.*, CEQA Guidelines, 14 CCR § 15000 *et seq.*)

60. Petitioner incorporates by reference each and every allegation set forth above.

61. Petitioner brings this First Cause of Action for violations of CEQA pursuant to PRC Sections 21168 and 21168.5 on the grounds that Respondent committed a prejudicial abuse of discretion by failing to proceed in the manner required by law in approving the Project based on a determination that the Project was exempt from CEQA.

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1 62. The “Class 12” exemption applies to “sales of surplus government property”.
2 (CEQA Guidelines § 15312.) This exemption, like all CEQA exemptions, is narrowly construed;
3 agency action approving or opening the way for a future development can be part of a project and
4 can trigger CEQA even if the action takes place prior to planning or approval of all the specific
5 features of the planned development.

6 63. Substantial evidence in the record shows that the “whole of the action” constitutes
7 redevelopment of the 5th and D Street lot into a minimum of 20 affordable housing units.
8 Respondent stated in its staff report that “a minimum of 20 affordable units will be constructed on
9 the site.”

10 64. Substantial evidence in the record shows that the Project will result in significant
11 traffic impacts. For example, the Project, by eliminating public parking spaces, will contribute to
12 traffic congestion during peak traffic periods on roadway segments within downtown Eureka that
13 will decrease the Level of Service (“LOS”) from LOS C to LOS D on those roadway segments.
14 Respondent failed to analyze and mitigate this impact.

15 65. Substantial evidence in the record shows that by eliminating public parking spaces,
16 the Project will conflict with City policies, including Transportation Demand Management
17 policies, encouraging employment in the central core of the City. Moreover, the City’s conclusions
18 regarding impacts to parking availability are based in part on a parking study that was performed
19 in 2021, when COVID-related quarantine measures will still in place and many businesses in the
20 City core were closed. Elimination of public parking spaces will potentially displace significant
21 employers to outside of the City core, resulting in secondary traffic impacts. Respondent failed to
22 analyze and mitigate this impact.

23 66. The Project will result in significant air quality impacts as a result of increased
24 traffic congestion in the City core. Traffic-related emissions will violate applicable air quality
25 standards and expose sensitive receptors to substantial pollutant concentrations. Respondent failed
26 to analyze and mitigate this impact.

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67. By eliminating public parking in close proximity to employers and places of business, the Project will cause substantial adverse effects indirectly on persons particularly in the City core by exposing such persons to unsafe conditions, including risk of violent crime, associated with traveling longer distances to and from parked vehicles. Respondent failed to analyze and mitigate this impact.

SECOND CAUSE OF ACTION

**Writ of Mandate, Declaratory and Injunctive Relief
(CCP § 1085 and 1094.5)**

68. Petitioner incorporates by reference each and every allegation set forth above.

69. Respondent proceeded in excess of its jurisdiction and abused its discretion in purporting to approve the Project, because such approval violates CCP Sections 1085 and 1094.5 in the following respects, among others:

- a. such approval was not granted in accordance with the procedures required by law;
- b. such approval was not based on the findings required by law; and
- c. such approval was not based on, or was contrary to, the evidence in the record before Respondent.

69. Respondent failed to proceed in the manner required by law by violating CEQA as alleged hereinabove.

70. Respondent's actions in approving the Project without complying with the procedures required by CCP Sections 1085 and 1094.5 exceeded Respondent's jurisdiction and constitutes a prejudicial abuse of discretion, and therefore are invalid and must be set aside.

WHEREFORE, Petitioner prays for judgment as follows:

PRAYER FOR RELIEF

1. For alternative and peremptory writs of mandate directing Respondent to vacate and set aside the Project on the ground that its approval violated CEQA;

2. For alternative and peremptory writs of mandate directing Respondent to comply with CEQA and the CEQA Guidelines with respect to the Project and any other action as required by PRC Section 21168.9;

1 3. For a temporary stay, temporary restraining order, and preliminary and permanent
2 injunctions restraining Respondent and their agents and employees, and all others acting in concert
3 with them or on their behalf, from taking any action to implement, fund, or construct any portion
4 or aspect of the Project, pending full compliance with the requirements of CEQA;

5 4. For an order requiring Respondent to rescind its approval of the Project and all
6 actions related thereto, as provided by CCP Section 860 *et seq.*;

7 5. For an order from the Court declaring that Respondent's actions in approving the
8 Project violated CEQA, and that its actions are invalid and of no force or effect;

9 6. For an award of Petitioner's attorneys' fees under CCP Section 1021.5,
10 Government Code Section 800, and other applicable authority;

11 7. For an award of Petitioner's costs of suit incurred in this proceeding under CCP
12 Section 1032, and other applicable authority; and

13 8. Such other and further relief as the Court deems just and proper.
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16 DATED: May 4, 2023

EVERVIEW LTD.

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19 Bradley Johnson, Esq.
20 *Attorneys for Petitioner and Plaintiff*
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VERIFICATION

I am an employee of Security National Properties Servicing Company, LLC ("SN"), which is a member of Petitioner CITIZENS FOR A BETTER EUREKA ("CBE"). I am authorized by SN to make this verification on its behalf, and I am authorized by the members of CBE to make this verification for and on behalf of CBE. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and for Attorneys' Fees. I am informed and believe and, based on such information and belief, allege that the matters stated in it are true and correct.

Executed at Eureka, California, on this 3rd day of May, 2023.

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

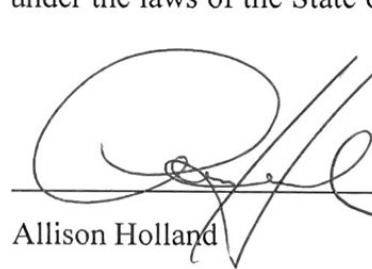

Allison Holland

Exhibit A



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April 28, 2023

*VIA EMAIL TO: PPOWELL@EUREKACA.GOV
CITYATTORNEY@EUREKACA.GOV*

AND VIA U.S. MAIL

Pam Powell
Assistant City Manager/City Clerk
City of Eureka
531 K Street
Eureka, CA 95501

Autumn Luna, Esq.
City Attorney
City of Eureka
531 K Street
Eureka, CA 95501

Re: NOTICE OF INTENT TO FILE CEQA PETITION

PLEASE TAKE NOTICE, under Public Resources Code Section 21167.5, that petitioner CITIZENS FOR A BETTER EUREKA intends to file a petition under the provisions of the California Environmental Quality Act against respondent City of Eureka and City of Eureka City Council (collectively, "City"), challenging the City's April 4, 2023 approval of "A Resolution of the City Council of the City of Eureka finding the project qualifies for a Class 12 Surplus Government Property exemption from CEQA and authorizing the reduction or removal of public parking from the parking lot at 5th and D Streets to facilitate development of Affordable Housing Projects", which appeared as Item E.2. on the City Council's April 4, 2023 agenda.

The petition to be filed by petitioner will be served on the City after filing.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bradley B. Johnson".

Bradley B. Johnson, Esq.
Everview Ltd.
Attorney for Petitioner Citizens for a Better Eureka



Exhibit B

Bradley B. Johnson (SBN 257220)
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CITIZENS FOR A BETTER EUREKA

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF HUMBOLDT

CITIZENS FOR A BETTER EUREKA,

Petitioner and Plaintiff,

vs.

CITY OF EUREKA, CITY OF EUREKA
CITY COUNCIL, and DOES 1 to 10,
inclusive,

Respondents and Defendants.

Case No.:

**NOTICE OF PETITIONER'S ELECTION
TO PREPARE THE ADMINISTRATIVE
RECORD OF DECISION**

[Public Resources Code, § 21167.6(e)]

1 **TO RESPONDENTS AND DEFENDANTS:**

2 NOTICE IS HEREBY GIVEN that, pursuant to subdivision (b)(2) of section 21167.6 of
3 the California Public Resources Code, Petitioner and Plaintiff CITIZENS FOR A BETTER
4 EUREKA ("Petitioner") hereby elects to prepare the administrative record pertinent to this
5 proceeding.

6
7 DATED: May 3, 2023

EVERVIEW LTD.

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10 _____
Bradley Johnson, Esq.

11 *Attorneys for Petitioner and Plaintiff*
12 CITIZENS FOR A BETTER EUREKA
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