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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FIBER FIRST LOS ANGELES; MOTHERS OF EAST LA; UNION BINACIONAL DE ORGANIZACIONES DE TRABAJADORES MEXICANOS EXBRACEROS 1942-1964; BOYLE HEIGHTS COMMUNITY PARTNERS; UNITED KEETOOWAH BAND OF CHEROKEE INDIANS IN OKLAHOMA; CALIFORNIA FIRES & FIREFIGHTERS; MALIBU FOR SAFE TECH; EMF SAFETY NETWORK; CALIFORNIANS FOR SAFE TECHNOLOGY; 5G FREE CALIFORNIA; and CHILDREN'S HEALTH DEFENSE,)	CASE NO.: 23STCP00750
)	VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
)	California Environmental Quality Act, Cal. Pub Res. Code § 21000 <i>et seq</i> ; Planning & Zoning Law, Cal. Government Code 65000 <i>et seq</i> ; County Code §§ 22.02.050, 22.232.040, 22.244.030, and 22.244.040; Cal. Const. art. I, § 7; Code of Civil Procedure §§ 1085, 1094.5
Plaintiffs and Petitioners,)	
v.)	Dep't:
COUNTY OF LOS ANGELES; COUNTY OF LOS ANGELES BOARD OF SUPERVISORS; COUNTY OF LOS ANGELES REGIONAL PLANNING COMMISSION; COUNTY OF LOS ANGELES DEPARTMENT OF REGIONAL PLANNING; COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS; and DOES 1–10, inclusive;)	
Defendants, Respondents, and Real Parties in Interest)	

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1 **INTRODUCTION**

2 1. This lawsuit seeks to enjoin the Respondents, Defendants, and Real Parties in Interest
3 County of Los Angeles (“County), County of Los Angeles Board of Supervisors (“Board of
4 Supervisors”), County of Los Angeles Regional Planning Commission (“Planning Commission”),
5 County of Los Angeles Department of Regional Planning (“Regional Planning”), and County of Los
6 Angeles Department of Public Works (“Public Works” or collectively with County, Board of
7 Supervisors, Planning Commission, and Regional Planning as “Respondents”) action on January 10,
8 2023 (and all previous and subsequent actions) approving an ordinance amending Title 16 and Title 22
9 of the Los Angeles County Code (“Project” or “Ordinance”) to establish regulations for the review and
10 permitting of wireless telecommunication facilities.

11 2. The Ordinance eliminates discretionary conditional use permitting for most wireless
12 telecommunication facilities, and institutes what is claimed to be ministerial review, stripping away the
13 site-specific environmental inquiries mandated by the California Environmental Quality Act, Cal.
14 Public Resources Code (“PRC”) § 21000 *et seq* (“CEQA”).

15 3. The Board of Supervisors opted to exempt the Project from CEQA environmental
16 review, ignoring substantial evidence that the Ordinance, through the many individual wireless
17 facilities that will be permitted under the Ordinance’s procedures, will have a substantial adverse
18 environmental impact.

19 4. The Ordinance contains other facial defects, of which the most prominent is an illegal
20 delegation of the Board of Supervisors’ legislative authority to the Director of its Planning Department
21 and the Highway Commissioner. Under the Ordinance’s permitting procedures for wireless
22 telecommunication facilities, the Director and Commissioner are freely able to create new and
23 substantive obligations, a form of legislative action. They both also have substantial discretion and the
24 ability to exercise subjective judgment even though the process they oversee is claimed to be
25 “ministerial.” The Ordinance does not provide any direction or constrain in any way to the Director’s or
26 Commissioner’s discretion and legislative power.

27 5. The confusion between ministerial and discretionary authority in Titles 16 and 22, the
28 arbitrary assertion of an exemption from CEQA, and the unlawful delegation of legislative authority

1 grant the Los Angeles Planning Department and Department of Public Works with unfettered authority
2 and cut the public out of the wireless facility permitting process. The Board of Supervisors justify this
3 action by claiming the code amendments will close the Digital Divide. This is false. Those most at risk
4 on account of historical and ongoing economic, minority or other forms of discrimination will have no
5 voice, will lack effective legal counsel, and will be unable to escape an unsafe, toxic and aesthetically
6 displeasing environment caused by an inferior communications delivery medium. The Ordinance will
7 worsen, not close, the digital divide.

8 6. Moreover, the Ordinance raises profound constitutional substantive and procedural due
9 process concerns with regard to individual permit applications that will have a direct and significant
10 impact on those affected by the Project. Those who live near many of the wireless projects that will be
11 governed by the Ordinance will suffer significant losses of personal and real property rights, without
12 any meaningful opportunity to contest the Project, no right to a hearing of any kind, and no appeal to a
13 higher authority within the County, not even the Board of Supervisors. The “ministerial process” is not
14 consistent with several state statutes, or the California state Constitution.

15 7. The Ordinance creates the framework for permitting thousands of wireless facilities
16 throughout the incorporated and unincorporated parts of the County. The Board of Supervisors
17 purposefully and unlawfully blinded themselves to the significant and adverse consequences to its local
18 communities and the environment that will occur as a direct result of this Project.

19 8. A wireless project can often so sicken local residents that it constructively evicts whole
20 families who can no longer tolerate continuous exposure to non-ionizing radiation emitted from small
21 cell and macro cell towers. This situation is especially tragic for poor and minority families who are
22 holding on desperately to affordable housing and lack any financial means of escape. Basic justice
23 demands that these families, who are represented in this case by several plaintiffs, be given adequate
24 prior notice and a fair hearing before their voices are silenced, their property is taken or devalued, or
25 their lives are put at risk.

26 9. As is extensively documented, the wireless facilities will endanger the air, water, flora,
27 fauna, and objects of historic or aesthetic significance. The wireless facilities are not designed to
28 withstand earthquakes or floods and will create new risks of fire.

10. Petitioners seek a Writ of Mandamus, Declaratory, and other relief vacating the County Board of Supervisors' approval of the Ordinance, enjoining all permitting of wireless telecommunication facilities under the Ordinance's procedures, and declaring that County's adoption of the Ordinance failed to comply with CEQA, the California Government Code, the Los Angeles County Code, and the California Constitution.

PARTIES

11. Plaintiff and Petitioner Fiber First Los Angeles is a grassroots community group focused on bringing safe, reliable, and affordable technology to every community in Los Angeles.

12. Plaintiff and Petitioner Mothers of East LA is a California 501(c)(3) non-profit located at 3324 Opal St., Los Angeles, CA. 90023, and has been operating since 1986. Mothers of East LA is a community-based group created for the procurement of a better quality of life in East Los Angeles and the protection of our local environment. The organization works to achieve a safe environment for their families, their community and future generations.

13. Plaintiff and Petitioner Union Binacional de Organizaciones de Trabajadores Mexicanos Exbraceros 1942-1964 is a California 501(c)(3) non-profit whose mission is to promote the well-being and the advancement of migrants in the United States. It provides historical, educational, cultural, health, and art programs for the elderly. It also engages in environmental solidarity projects, and provides scholarships for young migrants to achieve maximum personal and professional development in social projects.

14. Plaintiff and Petitioner Boyle Heights Community Partners is a California 501(c)(3) nonprofit located at 603 N. Breed Street, Los Angeles, CA. 90033. Boyle Heights Community Partners is centered in the second oldest community in the City of Los Angeles. Its mission is to protect its cultural heritage, history, historic places, and people, as well as the integrity of its community. Boyle Heights Community Partners provides historic preservation education and engages in the landmarking of historic homes, people of significance, and buildings throughout the local community. Boyle Heights Community Partners champions historic preservation and aims to grow a cultural arts presence in its local historic districts, many of which have been designated as a historic preservation overlay zone by the City of Los Angeles Office of Historic Resources.

1 15. Plaintiff and Petitioner United Keetoowah Band of Cherokee Indians in Oklahoma
2 (“UKB”) is a sovereign nation, and one of only three federally recognized Cherokee tribes in the United
3 States. UKB is headquartered in Tahlequah, Oklahoma. The UKB are known as the Western Cherokee,
4 or Old Settlers, as many were already moving west to avoid U.S. encroachment before the Trail of
5 Tears officially began. The majority of UKB’s more than 14,000 tribal members are located in
6 Oklahoma, but members reside in several other states, including California. Approximately 50 tribal
7 members reside in Los Angeles County.

8 16. Plaintiff and Petitioner California Fires & Firefighters is a d/b/a for Rocky Mountains
9 for Safe Technology, a 501(c)(3) non-profit organization located at PO Box 1444, Lyons, CO 80540
10 and incorporated under the laws of Colorado. Its mission is to learn from and safeguard the health of
11 California firefighters whose fire stations were the first targets of cell towers beginning in the 1990s, to
12 advocate for safer working conditions, and to protect the land and the people of California through
13 educating their local elected leaders regarding the increasing threat of telecommunications equipment-
14 initiated fires.

15 17. Plaintiff and Petitioner Malibu for Safe Tech is a grassroots organization of Los Angeles
16 County residents working to protect its community and environment from the threats of wireless
17 telecommunication. Malibu for Safe Tech works to raise awareness of issues surrounding 5G systems
18 and its impacts to safety, privacy, property values and the health of all living organisms, and interacts
19 with organizations around the nation regarding the same.

20 18. Plaintiff and Petitioner EMF Safety Network is a grassroots organization that began in
21 Sebastopol, CA and has grown to over 4,500 members from all over the United States, including many
22 in Los Angeles County. The EMF Safety Network is a sponsored project of Ecological Options
23 Network (EON), a 501(c)(3) not-for-profit organization. Since 2009, EMF Safety Network has been
24 driving and building EMF activism to better protect people and nature by keeping thousands of people
25 informed and helping them take action on important EMF issues. EMF Safety Network’s mission is to
26 educate and empower people by providing science and solutions to reducing EMFs. Its goal is to
27 improve lives, achieve public policy change, and obtain environmental justice on the local, state and
28 national levels.

1 19. Plaintiff and Petitioner Californians for Safe Technology is a coalition of grassroots
2 leaders throughout California working with community members on local, state, and national issues
3 regarding safe technology using awareness and education. Its mission is to be a place where
4 organizations and individuals across California can work together to find strategies for educating
5 communities, local governments, and schools on safer technology choices. The coalition aligns itself
6 with organizations that provide the latest scientific research as well as the most current legal and policy
7 decisions regarding safe technology. These groups include Environmental Health Trust, Americans for
8 Responsible Technology, Physicians for Safe Technology, and Safer EMR's.

9 20. Plaintiff and Petitioner 5G Free California is a 501(c)(3) non-profit organization based
10 in Topanga, California. 5G Free California serves the entire state but has a primary focus on Los
11 Angeles County. The organization has approximately 50 active members and a mailing list of 1,600
12 subscribers. 5G Free California's mission is to educate and conduct outreach and advocacy on the
13 effects of wireless radiation on the human environment and to support safer technology.

14 21. Plaintiff and Petitioner Children's Health Defense is a 501(c)(3) non-profit organization
15 located at 852 Franklin Ave., Suite 511, Franklin Lakes, NJ 07417 and incorporated under the laws of
16 California. Its mission is to end health epidemics by working aggressively to eliminate harmful toxins
17 in the human environment, hold those responsible accountable, and establish safeguards to prevent
18 future harm through litigation, education, advocacy and scientific research. Children's Health Defense
19 has 1,398 members in Los Angeles County.

20 22. Fiber First Los Angeles together with Mothers of East LA, Union Binacional de
21 Organizaciones de Trabajadores Mexicanos Exbraceros 1942-1964, Boyle Heights Community
22 Partners, United Keetoowah Band of Cherokee Indians in California, California Fires & Firefighters,
23 Malibu for Safe Tech, EMF Safety Network, Californians for Safe Technology, 5G Free California, and
24 Children's Health Defense are hereinafter collectively referred to as "Petitioners."

25 **JURISDICTION AND VENUE**

26 23. This Court has jurisdiction over this action pursuant to Code of Civil Procedure ("CCP")
27 sections 526 (injunctive relief), 1060 (declaratory relief), 1085 (traditional mandate) and 1094.5
28 (administrative mandate), Public Resources Code sections 21168 and 21168.5 (judicial review under

1 CEQA), and Government Code section 65009 (actions challenging local government decisions). The
2 Court has jurisdiction to issue declaratory relief pursuant to CCP section 1060 and injunctive relief
3 pursuant to CCP section 525 *et seq.*

4 24. Venue is proper in this Court because the Project Site lies entirely within the County of
5 Los Angeles and the environmental impacts of the Project will be acutely felt in this County. The
6 causes alleged in this Petition arise in this County. *See* CCP § 393; *see also Cal. State Parks*
7 *Foundation v. Super. Ct.* (2007) 150 Cal.App.4th 826. Venue is also proper in this Court pursuant to
8 Code of Civil Procedure sections 394 (actions against a city, county, or local agency), and 395 (actions
9 generally) since Respondents are in the County of Los Angeles.

10 25. This Petition is timely filed within all applicable limitation periods.

11 26. Petitioners have provided written notice of its intention to file this petition to
12 Respondents in compliance with PRC section 21167.5, a true and correct copy of which notice,
13 including the corresponding proof of service, is attached hereto as Exhibit A.

14 27. Petitioners have concurrently filed a notice of its election to prepare the record of
15 administrative proceedings relating to this action, in compliance with PRC section 21167.6 or other
16 applicable laws, a true and correct copy of which notice is attached hereto as Exhibit B.

17 28. Petitioners have concurrently filed a request for hearing in compliance with PRC section
18 21167.4, a true and correct copy of which request is attached hereto as Exhibit C.

19 29. Petitioners have concurrently filed and served notice of this lawsuit to the California
20 Attorney General in compliance with PRC section 21167.7 and CCP section 388, a true and correct
21 copy of which notice is attached hereto as Exhibit D.

22 30. Petitioners have performed all conditions precedent to filing this instant action and have
23 exhausted administrative remedies to the extent required by law under PRC section 21177. Petitioners
24 and/or other agencies and/or individuals have raised each of the legal deficiencies asserted in this
25 Petition orally or in writing during the Respondents' decision-making process.

26 31. The violations by Respondents as alleged herein have negatively affected the beneficial
27 interests of Petitioners and/or its supporting members. The relief sought by way of this Petition will
28

1 redress this beneficial interest and prevent the likelihood of future injury and interference with
2 Petitioners' interests, and those of its supporting members.

3 32. Petitioners have no plain, speedy, or adequate remedy in the course of ordinary law
4 unless this Court grants the requested Writ of Mandate to require Respondents to set aside the approval
5 and certification of the Project and the corresponding Notice of Exemption published on or around
6 February 2, 2023. In the absence of such remedies, Respondents' decisions will remain in effect in
7 continuous violation of state law and injurious to Petitioners and their members.

8 **STATUTORY BACKGROUND**

9 **The California Environmental Quality Act**

10 33. In 1970, the California Legislature enacted the California Environmental Quality Act
11 and declared the maintenance of a quality environment to be a matter of ongoing statewide concern.

12 34. Pursuant to CEQA, public agencies must give "major consideration...to preventing
13 environmental damage, while providing a decent home and satisfying living environment for every
14 Californian" when considering project approvals. PRC § 21000, subd. (g).

15 35. The foremost principle in interpreting CEQA is that the Legislature intended CEQA to
16 be read so as to "afford the fullest possible protection to the environment within the reasonable scope of
17 the statutory language." *Laurel Heights Improvement Assn. v. Regents of University of California*
18 (1988) 47 Cal.3d 376, 390; *Communities for a Better Environment v. Cal. Resources Agency* (2002)
19 103 Cal. App. 4th 98, 109.

20 36. CEQA has four primary purposes. First, CEQA is designed to inform governmental
21 decision makers and the public about the potential, significant environmental effects of a proposed
22 project. CEQA Guidelines § 15002, subd. (a)(1). "Its purpose is to inform the public and its responsible
23 officials of the environmental consequences of their decisions before they are made. Thus, [CEQA]
24 'protects not only the environment but also informed self-government.'" *Citizens of Goleta Valley v.*
25 *Bd. of Supervisors* (1990) 52 Cal.3d 553, 564.

26 37. Second, CEQA requires public agencies to identify ways that environmental damage can
27 be avoided or significantly reduced. CEQA Guidelines § 15002, subd. (a)(2)

28 38. Third, Public agencies "should not approve projects as proposed if there are feasible

alternatives or feasible mitigation measures available which would substantially lessen the environmental effects of such projects.” PRC § 21002. That is, CEQA requires public agencies prevent significant environmental damage by requiring “environmentally superior” alternatives and feasible mitigation measures. CEQA Guidelines, § 15002, subd. (a)(3); *Citizens of Goleta Valley, supra*, 52 Cal.3d at 564.

39. Fourth, CEQA requires public agencies disclose to the public the reasons why it has approved the project in the manner the agency chose if significant environmental effects are involved. CEQA Guidelines, § 15002, subd. (a)(4).

40. “CEQA is a comprehensive scheme designed to provide long-term protection to the environment.” *Save N. Petaluma River & Wetlands v. City of Petaluma* (2022) 86 Cal.App.5th 207, 215 citing *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 112.

41. To achieve its objectives of environmental protection, CEQA has a three-tiered structure. CEQA Guidelines, § 15002, subd. (k); *Comm. to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185 – 86. First, if a project falls into an exempt category, or it can be seen with certainty that the activity in question will not have a significant effect on the environment, no further agency evaluation is required. *Id.* Second, if there is a possibility the project will have a significant effect on the environment, the agency must perform a threshold initial study. *Id.*; CEQA Guidelines, § 15063 subd. (a). If the study indicates that there is no substantial evidence that the project may cause a significant effect on the environment the agency may issue a negative declaration. *Id.*, CEQA Guidelines, §§ 15063, subd. (b)(2), 15070. Finally, if the project will have a significant effect on the environment, an environmental impact report (“EIR”) is required. *Id.*

42. The EIR requirement “is the heart of CEQA.” CEQA Guidelines § 15003, subd. (a). The EIR’s function is to ensure that government officials who decide to build or approve a project do so with a full understanding of the environmental consequences and, equally important, that the public is assured those consequences have been considered. For the EIR to serve these goals it must present information so that the foreseeable impacts of pursuing the project can be understood and weighed, and the public must be given an adequate opportunity to comment on that presentation before the decision to go forward is made. *Communities for a Better Environment v. Richmond* (2010) 184 Cal.App.4th 70,

80, quoting *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 449–450. As such, the EIR is an informational document that functions as “the primary means of achieving the Legislature’s considered declaration that it is the policy of this state to ‘take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state.’ *Save N. Petaluma River & Wetlands v. City of Petaluma* (2022) 86 Cal.App.5th 207, 215.

Exemptions from CEQA Environmental Review

43. Activities exempt from CEQA are either expressly identified by statute (i.e., statutory exemptions, PRC § 21080.01 *et seq.*; CEQA Guidelines §§ 15261 – 85) or fall into one of the classes deemed categorically exempt by the Secretary of Resources (i.e., categorical exemptions). PRC § 21080, subd. (b)(10); CEQA Guidelines § 15300.

44. CEQA identifies certain classes of projects which are exempt from the provisions of CEQA. These are called categorical exemptions. PRC § 21084 (a); CEQA Guidelines §§ 15300, 15354. Categorical exemptions are certain classes of activities that generally do not have a significant effect on the environment. *Id.*

45. CEQA categorical exemptions must be “construed narrowly” and cannot be unreasonably expanded beyond their terms. *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931.

46. Exemptions are strictly construed to allow for the fullest possible environmental protections within the reasonable scope of statutory language. CEQA Guidelines § 15003, subd. (f); *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1192 – 93; *East Peninsula Ed. Council, Inc. v. Palos Verdes Peninsula Unified School Dist.* (1989) 210 Cal.App.3d 155, 171; *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 390 (rejecting “an attempt to use limited exemptions contained in CEQA as a means to subvert rules regulating the protection of the environment”). A reviewing court must “scrupulously enforce all legislatively mandated CEQA requirements.” *Citizens of Goleta Valley v. Bd. of Supervisors* (1990) 52 Cal.3d 553, 564.

47. Public agencies utilizing CEQA exemptions must support their determination with substantial evidence. PRC § 21168.5; *see Fairbank v. City of Mill Valley* (1999) 75 Cal.App.4th 1243,

1 1251, *as modified on denial of reh 'g* (Oct. 29, 1999) (“substantial evidence test governs our review of
2 the city’s factual determination that a project falls within a categorical exemption”); *Banker’s Hill,*
3 *Hillcrest, Park W. Cmty. Pres. Grp. v. City of San Diego* (2006)139 Cal.App.4th 249, 267; *Davidon*
4 *Homes v. City of San Jose* (1997) 54 Cal.App.4th 106, 115, *as modified on denial of reh 'g* (Apr. 29,
5 1997) (“On review, an agency’s categorical exemption determination will be affirmed if supported by
6 substantial evidence that the project fell within the exempt category of projects”); *Magan v. Cnty. of*
7 *Kings* (2002) 105 Cal.App.4th 468, 475, *as modified* (Jan. 13, 2003) (an agency “only has the burden to
8 demonstrate substantial evidence that the ordinance fell within the exempt category of projects”); *San*
9 *Lorenzo Valley Cmty. Advocs. for Responsible Educ. v. San Lorenzo Valley Unified Sch. Dist.*
10 (2006)139 Cal.App.4th 1356, 1386; *Union of Med. Marijuana Patients, Inc. v. City of San Diego*
11 (2019) 7 Cal.5th 1171, 1186; *Muzzy Ranch Co. v. Solano Cnty. Airport Land Use Com.* (2007) 41
12 Cal.4th 372, 380, 386-387, *as modified* (Sept. 12, 2007).

13 48. Respondents bear the burden to provide substantial evidence, which must be based upon
14 facts, reasonable assumptions based on facts, and expert opinion, rather than mere speculation, to
15 support their findings. CEQA Guidelines § 15384, subd. (a); *Save Our Big Trees v. City of Santa Cruz*
16 (2015) 241 Cal.App.4th 694, 710-711 citing *Muzzy Ranch Co. v. Solano County Airport Land Use*
17 *Com.* (2007) 41 Cal.4th 372, 386.

18 49. Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly
19 inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence.
20 Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert
21 opinion supported by facts. CEQA Guidelines § 15064, subd. (f)(5).

22 50. The determination of whether a project may have a significant effect on the environment
23 calls for careful judgment on the part of the public agency involved, based to the extent possible on
24 scientific and factual data. CEQA Guidelines § 15064 subd. (b)(1).

25 51. An activity which may not be significant in an urban area may be significant in a rural
26 area. *Id.*

27 52. In determining whether an effect will be adverse or beneficial, the lead agency shall
28 consider the views held by members of the public in all areas affected as expressed in the whole record

1 before the lead agency. CEQA Guidelines § 15064, subd. (c).

2 53. In evaluating the significance of the environmental effect of a project, the lead agency
3 shall consider direct physical changes in the environment which may be caused by the project and
4 reasonably foreseeable indirect physical changes in the environment which may be caused by the
5 project. CEQA Guidelines § 15064 subd. (d).

6 54. Economic and social effects of a physical change may be used to determine that the
7 physical change is a significant effect on the environment. If the physical change causes adverse
8 economic or social effects on people, those adverse effects may be used as a factor in determining
9 whether the physical change is significant. CEQA Guidelines § 15064, subd. (e).

10 55. The decision as to whether a project may have one or more significant effects shall be
11 based on substantial evidence in the record of the lead agency. CEQA Guidelines 15064, subd. (f).

12 56. If there is substantial evidence, in light of the whole record before a lead agency, that a
13 project may have a significant effect on the environment, the agency shall prepare a draft EIR. CEQA
14 Guidelines § 15064, subd. (a)(1); *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988.
15 Said another way, if a lead agency is presented with a fair argument that a project may have a
16 significant effect on the environment, the lead agency shall prepare an EIR even though it may also be
17 presented with other substantial evidence that the project will not have a significant effect. *Id.*; *No Oil,*
18 *Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68.

19 57. Erroneous reliance by the lead agency on a categorical exemption constitutes a
20 prejudicial abuse of discretion and a violation of CEQA. *Azusa Land Reclamation Co. v. Main San*
21 *Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1192.

22 58. “[I]f the court perceives there was substantial evidence that the project might have an
23 adverse impact, but the agency failed to secure preparation of an EIR, the agency’s action must be set
24 aside because the agency abused its discretion by failing to follow the law.” *Dunn-Edwards Corp. v.*
25 *Bay Area Air Quality Mgmt. Dist.* (1992) 9 Cal.App.4th 644, 656.

26 59. CEQA exemptions are reserved for projects without potential to have significant
27 environmental effects. *See Salmon Protection & Watershed Network v. County of Marin* (2004) 125
28 Cal.App.4th 1098, 1107 [“If a project may have a significant effect on the environment, CEQA review

1 must occur”].

2 60. “Significant effect upon the environment” is defined as “a substantial or potentially
3 substantial adverse change in the environment.” PRC § 21068; CEQA Guidelines § 15382. A project
4 “may” have a significant effect on the environment if there is a “reasonable probability” that it will
5 result in a significant impact. *No Oil, Inc. v. City of Los Angeles*, 13 Cal.3d at 83 fn. 16; *Sundstrom v.*
6 *County of Mendocino* (1988) 202 Cal.App.3d 296, 309.

7 61. If any aspect of the project may result in a significant impact on the environment, an EIR
8 must be prepared even if the overall effect of the project is beneficial. CEQA Guidelines § 15063, subd.
9 (b)(1). See *County Sanitation Dist. No. 2 v. County of Kern* (2005) 127 Cal.App.4th 1544, 1580. This
10 standard sets a “low threshold” for preparation of an EIR. *Consolidated Irrig. Dist. v. City of Selma*
11 (2012) 204 Cal. App. 4th 187, 207; *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252; *Pocket*
12 *Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928; *Bowman v. City of Berkeley* (2004)
13 122 Cal.App.4th 572, 580; *Citizen Action to Serve All Students v. Thornley* (1990) 222 Cal.App.3d 748,
14 754; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 310.

15 62. If substantial evidence in the record supports a fair argument that the project may have a
16 significant environmental effect, the lead agency must prepare an EIR, even if other substantial
17 evidence before it indicates the project will have no significant effect. See *Jensen v. City of Santa Rosa*
18 (2018) 23 Cal.App.5th 877, 886; *Clews Land & Livestock v. City of San Diego* (2017) 19 Cal.App.5th
19 161, 183; *Stanislaus Audubon Soc’y, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 150;
20 *Brentwood Ass’n for No Drilling, Inc. v. City of Los Angeles* (1982) 134 Cal.App.3d 491; *Friends of*
21 *“B” St. v. City of Hayward* (1980) 106 Cal.App.3d 988; CEQA Guidelines § 15064 (f)(1).

22 Class 1 and Class 3 Categorical Exemptions

23 63. Pursuant to CEQA Guidelines section 15301, projects exempt under the Class 1
24 Categorical Exemption consist of the “operation, repair, maintenance, permitting, leasing, licensing, or
25 minor alteration of existing public or private structures, facilities, mechanical equipment, or
26 topographical features, involving negligible or no expansion of existing or former use.” CEQA
27 Guidelines § 15301.

28 64. Pursuant to CEQA Guidelines section 15303, projects exempt under the Class 3

1 Categorical Exemption consist of “construction and location of limited numbers of new, small facilities
2 or structures; installation of small new equipment and facilities in small structures; and the conversion
3 of existing small structures from one use to another where only minor modifications are made in the
4 exterior of the structure.” CEQA Guidelines § 15303.

5 Exceptions to Categorical Exemptions

6 65. Certain types of projects are ineligible to be exempt from CEQA, even if they otherwise
7 fit within a CEQA categorical exemption.

8 66. Categorical exemptions do not apply when the cumulative impact of successive projects
9 of the same type and same place over time may be significant. CEQA Guidelines § 15300.2, subd. (b).

10 67. Projects that may adversely affect historical resources cannot be exempt from CEQA
11 review. Subdivision (e) of Section 21084 of the California Public Resources Code states that “[a]
12 project that may cause a substantial adverse change in the significance of a historical resource, as
13 specified in Section 21084.1, shall not be exempted . . .” Section 21084.1 of the California Public
14 Resources Code provides that “[a] project that may cause a substantial adverse change in the
15 significance of an historical resource is a project that may have a significant effect on the environment.
16 *See also* CEQA Guideline § 15300.2, subd. (f).

17 68. CEQA Guidelines Section 15300.2, subdivision (a) limits Class 3 exemptions by
18 location. A project that might otherwise be insignificant in its environmental impact may, in a
19 particularly sensitive environment, be significant. CEQA Guidelines, § 15300.2, subd. (a). Such
20 projects cannot be rendered categorically exempt. *See id.*

21 **Planning & Zoning Law: General Plan Consistency**

22 69. The Planning & Zoning Law, Cal Government Code 65000 *et seq* (“Planning & Zoning
23 Law”) requires each California city and county must adopt a comprehensive, long-term general plan
24 governing development. *Napa Citizens for Honest Gov. v. Napa County Bd. of Supervisors* (2001) 91
25 Cal.App.4th 342, 352, citing Gov. Code §§ 65030, 65300. The general plan sits at the top of the land
26 use planning hierarchy (*see DeVita v. County of Napa* (1995) 9 Cal.4th 763, 773), and serves as a
27 “constitution” or “charter” for all future development. *Leshner Communications, Inc. v. City of Walnut*
28 *Creek* (1990) 52 Cal.3d 531, 540.

1 70. General plan consistency is “the linchpin of California’s land use and development laws;
2 it is the principle which infused the concept of planned growth with the force of law.” *See Debottari v.*
3 *Norco City Council* (1985) 171 Cal.App.3d 1204, 1213.

4 71. State law mandates two levels of consistency. First, a general plan must be internally or
5 “horizontally” consistent: its elements must “comprise an integrated, internally consistent and
6 compatible statement of policies for the adopting agency.” *See Gov. Code § 65300.5; Sierra Club v. Bd.*
7 *of Supervisors* (1981) 126 Cal.App.3d 698, 704. A general plan amendment thus may not be internally
8 inconsistent, nor may it cause the general plan as a whole to become internally inconsistent. *See DeVita,*
9 *9 Cal.4th at 796 fn. 12.*

10 72. Second, state law requires “vertical” consistency, meaning that zoning ordinances and
11 other land use decisions also must be consistent with the general plan. *See Gov. Code § 65860, subd.*
12 *(a)(2)* (land uses authorized by zoning ordinance must be “compatible with the objectives, policies,
13 general land uses, and programs specified in the [general] plan.”); *see also Neighborhood Action Group*
14 *v. County of Calaveras* (1984) 156 Cal.App.3d 1176, 1184.

15 73. A zoning ordinance that conflicts with the general plan or impedes achievement of its
16 policies is invalid and cannot be given effect. *See Lesher, 52 Cal.3d at 544.*

17 74. State law requires that all subordinate land use decisions, including conditional use
18 permits, be consistent with the general plan. *See Gov. Code § 65860(a)(2); Neighborhood Action Group,*
19 *156 Cal.App.3d at 1184.*

20 75. Los Angeles County Code (“County Code”) section 22.244.040.B requires ordinance
21 amendments to be consistent with the Los Angeles County General Plan 2035 (“General Plan”).

22 76. County Code section 22.02.050 also requires land use consistency with the General Plan.
23 It reads: “Notwithstanding the current zone classification applicable to any lot, if that zone classification
24 does not conform to the General Plan affecting the same lot, then building permits may be issued only
25 for those land uses which are authorized by both the zone and the objectives, policies, and land uses
26 specified in the General Plan.”

27 77. A project cannot be found consistent with a general plan if it conflicts with a general plan
28 policy that is “fundamental, mandatory, and clear,” regardless of whether it is consistent with other

1 general plan policies. *See Endangered Habitats League v. County of Orange* (2005) 131 Cal.App.4th
2 777, 782-83; *Families Unafraid to Uphold Rural El Dorado County v. Bd. of Supervisors* (1998) 62
3 Cal.App.4th 1332, 1341-42. Moreover, even in the absence of such a direct conflict, an ordinance or
4 development project may not be approved if it interferes with or frustrates the general plan's policies
5 and objectives. *See Napa Citizens*, 91 Cal.App.4th at 378-79; *see also Lesher*, 52 Cal.3d at 544 (zoning
6 ordinance restricting development conflicted with growth-oriented policies of general plan).

7 **Colocation of Wireless Facilities**

8 78. California Government Code section 65850.6(a) states that a colocation facility is a
9 permitted use not subject to a county discretionary permit if: (1) the colocation facility is consistent with
10 requirements for the wireless telecommunications colocation facility pursuant to subdivision (b) on
11 which the colocation facility is proposed; and (2) "the wireless telecommunications colocation facility
12 on which the colocation facility is proposed was subject to a discretionary permit by the city or county
13 and an environmental impact report was certified, or a negative declaration or mitigated negative
14 declaration was adopted for the wireless telecommunications colocation facility in compliance with
15 [CEQA]" and "the colocation facility incorporates required mitigation measures specified in that
16 environmental impact report, negative declaration, or mitigated negative declaration."

17 79. California Government Code section 65850.6(b) states that wireless telecommunications
18 colocation facilities, where a subsequent colocation facility is a permitted use not subject to a city or
19 county discretionary permit pursuant to subdivision (a), must be subject to a city or county discretionary
20 permit and must, among other things, comply with CEQA "through certification of an environmental
21 impact report, or adoption of a negative declaration or mitigated negative declaration."

22 80. Government Code section 65850.6(c) mandates notice pursuant to Government Code
23 65091 and "at least one public hearing on the discretionary permit" required by Section 65850.6(b) for
24 wireless telecommunications colocation facilities.

25 **County of Los Angeles Legislative Land Use and Zoning Process**

26 81. A zoning ordinance or an amendment to a zoning ordinance, which amendment changes
27 any property from one zone to another or imposes any regulation listed in California Government Code
28 section 65850 not theretofore imposed or otherwise removes or modifies any such regulation, must be

1 adopted in the manner set forth in California Government Code sections 65854 to 65857. Cal. Gov't
2 Code § 65853.

3 82. California Government Code section 65850 states that the legislative body of any county
4 or city may adopt ordinances that do any of the following: (a) Regulate the use of buildings, structures,
5 and land as between industry, business, residences, open space, including agriculture, recreation,
6 enjoyment of scenic beauty, use of natural resources, and other purposes; (b) Regulate signs and
7 billboards; (c) Regulate all of the following: (1) The location, height, bulk, number of stories, and size of
8 buildings and structures; (2) The size and use of lots, yards, courts, and other open spaces; (3) The
9 percentage of a lot which may be occupied by a building or structure; and (4) The intensity of land use;
10 (d) Establish requirements for off-street parking and loading; (e) Establish and maintain building setback
11 lines; and (f) Create civic districts around civic centers, public parks, public buildings, or public
12 grounds, and establish regulations for those civic districts.

13 83. The planning commission must hold a public hearing on the proposed zoning ordinance
14 or amendment to a zoning ordinance. Cal. Gov. Code § 65854. Notice of the hearing shall be
15 given pursuant to California Government Code section 65090 and, if the proposed ordinance or
16 amendment to a zoning ordinance affects the permitted uses of real property, notice shall also be given
17 pursuant to California Government Code section 65091. *Id.*

18 84. After the hearing, the planning commission shall render its decision in the form of a
19 written recommendation to the legislative body. Cal. Gov. Code § 65855. Such recommendation shall
20 include the reasons for the recommendation, the relationship of the proposed ordinance or amendment to
21 applicable general and specific plans, and shall be transmitted to the legislative body in such form and
22 manner as may be specified by the legislative body. *Id.*

23 85. Upon receipt of the recommendation of the planning commission, the legislative body
24 shall notice and hold a public hearing. Cal. Gov. Code § 65856.

25 86. Los Angeles County Code section 22.244.010 provides that an ordinance amendment
26 may be initiated to alter the boundaries of districts, to impose regulations not previously imposed, or to
27 remove or modify any regulation already imposed by Title 22.

1 87. County Code § 22.244.030 states that ordinance amendments in Los Angeles County
2 must be processed in compliance with Chapter 22.232.

3 88. County Code section 22.232 requires the Planning Commission to review the legislative
4 application for an ordinance amendment at a public hearing and make a recommendation to the Board of
5 Supervisors. If the Planning Commission recommends approval, the Board of Supervisors must review
6 the application at a public hearing.

7 89. For an ordinance amendment, any modification of the recommendation of the Planning
8 Commission by the Board of Supervisors that was not previously considered by the Planning
9 Commission during its hearing shall first be referred to the Planning Commission for report and
10 recommendation. County Code § 22.232.040.B.2.a.

11 **Ministerial Actions**

12 90. A “[d]iscretionary project” means a project which requires the exercise of judgment or
13 deliberation when the public agency or body decides to approve or disapprove a particular activity, as
14 distinguished from situations where the public agency or body merely has to determine whether there
15 has been conformity with applicable statutes, ordinances, regulations, or other fixed standards. The key
16 question is whether the public agency can use its subjective judgment to decide whether and how to
17 carry out or approve a project.” CEQA Guidelines § 15357, *see* CEQA Guidelines, § 15369.

18 91. “Ministerial” describes a governmental decision involving little or no personal judgment
19 by the public official as to the wisdom or manner of carrying out the project. The public official merely
20 applies the law to the facts as presented but uses no special discretion or judgment in reaching a
21 decision. A ministerial decision involves only the use of fixed standards or objective measurements, and
22 the public official cannot use personal, subjective judgment in deciding whether or how the project
23 should be carried out. Common examples of ministerial permits include automobile registrations, dog
24 licenses, and marriage licenses. CEQA Guidelines §15369.

25 92. If the law requires an agency “to act on a project in a set way without allowing the
26 agency to use its own judgment,” the project is ministerial. CEQA Guidelines, §15002, subd. (i)(1).

27 93. The concept of “discretionary” versus “ministerial” actions has also been applied outside
28 of the CEQA context: “An act is ministerial when it is the doing of a certain thing that is unqualifiedly

1 required. In other words, where the law prescribes and defines the duties to be performed by a public
2 officer with such precision and certainty as to leave nothing to the exercise of discretion or judgment,
3 the act is ministerial. (52 Cal.Jur.3d, Public Officers, § 170, p. 333, fns. omitted.)...[a]”ministerial
4 project” is one which requires no exercise of discretion by a public agency. We therefore conclude a
5 “ministerial project” is one which requires no exercise of discretion by a public agency.” *Findleton v.*
6 *Board of Supervisors* (1993) 12 Cal.App.4th 709, 713.

7 **Constitutional Due Process**

8 94. A person may not be deprived of life, liberty, or property without due process of law.
9 U.S. Const. amend. XIV; Cal. Const. art. I, § 7.

10 95. Due process requires that deprivation of property by adjudication be preceded by notice
11 and opportunity for hearing. *Scott v. City of Indian Wells* (1972) 6 Cal.3d 541, 549 citing *Mullane v.*
12 *Central Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 313. That is, governmental decisions which are
13 adjudicative in nature are subject to procedural due process principles. *Horn v. Cnty. of Ventura* (1979)
14 24 Cal.3d 605, 612 (citing *Mullane v. Central Hanover Tr. Co.* (1950) 339 U.S. 306, 313; *Franchise Tax*
15 *Board v. Superior Court* (1950) 36 Cal. 2d 538, 549; *Beck v. City Council of Beverly Hills* (1973) 30
16 Cal.App.3d 112, 115).

17 96. Administrative zoning decisions, such as the grant of a variance or the award of a
18 conditional use permit, are adjudicatory in nature. *San Diego Bldg. Contractors Assn. v. City Council*
19 (1974) 13 Cal.3d 205, 211.

20 97. Due process principles require reasonable notice and opportunity to be heard before
21 governmental deprivation of a significant property interest. *Horn v. Cnty. of Ventura* (1979) 24 Cal.3d
22 605, 612 citing *North Georgia Finishing, Inc. v. Di-Chem, Inc.* (1975) 419 U.S. 601, 605-606; *Goss v.*
23 *Lopez* (1975) 419 U.S. 565, 572-576; *Board of Regents v. Roth* (1972) 408 U.S. 564, 576-577; *Boddie v.*
24 *Connecticut* (1971) 401 U.S. 371, 379; *Sniadach v. Family Finance Corp.* (1969) 395 U.S. 337,
25 339; *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, 206-207; *Beaudreau v. Superior Court* (1975)
26 14 Cal.3d 448, 458; *Randone v. Appellate Department* (1971) 5 Cal.3d 536, 541.

27 98. Land use decisions which “substantially affect” the property rights of owners of adjacent
28 parcels may constitute “deprivations” of property within the context of procedural due process. *Horn v.*

1 *Cnty. of Ventura* (1979) 24 Cal.3d 605, 615 citing *Scott v. City of Indian Wells* (1972) 6 Cal.3d 541,
2 548–49.

3 **Delegation of Legislative Power to an Administrative Agency**

4 99. The doctrine prohibiting delegation of legislative power is well established in California.
5 *Kugler v. Yocum* (1968) 69 Cal.2d 371, 375.

6 100. A legislature’s delegation of unbridled discretion to an administrative agency is invalid.
7 *State Board of Dry Cleaners v. Thrift-D-Lux Cleaners, Inc.* (1953) 40 Cal.2d 436, 448; *Kugler v.*
8 *Yocum* (1968) 69 Cal.2d 371, 375-377; *Stoddard v. Edelman* (1970) 4 Cal.App.3d 544, 548.

9 101. “[T]he purpose of the doctrine that legislative power cannot be delegated is to assure that
10 truly fundamental issues will be resolved by the legislature and that a grant of authority is accompanied
11 by safeguards adequate to prevent its abuse.” *Kugler v. Yocum* (1968) 69 Cal.2d 371, 376. “This
12 doctrine rests upon the premise that the legislative body must itself effectively resolve the truly
13 fundamental issues. It cannot escape responsibility by explicitly delegating that function to others or by
14 failing to establish an effective mechanism to assure the proper implementation of its policy decisions.”
15 *Id.* at 376-377.

16 102. The doctrine applies where the legislative body of a city attempts to delegate its law-
17 making functions. *Kugler, supra*, 69 Cal.2d at 375; *Stoddard v. Edelman* (1970) 4 Cal.App.3d 544, 548.

18 103. A board of supervisors is a “legislative” body. *Horn v. Cnty. of Ventura* (1979) 24 Cal.3d
19 605, 614.

20 104. To avoid delegating unbridled discretion, it is necessary that the delegating statute
21 establish an ascertainable standard to guide the administrative body. *State Board of Dry*
22 *Cleaners v. Thrift-D-Lux Cleaners, Inc.* (1953) 40 Cal.2d 436, 448; *Kugler, supra*, 69 Cal.2d at 375-
23 377; *Stoddard v. Edelman* (1970) 4 Cal.App.3d 544, 548.

24 105. In addition to sufficiently clear standards, a statute delegating legislative power must be
25 accompanied by “safeguards adequate to prevent its abuse.” *Gerawan Farming, Inc. v. Agric. Lab. Rels.*
26 *Bd.* (2017) 3 Cal.5th 1118, 1150-1151; *Monsanto Co. v. Off. of Env’t Health Hazard Assessment* (2018)
27 22 Cal.App.5th 534, 557-558. That is, the statute must also be coupled with adequate protections against
28 arbitrary actions or abuse of the delegated authority. *Id.* Such safeguards can include the joint selection

1 of a mediator, potential review avenues, and/or ultimately an ability to challenge the determination in
2 court. *Id.*

3 **STATEMENT OF FACTS**

4 **Procedural History of Ordinance Approval**

5 106. Prior to adoption of the Ordinance, the policy of the Department of Regional Planning
6 required a Conditional Use Permit (“CUP”) for a wireless facility, and to process wireless facility
7 applications similarly to radio and television towers. The Conditional Use Permitting process under the
8 County Code is a discretionary process for reviewing applications and requires “additional
9 consideration to ensure proper integration with the surrounding community.” County Code §§
10 22.158.010; 22.230.010. An application for a CUP requires a public hearing and public notification of
11 the application by publication, mail, and a sign posted on the property. County Code §§ 22.230.010;
12 22.230.040. Application requirements are specifically delineated in County Code sections 22.222.060,
13 22.222.070, 22.222.080, 22.222.090, and 22.222.110 and must conform to the same before an
14 application can be deemed complete and approved. County Code § 22.230.030.

15 107. On March 5, 2019, the Los Angeles County Board of Supervisors instructed the Director
16 of the Department of Regional Planning of the County of Los Angeles (“Director”) to prepare an
17 ordinance that defines and establishes standards for the location, height, and design of wireless
18 communication facilities; conduct outreach to residents, the wireless communication facilities industry
19 and other interested parties; prepare an appropriate environmental document for the ordinance in
20 compliance with the California Environmental Quality Act and the County’s environmental review
21 procedures; and present the ordinance and environmental document to the Regional Planning
22 Commission and the Board of Supervisors for consideration at their respective public hearings.

23 108. At its public hearing on March 23, 2022, the Department of Regional Planning presented
24 amendments to Title 22 of the County Code (“Title 22 Amendments”) to the Regional Planning
25 Commission, and the Regional Planning Commission recommended approval of the Title 22
26 Amendments to the Board of Supervisors over vigorous public opposition. Amendments to Title 16 of
27 the County Code were not presented to the Regional Planning Commission, and the Regional Planning
28 Commission did not render a recommendation of the same.

1 109. On March 23, 2022, the County Department of Regional Planning issued a Proposed
2 Environmental Determination (“Environmental Determination”), which reads:

3 Los Angeles County (“County”) completed an initial review for the above-mentioned
4 project. Based on examination of the project proposal and the supporting information
5 included for the project, the County proposes that an Exemption is the appropriate
6 environmental documentation under the California Environmental Quality Act (CEQA).

7 This project (Ordinance) qualifies for a Categorical Exemption, (Class 1 – Existing
8 Facilities, and Class 3 – New Construction or Conversion of Small Structures) under the
9 California Environmental Quality Act (CEQA) and County environmental guidelines. The
10 project includes authorization for modifications to existing facilities as well as for minor
11 alterations to land with the construction or conversion of small structures. Both actions will
12 not have a significant effect on the environment.

13 110. On November 15, 2022, the Department of Regional Planning declared that the Project
14 falls “within a class of projects that have been determined not to have a significant effect on the
15 environment and which meet the criteria for [Class 1 and Class 3 Exemptions from CEQA review].”
16 November 15, 2022, Los Angeles County Department of Regional Planning Letter to Board of
17 Supervisors, page 5. The Department of Regional Planning did not provide any evidence to
18 substantiate its claim in the Environmental Determination that the Project is exempt under Class 1 and
19 Class 3 Exemptions from CEQA review. *See id.*

20 111. At its public hearing on November 15, 2022, the Board of Supervisors discussed the
21 Project with County staff and accepted public comment. The Board of Supervisors passed a motion
22 indicating its intent to approve the Project and made a finding that the Project is exempt from CEQA.

23 112. At its public hearing on December 6, 2022, the Board of Supervisors discussed the
24 Project with County staff and accepted public comment. The hearing was continued to: (i) a closed
25 session on December 20, 2022, and (ii) a public hearing on January 10, 2023.

26 113. On January 3, 2023, the County staff proposed revisions and amendments to the
27 Ordinance. These revisions and amendments were made public on or around January 5, 2023, in the
28 agenda report in advance of the January 10, 2023, Board of Supervisors hearing. Such revisions and

1 amendments include, but are not limited to, the following:

- 2 a. Section 16.25.030.B.2 of the Ordinance was revised to include language
3 authorizing the road commissioner of the County (“Commissioner”) to
4 amend a design standards checklist and permit conditions for small cell
5 facilities and eligible facilities requests. It was also revised to require an
6 applicant to comply with public notification requirements as set forth in the
7 design standards checklist.
- 8 b. Section 16.25.040.E of the Ordinance was revised to include: (i) a
9 requirement that owners of and those with issued permits (i.e., permit
10 holders) for small cell facilities comply with all applicable public safety
11 requirements; (ii) a prohibition stating that no small cell facility or
12 combination of small cell facilities shall produce exposure levels that
13 exceed the applicable FCC Standards for radio frequency emissions.
- 14 c. Section 16.25.050.I of the Ordinance was revised to include a requirement
15 that all small cell facilities be designed and installed to ensure that the
16 facilities and supporting structures meet minimum standards for public
17 safety and that such facilities are maintained to prevent electrical and fire
18 hazards.
- 19 d. Section 22.140.760.D.4 was added to the Ordinance: “For every new
20 application, the applicant shall provide all of the required materials listed
21 on either the Land Use Application Checklist – Small Cell Facilities
22 (“SCF”), Collocation and Eligible Facilities Requests (“EFR”), or the
23 Zoning Permit Instructions and Checklist, whichever is applicable, and
24 which may be periodically modified by the Director, including a report on
25 the individual and cumulative radio frequency emissions levels of each
26 wireless facility demonstrating that such emissions comply with adopted
27 FCC guidelines. All applications shall provide proof of liability insurance
28 for each facility covered by the application, and the applicant must comply

1 with the public notification requirements as set forth in said Checklists.”

2 e. Section 22.140.760.D.5 was added to the Ordinance: “Pre-application
3 consultation. Prior to submitting an application pursuant to this Subsection
4 D to install or modify a wireless facility subject to this Section, the applicant
5 is encouraged to schedule a voluntary pre-application meeting with the
6 Department to discuss the proposed facility, the requirements of this
7 Section, applicable checklists and guidelines, and any potential impacts of
8 the proposed facility. The pre-application meeting shall not initiate any
9 applicable time period as specified by applicable law, including any FCC-
10 issued order(s), for the application.”

11 f. Section 22.140.760.E.1.b.v was added to the Ordinance: “The locating of
12 new facilities shall take into consideration the least aesthetically intrusive
13 location.”

14 g. Section 22.140.760.E.1.e.i was added to the Ordinance: “Safety standards.
15 All wireless facility shall be designed by qualified, licensed persons to meet
16 minimum standards for public safety, and shall comply with all applicable
17 legal requirements, including the County Building and Fire Codes. All
18 wireless facilities should be proactively monitored and maintained to ensure
19 compliance with the safety design.”

20 h. Section 22.140.760.E.1.e.ii. was added to the Ordinance: “No facility or
21 combination of facilities shall produce at any time exposure levels in any
22 general population area that exceed the applicable FCC standards for
23 radiofrequency (RF) emissions.”

24 i. Section 22.14.760.M was added to the Ordinance: “Abandonment. If a
25 wireless facility has ceased to operate for a period of 90 consecutive days,
26 the facility shall be considered abandoned. Any permit or other approvals
27 associated with that facility shall be deemed terminated and discontinued,
28 unless before the end of the 90-day period, the Director determines that the

1 facility has resumed operations or an application has been submitted to
2 transfer the approval to another operator. After 90 consecutive days of non-
3 operation, the owner of, or permittee for, the facility shall remove the
4 abandoned wireless facility and restore the site to its original condition. Said
5 owner or permittee shall provide written verification to the Department of
6 the removal of the facility within 30 days of the date the removal is
7 completed. If the facility is not removed within 30 days after the
8 permit/approval has been terminated pursuant to this Subsection, the
9 wireless facility shall be deemed to be a nuisance, and the County may cause
10 the wireless facility to be removed at the expense of the owner/operator or
11 by calling any bond or other financial assurance to pay for removal.”

12 114. The revised and amended Ordinance was not remanded to the Planning Commission for
13 review, report, and recommendation.

14 115. At its hearing on January 10, 2023, the Board of Supervisors approved the revised and
15 amended Ordinance.

16 116. On or around January 25, 2023, the Planning Department released a “Small Cell
17 Wireless Communications Facilities Design Standards Self-Assessment Checklist.” This Checklist
18 addresses wireless facilities now subject to Title 16 and facilities not on county infrastructure or on
19 county highways. This Checklist was not circulated for public comment. The Commissioner made
20 several subjective and policy decisions while formulating this document. It is unclear why the Planning
21 Department form covers matters now assigned to Public Works.

22 117. On or around January 25, 2023, the Planning Department released a “Land Use
23 Application Checklist - Small Cell Facilities (“SCF”), Collocations and Eligible Facilities Requests
24 (“EFR”). This Checklist was not circulated for public comment. The Commissioner made several
25 subjective and policy decisions while formulating this document, including, but not limited to (1)
26 insurance coverage requirements, and (2) the notice radius that will be used, if notice is to be required
27 at all. The Checklist also notes that:

28 a. “If the facility to be installed is within a Fire Hazard Severity Zone as

determined by Cal Fire <https://osfm.fire.ca.gov/fhsz-maps>, a report that details measures employed to mitigate any fire hazards posed by the facility to surrounding vegetation and/or structures.”

b. “If the proposed facility will be located on property containing a historic resource, a Historic Resource Assessment may be required.”

c. “The Director of Regional Planning retains the discretion to determine whether the proposed SCF is in compliance with the design standards set forth below.”

118. On or around February 7, 2023, the Department of Public Works published a “Small Cell Facility in Public Right of Way Design Standards Checklist.” This Checklist was not circulated for public comment. The Commissioner made several subjective and policy decisions while formulating this document, including but not limited to (1) insurance coverage requirements, (2) the minimum distance a facility must be from residential windows, (3) size limitations, (4) the particular safety standards that apply and (5) certain aesthetics requirements. These specifics were not contained in the Ordinance.

The Ordinance

119. The Ordinance provides that small cell facilities may be built on new infrastructure. County Code §§ 16.25.030.B.3; 16.25.040.A.1.a; 16.25.040.A.1.b; 16.25.040.A.2; 16.25.040.D; 16.25.050.C; 22.140.760.E.1.b.iv; 22.140.760.I.3; and 22.140.760.I.4. That is, new support structures may be constructed to serve these facilities. *See id.*

120. The Ordinance provides that macro facilities may be built on new infrastructure. County Code §§ 22.140.760.D.2.a; 22.140.760.E.1.b.iv; 22.140.760.I.3; and 22.140.760.I.4.

121. The Ordinance states that EFRs include colocated wireless facilities. County Code § 16.25.020.E.

122. The Ordinance states that a wireless facility can be built up to 75 feet in height in industrial, rural, agricultural, open space, resort-recreation, and watershed zones. County Code § 22.140.760.E.1.c.i.

1 123. The Ordinance states that a wireless facility used to provide wireless services on a
2 temporary basis can be up to 200 feet in height for up to 6 months. County Code § 22.14.230.

3 124. Petitioners are informed and believe, and thereon allege, that the Ordinance does not
4 provide an estimate of the quantity of structures that will be allowed to be built throughout the County.

5 125. Petitioners are informed and believe, and thereon allege, that the Ordinance does not limit
6 the amount of small cell facilities that can be built and/or implemented pursuant to the Project, including
7 facilities to be located in a highway designated as a Scenic Highway in the County General Plan or to be
8 located within the boundaries of a Significant Ecological Area, Significant Ridgeline, or Coastal Zone.

9 126. Petitioners are informed and believe, and thereon allege, that the Ordinance does not limit
10 the amount of new macro facilities that can be built and/or implemented pursuant to the Project,
11 including facilities to be located in a highway designated as a Scenic Highway in the County General
12 Plan or to be located within the boundaries of a Significant Ecological Area, Significant Ridgeline, or
13 Coastal Zone.

14 127. The Ordinance provides that new towers and support structures may be installed on the
15 grounds of properties listed or eligible for listing on the National, California, or County historic
16 registers. County Code § 22.140.760.E.1.b.iv.

17 128. For facilities located on a site containing an eligible resource, the Ordinance states that
18 the Director may require a historic resource assessment to identify impacts to historic resources and
19 identify mitigation to minimize impacts. *Id.* The Ordinance does not mandate the Director to require
20 such assessment. *See id.*

21 129. Petitioners are informed and believe, and thereon allege, that the Ordinance does not
22 contain any identifiable mitigation or protective measures against development on historical, cultural, or
23 paleontological resources.

24 130. Petitioners are informed and believe, and thereon allege, that the Ordinance does not
25 address, identify, or assess the cumulative impacts resulting from the implementation of multiple
26 wireless facilities that may occur in the same location over time.

27 131. Petitioners are informed and believe, and thereon allege, that the Ordinance does not
28 prohibit multiple wireless facilities from being implemented in the same location.

1 132. Section 16.25.030.B.2 of the Ordinance grants the Commissioner with authority to “adopt
2 and amend a design standards checklist and permit conditions for SCFs and EFRs.”

3 133. Section 16.25.030.B.3 of the Ordinance grants authority to the Commissioner to approve
4 or disapprove of an applicant’s engineered plans for small cell facilities that are to be mounted on new
5 or replacement County infrastructure.

6 134. Section 16.25.030.B.7 of the Ordinance grants authority to the Commissioner to grant a
7 permit “when the commissioner is satisfied” that the small cell facility or eligible facilities request meets
8 all applicable requirements for a permit.

9 135. Section 16.25.030.B.8 of the Ordinance provides that the Commissioner’s decision on an
10 application submitted “shall be the final action of the County.”

11 136. Section 16.25.050 of the Ordinance requires small cell facilities to comply with the
12 design standards checklist adopted by the Commissioner.

13 137. Section 16.25.050.C of the Ordinance provides the Commissioner with approval of the
14 structural analysis of the effect of placement of small cell facilities on County infrastructure, including
15 wind impacts on traffic signal poles and mast arms of traffic signals, to ensure there is no overburden on
16 County infrastructure.

17 138. Section 22.140.760.D.4 of the Ordinance provides the Director with authority to
18 periodically modify the Land Use Application Checklist – Small Cell Facilities, Collocation Eligible
19 Facilities Requests, and the Zoning Permit Instructions and Checklist.

20 139. Section 22.140.760.E.1.b.iv of the Ordinance states: “A historic resource assessment,
21 prepared to the satisfaction of the Director by a qualified architectural historian, may be required for a
22 facility to be located on a site containing an eligible resource to identify impacts to historic resources,
23 and identify mitigation to minimize impacts.”

24 140. The Ordinance provides that if a zone or land use category within a Specific Plan is silent
25 with regard to wireless facilities, the Director may accept an application for a wireless facility if the
26 Director determines that a wireless facility is similar to another use permitted within such zone of land
27 use category. County Code § 22.26.030.B.3.

1 141. If a wireless facility is in compliance with Section 22.140.760.D.1 of the Ordinance, the
2 Director may accept a Ministerial Site Plan Review application (Chapter 22.186). County Code §
3 22.26.030.B.3.a.

4 142. Section 22.140.760.D.1 of the Ordinance states that a Ministerial Site Plan Review
5 (Chapter 22.186) application is required to authorize the installation and operation of a macro facility on
6 an existing base station or tower that meets all standards in section 22.140.760.E of the Ordinance, and
7 does not require a waiver.

8 143. Pursuant to section 22.140.760.G.1 of the Ordinance, existing macro facilities may be
9 eligible for a Ministerial Site Plan Review (Chapter 22.186) application if such facilities are redesigned
10 with shorter mounting equipment that extends no more than two feet from the structure, or with removal
11 of any existing mounting equipment, and with additional screening techniques, such as shrouds or walls,
12 that blend in with the structure, including color and texture, and conforms to all standards in section
13 22.140.760.E of the Ordinance and does not require a waiver.

14 144. Pursuant to section 22.140.760.G.3 of the Ordinance, Eligible Facilities Requests may be
15 processed with a Ministerial Site Plan Review (Chapter 22.186) application if minor modifications will
16 bring the facility in conformance with all standards in 22.140.760.E of the Ordinance and does not
17 require a waiver.

18 145. Section 22.140.760.D.1.a of the Ordinance states “A Ministerial Site Plan Review
19 (Chapter 22.186) application is required to authorize [the] [i]nallation and operation of a small cell
20 facility located on private property.”

21 **Los Angeles County General Plan 2035**

22 146. Guiding Principle 1 of the General Plan “[p]rotect[s] and conserve[s] the County’s
23 natural and cultural resources, including the character of rural communities. In rural areas, land uses
24 and developments that are compatible with the natural environment and landscape will maintain
25 existing community character. These work in conjunction with other smart growth strategies to ‘green’
26 streets and buildings, and protect and conserve natural resources.”

27 147. Policy C/NR 3.11 of the General Plan “[d]iscourage[s] development in riparian habitats,
28 streambeds, wetlands, and other native woodlands in order to maintain and support their preservation in

1 a natural state, unaltered by grading, fill, or diversion activities.”

2 148. Policy C/NR 13.1 of the General Plan “[p]rotect[s] scenic resources through land use
3 regulations that mitigate development impacts.”

4 149. Policy C/NR 13.2 of the General Plan “[p]rotect[s] ridgelines from incompatible
5 development that diminishes their scenic value.”

6 150. Policy C/NR 14.1 of the General Plan “[m]itigate[s] all impacts from new development
7 on or adjacent to historic, cultural, and paleontological resources to the greatest extent feasible.”

8 151. Policy C/NR 14.2 of the General Plan “[s]upport[s] an inter-jurisdictional collaborative
9 system that protects and enhances historic, cultural, and paleontological resources.”

10 152. Policy C/NR 14.6 of the General Plan “[e]nsure[s] proper notification and recovery
11 processes are carried out for development on or near historic, cultural, and paleontological resources.”

12 **CLAIMS FOR RELIEF**

13 **FIRST CAUSE OF ACTION**

14 **(By Petitioners Against Respondents For Writ of Administrative Mandate Under CCP § 1094.5
15 and PRC §21168 Or in the Alternative CCP § 1085 and PRC § 21168.5 Re: Project Ineligibility
for CEQA Exemptions)**

16 153. Petitioners hereby reallege and incorporate all the above paragraphs as if fully set forth
17 herein.

18 154. Respondents violated CEQA by unlawfully exempting the Ordinance from
19 environmental review under the Class 1 and Class 3 categorical exemptions, as the Ordinance neither
20 facially fits collectively nor individually within either the Class 1 or Class 3 categorical exemptions,
21 and is not eligible to be categorically exempted from environmental review under CEQA.

22 155. Public agencies may exempt projects requiring the “operation, repair, maintenance,
23 permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities,
24 mechanical equipment, or topographical features, involving negligible or no expansion of existing or
25 former use” from CEQA environmental review under the “Class 1” CEQA categorical exemption.
26 CEQA Guidelines § 15301.

27 156. In addition, public agencies may also exempt projects involving the “construction and
28 location of limited numbers of new, small facilities or structures; installation of small new equipment

1 and facilities in small structures; and the conversion of existing small structures from one use to another
2 where only minor modifications are made in the exterior of the structure” from CEQA environmental
3 review under the “Class 3” CEQA categorical exemption. CEQA Guidelines § 15303.

4 157. However, CEQA prohibits projects from being categorically exempted from
5 environmental review under the Class 3, 4, 5, 6 and 11 exemptions if the Project is located in an area
6 with an environmental resource of hazardous or critical concern. CEQA Guidelines § 15300.2(a).

7 158. In addition, CEQA prohibits agencies from categorically exempting projects from
8 environmental review if the Project may result in a significant environmental impact due to unusual
9 circumstances. In addition, projects may not be categorically exempted from CEQA environmental
10 review if the impact of successive projects of the same type in the same place may cumulatively impact
11 the environment, if the project may impact a scenic resource, hazardous waste site or a historical
12 resource. *Id.* 15300.2 (b – f).

13 159. The Ordinance is ineligible to be exempt from CEQA under section 15301 of the CEQA
14 Guidelines because the Project is facially inconsistent with the exemption as:

15 a. The Project does not facially qualify for the Class 1 Exemption since the
16 key consideration is that such actions would occur to *existing* facilities. As
17 the Ordinance makes abundantly clear, small cell facilities may be built on
18 *new* infrastructure. This means that, under the Ordinance, new support
19 structures may be constructed to serve these facilities. Thus, such
20 development is not exempted under section 15301.

21 b. Similarly, pursuant to the Ordinance, large macro facilities may also be
22 built. Thus, such development is not exempted under section 15301.

23 160. The Ordinance is ineligible to be exempt from CEQA under section 15303 of the CEQA
24 Guidelines as the Project is facially inconsistent with the exemption as the Project does not facially
25 qualify for the Class 3 Exemption since only a project proposing a *limited* number of new, small
26 facilities or structures can be exempted from environmental review under CEQA. The County failed to
27 demonstrate the *amount* or *number* of structures that could be implemented in the same “location” or in
28 multiple “locations” under the Ordinance. A large number of facilities will be built throughout the

County pursuant to the Project. Because a categorical exemption should be interpreted to afford the fullest possible protection to the environment within a reasonable scope of the statutory language, the Project does not satisfy this exemption.

161. The Ordinance is ineligible to be exempt from CEQA under section 15303 because CEQA Guidelines section 15300.2, subdivision a, limits Class 3 exemptions by location. A project that might otherwise be insignificant in its environmental impact may, in a particularly sensitive environment, be significant. CEQA Guidelines, § 15300.2, subd. (a). Los Angeles County is replete with an extensive host of biological resources and environmentally sensitive habitats, with 4,000 distinct species of plants and animals and 52 endangered species. The location of the construction, implementation, and operation of wireless facilities pursuant to the Project poses a substantial risk to the wildlife, habitats, and biodiversity extended through the County.

162. The Project is ineligible to be exempt from CEQA under sections 15301 and 15303 because categorical exemptions do not apply when the cumulative impact of successive projects of the same type and same place over time may be significant. Because there is no limitation to the amount or number of facilities that can be built within the same location, a conglomerate or cluster of such facilities may result in a single area. The operation of multiple wireless facilities in the same location over time may cause substantial adverse environmental impacts to aesthetics and safety by increasing the risk for fire hazards to the people and wildlife in the area and exposing sensitive species to RF/EMF radiation.

163. The Project is ineligible to be exempt from CEQA under sections 15301 and 15303 because categorical exemptions do not apply to any project that may cause a substantial adverse change in the significance of a historical resource. New towers and support structures may be installed on the grounds of properties listed or eligible for listing on the National, California, or County historic registers. Pursuant to the Ordinance, the County is not required to mandate an environmental assessment for facilities located on a site containing an eligible resource. New towers and support structures installed on the grounds of properties listed or eligible for listing on the National, California, or County historic registers may adversely impact historic resources. A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the

environment. The Project may cause a substantial adverse change in the significance of a historical resource, and as a result may have a significant effect on the environment and is therefore ineligible to be exempt from CEQA under sections 15301 and 15303.

164. As a result of the foregoing defects, Respondent prejudicially abused their discretion by making determinations or adopting findings that do not comply with the requirements of CEQA and approving the Project in reliance thereon. Accordingly, Respondents' approval and exemption of the Project from CEQA must be set aside.

SECOND CAUSE OF ACTION

(By Petitioners Against Respondents For Writ of Administrative Mandate Under CCP § 1094.5 and PRC § 21168 Or in the Alternative CCP § 1085 and PRC § 21168.5, Re: Violations of CEQA; Failure to Substantially Support Findings)

165. Petitioners hereby reallege and incorporate all of the above paragraphs as if fully set forth herein.

166. Respondents violated CEQA in finding that the Ordinance was categorically exempted from categorically exempted from CEQA environmental review under the Class 1 and Class 3 exemptions without substantial evidence.

167. Respondents found that the Ordinance was categorically exempted under the Class 1 and 3 exemptions without providing substantial evidence in support of its determination.

168. Respondents failed to provide substantial evidence in finding that that the Ordinance could be categorically exempted from CEQA environmental review and similarly failed to provide substantial evidence that the Ordinance would not have a significant environmental impact due to unusual circumstances, cumulative impacts from successive projects of the same type in the same place, impact scenic resources, hazardous waste site or a historical resource without substantial evidence.

169. As a result of the foregoing defects, Respondents prejudicially abused their discretion by making determinations or adopting findings that do not comply with the requirements of CEQA and approving the Project in reliance thereon. Accordingly, Respondents' approval and exemption of the Project from CEQA must be set aside.

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THIRD CAUSE OF ACTION

**(By Petitioners Against Respondents For Writ of Administrative Mandate Under CCP § 1094.5
Or in the Alternative CCP § 1085, Re: Unlawful Colocation)**

170. Petitioners hereby reallege and incorporate all the above paragraphs as if fully set forth herein.

171. Government Code Sec. 65850.6(a) allows the colocation of a wireless facility to be a permitted use and not subject to discretionary permitting only if the conditions in 65850.6(a)(1) and (2) are met. Section 65850.6(a)(1) requires the colocation facility to comport with Section 65850.6(b). Section 65850.6(a)(2) and (b) require a certified environmental impact report, negative declaration, or mitigated negative declaration, or mitigation measures that conform to the same, pursuant to CEQA before permitting a collocated wireless facility.

172. EFRs include collocated facilities. Pursuant to section 16.25.030.A of the Ordinance, a permit application for EFRs is complete if it demonstrates compliance with section 16.25 of the County Code. Section 16.25.030.B.7 *requires* the Commissioner to grant a permit when the Commissioner is satisfied that the EFR meets all applicable requirements for a permit under section 16.25 of the County Code. Authorizing the Commissioner to deem an application complete and thereafter grant a permit for a collocated wireless facility simply when the Commissioner determines that the application meets the applicable requirements under the above mentioned sections violates the necessary environmental compliance required by California Government Code section 65850.6 because it circumvents the determination of whether an EIR, negative declaration, or mitigated negative declaration was established on the collocated wireless facility and the implementation of applicable mitigation measures to the subsequent collocated wireless facility. Because an environmental assessment is mandated by California Government Code section 65850.6, the Project cannot be exempted from CEQA.

173. Government Code section 65850.6(c) mandates notice pursuant to Government Code 65091 and “at least one public hearing on the discretionary permit” required by Section 65850.6(b) for wireless telecommunications colocation facilities. Ordinance section 22.140.760.D.1.a allows the installation and operation of small cell facilities that are located on private property to be approved through an alleged ministerial site plan review. However, Petitioners allege that the process is instead discretionary in nature for the reasons set forth in the Sixth Cause of Action herein. Because it is

1 instead discretionary, the Ordinance therefore violates Government Code section 65850.6(c) for failing
2 to provide a public hearing on the discretionary permit approval process.

3 174. As a result of the foregoing defects, Respondents prejudicially abused their discretion by
4 requiring the Commissioner to deem an application complete and thereafter grant a permit for colocated
5 wireless facilities without first complying with California Government Code section 65850.6.
6 Accordingly, Respondents' approval and exemption of the Project from CEQA must be set aside.

7 **FOURTH CAUSE OF ACTION**

8 **(By Petitioners Against Respondents For Writ of Administrative Mandate Under CCP § 1094.5**
9 **Or in the Alternative CCP § 1085, Re: General Plan Inconsistency)**

10 175. Petitioners hereby reallege and incorporate all of the above paragraphs as if fully set
11 forth herein.

12 176. Respondents committed a prejudicial abuse of discretion and failed to proceed in a
13 manner required by law in approving this Project in that the Project is inconsistent with and frustrates
14 the County's principles and policies in the County's General Plan 2035 that are fundamental to the
15 County. In particular, the Project is inconsistent with the following:

16 177. Guiding Principle 1: "Protect and conserve the County's natural and cultural resources,
17 including the character of rural communities. In rural areas, land uses and developments that are
18 compatible with the natural environment and landscape will maintain existing community character.
19 These work in conjunction with other smart growth strategies to 'green' streets and buildings, and
20 protect and conserve natural resources." Wireless facilities can be built up to 75 feet in height in
21 industrial, rural, agricultural, open space, resort-recreation, and watershed zones. Temporary facilities
22 may extend up to 200 feet in height for up to 6 months. There is no limitation on the amount or number
23 of facilities that can be built within the same location, which can create a conglomerate or cluster of
24 such facilities in a single area. There is no limitation on the amount or number of facilities that can be
25 built in different locations. The development of such facilities poses a fire hazard that may significantly
26 impact the conservation of natural resources. The construction and operation of such facilities will
27 significantly impact the character of rural communities.

28 178. Policy C/NR 3.11: "Discourage development in riparian habitats, streambeds, wetlands,

1 and other native woodlands in order to maintain and support their preservation in a natural state,
2 unaltered by grading, fill, or diversion activities.” Wireless facilities can be built up to 75 feet in height
3 in industrial, rural, agricultural, open space, resort-recreation, and watershed zones. Temporary
4 facilities may extend up to 200 feet in height for up to 6 months. There is no assessment of the
5 cumulative impacts of wireless facilities in such locations, and the Ordinance provides no limitation on
6 the amount or number of facilities that can be built within the same location, which can create a
7 conglomerate or cluster of such facilities in a single area. The development of such facilities poses a
8 fire hazard that may significantly impact the preservation of the natural state of such habitats. The
9 construction and operation of such facilities will significantly impact the natural state of such resources.

10 179. Policy C/NR 13.1: “Protect scenic resources through land use regulations that mitigate
11 development impacts.” The Ordinance expressly contemplates that facilities will be placed in scenic
12 rural areas, not just neighborhoods or the urban core. Wireless facilities can be built up to 75 feet in
13 height in industrial, rural, agricultural, open space, resort-recreation, and watershed zones. Temporary
14 facilities may extend up to 200 feet in height for up to 6 months. There is no limitation on the amount
15 or number of facilities that can be built within the same location, which can create a conglomerate or
16 cluster of such facilities in a single area. The construction and operation of such facilities will
17 significantly impact the protection of scenic resources protected by the General Plan, and Respondents
18 do not propose any identifiable mitigation measures to reduce such impact.

19 180. Policy C/NR 13.2: “Protect ridgelines from incompatible development that diminishes
20 their scenic value.” The Ordinance expressly contemplates that facilities will be placed in scenic rural
21 areas, not just neighborhoods or the urban core. Wireless facilities can be built up to 75 feet in height in
22 industrial, rural, agricultural, open space, resort-recreation, and watershed zones. Temporary facilities
23 may extend up to 200 feet in height for up to 6 months. There is no limitation on the amount or number
24 of facilities that can be built within the same location, which can create a conglomerate or cluster of
25 such facilities in a single area. The construction and operation of such facilities will significantly
26 diminish the scenic value of ridgelines protected by the General Plan.

27 181. Policy C/NR 14.1: “Mitigate all impacts from new development on or adjacent to
28 historic, cultural, and paleontological resources to the greatest extent feasible.” The Ordinance

expressly allows facilities on, in or near to historical resources. The Ordinance does not contain any mitigation or protective measures against development on cultural or paleontological resources. There is no limitation on the amount or number of facilities that can be built within the same location, which can create a conglomerate or cluster of such facilities in a single area. The implementation of the Project frustrates the General Plan's protection of historic, cultural, and paleontological resources.

182. Policy C/NR 14.2: "Support an inter-jurisdictional collaborative system that protects and enhances historic, cultural, and paleontological resources." The Ordinance expressly allows facilities on, in or near historical resources. The Commissioner is provided sole discretion to grant permits and decide and the Director is provided with sole discretion to determine whether environmental assessments are necessary, with no third-party oversight on their decision-making process, thus frustrating the policy for an inter-jurisdictional collaborative system.

183. As a result of the foregoing defects, Respondents prejudicially abused their discretion by making determinations or adopting findings that do not comply with the requirements of California Government Code section 65860 and County Code sections 22.02.050 and 22.244.040.B.2. Accordingly, Respondents' approval of the Project must be set aside.

FIFTH CAUSE OF ACTION

(By Petitioners Against Respondents For Writ of Administrative Mandate Under CCP § 1094.5 Or in the Alternative CCP § 1085, Re: County of Los Angeles Legislative Land Use & Zoning Process)

184. Petitioners hereby reallege and incorporate all of the above paragraphs as if fully set forth herein.

185. The process by which the Project was approved by Respondents violates California Government Code sections 65853, 65854, 65855 and 65857 as well as County Code sections 22.244.030 and 22.232.040.B.2.a.

186. Respondents violated California Government Code section 65853 because the amendments to Titles 16 and 22 of the County's Code of Ordinances were not adopted in the manner set forth in California Government Code sections 65854 to 65857.

1 187. Respondents violated California Government Code section 65854 because the planning
2 commission failed to notice and hold a public hearing on the amendments to Title 16 of the County
3 Code ("Title 16 Amendments").

4 188. Respondents violated California Government Code section 65855 because the planning
5 commission failed to render a decision on Title 16 Amendments in the form of a written
6 recommendation to the Board of Supervisors.

7 189. Respondents violated County Code section 22.244.030 because the Ordinance was not
8 approved in a manner that complied with County Code section 22.232.

9 190. Respondents violated California Government Code section 65857 and County Code
10 section 22.232.040.B.2.a because substantial revisions and amendments were made to the Ordinance
11 *after* the Planning Commission recommended approval of the Ordinance to the Board of Supervisors.
12 The Board of Supervisors failed to remand the revised and amended Ordinance to the Planning
13 Commission for report and recommendation. On January 10, 2023, the Board of Supervisors approved
14 the revised and amended Ordinance.

15 191. As a result of the foregoing defects, Respondents prejudicially abused their discretion by
16 approving the Ordinance in manner that failed to comply with the requirements of California
17 Government Code sections 65853, 65854, 65855 and 65857 as well as County Code sections
18 22.232.040.B.2.a and 22.244.030. Accordingly, Respondents' approval of the Project must be set aside.

19 **SIXTH CAUSE OF ACTION**

20 **(By Petitioners Against Respondents For Writ of Administrative Mandate Under CCP 21 § 1094.5 Or in the Alternative CCP § 1085, Re: Ministerial Review)**

22 192. Petitioners hereby reallege and incorporate all of the above paragraphs as if fully set
23 forth herein.

24 193. A ministerial decision describes a governmental decision involving little or no personal
25 judgment by the public official as to the wisdom or manner of carrying out the project. CEQA
26 Guidelines §15369. The public official merely applies the law to the facts as presented but uses no
27 special discretion or judgment in reaching a decision. *Id.* A ministerial decision involves only the use of
28 fixed standards or objective measurements, and the public official cannot use personal, subjective

1 judgment in deciding whether or how the project should be carried out. *Id.* Common examples of
2 ministerial permits include automobile registrations, dog licenses, and marriage licenses. *Id.*

3 194. If the law requires an agency “to act on a project in a set way without allowing the
4 agency to use its own judgment,” the project is ministerial. CEQA Guidelines, §15002, subd. (i)(1).

5 195. Respondents erroneously label County Code sections 16.25.030.B.2, 16.25.030.B.3,
6 16.25.030.B.7, 16.25.050.C, 22.26.030.B.3, 22.140.760.D.1, 22.140.760.G.1 and 22.140.760.G.3 of the
7 Ordinance “ministerial” in violation of CEQA Guidelines sections 15369 and 15002, subd. (i)(1)
8 because such sections necessitate the Commissioner’s and/or Director’s subjective judgment.

9 196. Section 16.25.030.B.2 of the Ordinance provides that the Commissioner may adopt and
10 amend a design standards checklist and permit conditions, which includes public notification
11 requirements, for SCFs and EFRs. This requires the Commissioner to exercise judgment and deliberate
12 the substantive contents of the checklist and amend it in the Commissioner’s sole discretion. The
13 creation and amendment of the design standards checklist is not a process that is clearly prescribed and
14 defined by the Board of Supervisors, and there is no clear standard for the Commissioner to follow in
15 order to know when to amend said checklist, what contents should be amended, and what it should be
16 amended to reflect. Because the Commissioner’s subjective opinion is required in formulating and
17 amending the checklist, it is discretionary in nature and is erroneously deemed a ministerial action.

18 197. Before permit issuance, Section 16.25.030.B.3 of the Ordinance requires the
19 Commissioner’s approval of engineered plans for SCFs that are to be mounted on new or replacement
20 County infrastructure. The Ordinance fails to clearly prescribe and define how the Commissioner
21 should proceed in approving such plans, what elements are required to be incorporated into such plans,
22 or what elements should be omitted in an engineered plan before it is acceptable for approval by the
23 Commissioner. Consequently, the Commissioner is required to use its subjective judgment to determine
24 whether it approves or disapproves of a plan without any clear statutory guidance for how it should
25 proceed in doing so. Because the Commissioner’s subjective opinion is required in its approval or
26 disapproval of engineered plans for SCFs that are to be mounted on new or replacement County
27 infrastructure, it is discretionary in nature and is erroneously deemed a ministerial action.

28 198. Section 16.25.030.B.7 of the Ordinance requires that the Commissioner grant a permit

1 when the Commissioner *is satisfied that* the SCF or EFR meets all applicable requirements for a permit.
2 The Ordinance grants great discretion to the Commissioner in this section because a grant or denial of a
3 permit is completely contingent upon the Commissioner's satisfaction. As a result, the Commissioner
4 can arbitrarily grant or deny permits depending on its level of satisfaction. Because the Commissioner's
5 subjective judgment is required in the grant or denial of permit, it is discretionary in nature and is
6 erroneously deemed a ministerial action.

7 199. For any SCF that is requested to be placed on County infrastructure, Section
8 16.25.050.C of the Ordinance requires that a structural analysis of the effect of such placement on the
9 County infrastructure, including wind impacts on traffic signal poles and mast arms of traffic signals,
10 must be provided for approval by the Commissioner, to ensure there is no overburden on County
11 infrastructure. The Ordinance fails to clearly prescribe a guideline for the Commissioner to follow in
12 approving a structural analysis to ensure that there is no overburden of County infrastructure. The
13 Commissioner thus must use an exercise of subjective judgment and deliberation to determine whether
14 it finds the structural analysis sufficient for approval. Because the Commissioner's subjective judgment
15 is required in the approval or denial of a structural analysis during the permitting process, it is
16 discretionary in nature and is erroneously deemed a ministerial action.

17 200. Section 22.26.030.B.3 of the Ordinance provides that if a zone or land use category
18 within a Specific Plan is silent with regard to wireless facilities, the Director *may* accept an application
19 for a wireless facility if the Director determines that a wireless facility *is similar to* another use
20 permitted within such zone of land use category. As a result, the Director is authorized with discretion
21 in two ways: (i) in determining whether or not to accept an application, and (ii) determining whether
22 the wireless facility is similar to another use permitted within such zone. Determining whether a
23 wireless facility is similar to another permitted use necessarily requires a subjective determination and
24 judgment because there is no objective framework or measure by which to ascertain whether one use is
25 similar to another use. Once the Director determines if the wireless facility is similar to another
26 permitted use, the Director then has the discretion to determine whether or not to accept an application.
27 Because section 22.26.030.B.3 of the Ordinance necessitates the Director's subjective judgment, it
28 provides the Director with discretionary authority and is consequently erroneously deemed a ministerial

1 action.

2 201. Section 22.140.760.D.1 of the Ordinance provides that a Ministerial Site Plan Review
3 application is required to authorize the installation and operation of a macro facility on an existing base
4 station or tower that meets all standards in section 22.140.760.E of the Ordinance. Section
5 22.140.760.E of the Ordinance, however, provides that a historic resource assessment, “prepared to the
6 satisfaction of the Director,” *may* be required for a facility to be located on a site containing an eligible
7 resource to identify impacts to historic resources, and identify mitigation to minimize impacts. This
8 language confers upon the Director two differing levels of discretion: the first is that the Director may
9 or may not compel a historic resource assessment; and the second is that if the Director does decide to
10 compel a historic resource assessment, it must be prepared to the Director’s satisfaction. This section of
11 the Ordinance fails to provide an objective standard to guide the Director in its determinations for: (i)
12 when a historic resource assessment must be compelled, and (ii) in what instances a historic resource
13 assessment must be approved by the Director. As a result, the Director is required to use its subjective
14 judgment to determine the instances in which it will compel and approve a historic resource
15 assessment. In addition, conformance to sections 22.140.760.E.1.b.v and 22.140.760.E.1.e.i of the
16 Ordinance also require the Director’s discretion. Section 22.140.760.E.1.b.v states that the locating of
17 new facilities must take into consideration the least aesthetically intrusive location. Because the
18 Ordinance provides no objective standard for determining what might qualify for the least aesthetically
19 intrusive location, the Director is left to its discretion to determine the same. Section 22.140.760.E.1.e.i
20 states that all wireless facilities must be designed to “meet minimum standards for public safety” but
21 provides no objective measure for determining what the minimum standard for public safety is. As a
22 result, the Director is left to its discretion to determine whether wireless facilities subject to this
23 provision meet minimum standards for safety. Because section 22.140.760.D.1 of the Ordinance
24 necessitates the Director’s subjective judgment for the foregoing reasons, it provides the Director with
25 discretionary authority and is consequently erroneously deemed a ministerial action.

26 202. Section 22.140.760.G.1 of the Ordinance provides that existing macro facilities may be
27 eligible for a Ministerial Site Plan Review application if such facilities are redesigned with shorter
28 mounting equipment that extends no more than two feet from the structure, or with removal of any

1 existing mounting, and with additional screening techniques, such as shrouds or walls, that blend in
2 with the structure, including color and texture, and conforms to all standards in section 22.140.760.E of
3 the Ordinance, and does not require a waiver. Section 22.140.760.E of the Ordinance, however,
4 provides that a historic resource assessment, “prepared to the satisfaction of the Director,” *may* be
5 required for a facility to be located on a site containing an eligible resource to identify impacts to
6 historic resources, and identify mitigation to minimize impacts. This language confers upon the
7 Director two differing levels of discretion: the first is that the Director may or may not compel a
8 historic resource assessment; and the second is that if the Director does decide to compel a historic
9 resource assessment, it must be prepared to the Director’s satisfaction. This section of the Ordinance
10 fails to provide an objective standard to guide the Director in its determinations for: (i) when a historic
11 resource assessment must be compelled, and (ii) in what instances a historic resource assessment must
12 be approved by the Director. As a result, the Director is required to use its subjective judgment to
13 determine the instances in which it will compel and approve a historic resource assessment. In addition,
14 conformance to sections 22.140.760.E.1.b.v and 22.140.760.E.1.e.i of the Ordinance also require the
15 Director’s discretion. Section 22.140.760.E.1.b.v states that the locating of new facilities must take into
16 consideration the least aesthetically intrusive location. Because the Ordinance provides no objective
17 standard for determining what might qualify for the least aesthetically intrusive location, the Director is
18 left to its discretion to determine the same. Section 22.140.760.E.1.e.i states that all wireless facilities
19 must be designed to “meet minimum standards for public safety” but provides no objective measure for
20 determining what the minimum standard for public safety is. As a result, the Director is left to its
21 discretion to determine whether wireless facilities subject to this provision meet minimum standards for
22 safety. Because the Ordinance necessitates the Director’s subjective judgment for the foregoing
23 reasons, it provides the Director with discretionary authority and is consequently erroneously deemed a
24 ministerial action.

25 203. Section 22.140.760.G.3 of the Ordinance states that an Eligible Facilities Request may
26 be processed with a Ministerial Site Plan Review application if minor modifications will bring the
27 facility in conformance with all standards in section 22.140.760.E of the Ordinance, and does not
28 require a waiver. Section 22.140.760.E of the Ordinance, however, provides that a historic resource

assessment, “prepared to the satisfaction of the Director,” *may* be required for a facility to be located on a site containing an eligible resource to identify impacts to historic resources, and identify mitigation to minimize impacts. This language confers upon the Director two differing levels of discretion: the first is that the Director may or may not compel a historic resource assessment; and the second is that if the Director does decide to compel a historic resource assessment, it must be prepared to the Director’s satisfaction. This section of the Ordinance fails to provide an objective standard to guide the Director in its determinations for: (i) when a historic resource assessment must be compelled, and (ii) in what instances a historic resource assessment must be approved by the Director. As a result, the Director is required to use its subjective judgment to determine the instances in which it will compel and approve a historic resource assessment. In addition, conformance to sections 22.140.760.E.1.b.v and 22.140.760.E.1.e.i of the Ordinance also require the Director’s discretion. Section 22.140.760.E.1.b.v states that the locating of new facilities must take into consideration the least aesthetically intrusive location. Because the Ordinance provides no objective standard for determining what might qualify for the least aesthetically intrusive location, the Director is left to its discretion to determine the same. Section 22.140.760.E.1.e.i states that all wireless facilities must be designed to “meet minimum standards for public safety” but provides no objective measure for determining what the minimum standard for public safety is. As a result, the Director is left to its discretion to determine whether wireless facilities subject to this provision meet minimum standards for safety. Because the Ordinance necessitates the Director’s subjective judgment for the foregoing reasons, it provides the Director with discretionary authority and is consequently erroneously deemed a ministerial action.

204. As a result of the foregoing defects, Respondents prejudicially abused their discretion by unlawfully labeling sections 22.26.030.B.3, 22.140.760.D.1, 22.140.760.G.1 and 22.140.760.G.3 of the Ordinance “ministerial” in violation of CEQA Guidelines sections 15369 and 15002, subd. (i)(1) because such sections necessitate the Director’s subjective judgment.

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SEVENTH CAUSE OF ACTION

(By Petitioners Against Respondents For Writ of Administrative Mandate Under CCP § 1094.5 and PRC § 21168 Or in the Alternative CCP § 1085 and PRC § 21168.5, Re: Due Process Violations)

205. Petitioners hereby reallege and incorporate all of the above paragraphs as if fully set forth herein.

206. A person may not be deprived of life, liberty, or property without due process of law. U.S. Const. amend. XIV; Cal. Const. art. I, § 7. Due process requires that deprivation of property by adjudication be preceded by notice and opportunity for hearing. Due process principles require reasonable notice and opportunity to be heard before governmental deprivation of a significant property interest. *Horn v. Cnty. of Ventura* (1979) 24 Cal.3d 605, 612 citing *North Georgia Finishing, Inc. v. Di-Chem, Inc.* (1975) 419 U.S. 601, 605-606; *Goss v. Lopez* (1975) 419 U.S. 565, 572-576; *Board of Regents v. Roth* (1972) 408 U.S. 564, 576-577; *Boddie v. Connecticut* (1971) 401 U.S. 371, 379; *Sniadach v. Family Finance Corp.* (1969) 395 U.S. 337, 339; *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, 206-207; *Beaudreau v. Superior Court* (1975) 14 Cal.3d 448, 458; *Randone v. Appellate Department* (1971) 5 Cal.3d 536, 541. Land use decisions which “substantially affect” the property rights of owners of adjacent parcels may constitute “deprivations” of property within the context of procedural due process.

207. Wireless facilities will be permitted immediately next to individual residents’ property, and this will have a significant effect on, and lead to a substantial loss of property rights and property value for those properties adjacent to the wireless facilities. The Ordinance, however, does not provide any notice or any opportunity for hearing. As a result of the foregoing defect, Respondents prejudicially abused their discretion by approving the Ordinance without providing property owners with a hearing and opportunity to be heard in violation of due process rights. Accordingly, Respondents’ approval of the Project must be set aside.

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EIGHTH CAUSE OF ACTION

**(By Petitioners Against Respondents For Writ of Administrative Mandate Under CCP § 1094.5
Or in the Alternative CCP § 1085, Re: Unlawful Delegation of Legislative Authority to an
Administrative Agency)**

208. Petitioners hereby reallege and incorporate all of the above paragraphs as if fully set forth herein.

209. The Project improperly delegates the Board of Supervisors' legislative authority to the Commissioner and the Director of Planning.

210. Legislative bodies have limited authority to delegate their legislative powers to administrative bodies and must provide ascertainable standards and safeguards. *State Board of Dry Cleaners v. Thrift-D-Lux Cleaners, Inc.* (1953) 40 Cal.2d 436, 448; *Kugler, supra*, 69 Cal.2d at 375-377; *Stoddard v. Edelman* (1970) 4 Cal.App.3d 544, 548.

211. In delegating the Board of Supervisors' authority to the Commissioner, the Project fails to establish a mechanism to assure the proper implementation of the Board of Supervisors' policy decisions and an ascertainable standard to guide the Commissioner in: (i) developing, adopting, and/or amending the design standards checklist for small cell facilities and eligible facilities requests pursuant to section 16.25.030.B.2 of the Ordinance; (ii) approving an applicant's engineered plans for small cell facilities that are to be mounted on new or county infrastructure pursuant to section 16.25.030.B.3 of the Ordinance; (iii) granting permits when the Commissioner "is satisfied" that the applicable requirements for a permit are met for small cell facilities or eligible facilities requests pursuant to section 16.25.030.B.7 of the Ordinance; and (iv) approving an applicant's structural analysis of the effect of placement of small cell facilities on county infrastructure pursuant to section 16.25.050.C of the Ordinance.

212. In delegating the Board of Supervisors' authority to the Director of Planning, the Project fails to establish a mechanism to assure the proper implementation of the Board of Supervisors' policy decisions and an ascertainable standard to guide the Director of Planning in: (i) modifying the Land Use Application Checklist – Small Cell Facilities, Collocation And Eligible Facilities Requests, and the Zoning Permit Instructions and Checklist pursuant to section 22.140.760.D.4 of the Ordinance; and (ii) determining whether a historic resource assessment is required and in what instances to approve the

1 same for facilities to be located on a site containing a resource eligible for listing on the National,
2 California, or County historic registers.

3 213. The Commissioner and Director are delegated the task of devising said checklists, and
4 fleshing out substantive requirements, including, but not limited to, the liability insurance and public
5 notification requirements. The Project confers on the Commissioner and Director the discretionary task
6 of developing and then, on an as-needed basis, unilaterally modifying checklists that impose
7 substantive requirements that will then be applied to individual permit applications. The new checklist
8 related tasks delegate legislative and policy determinations to the Commissioner and Director, as the
9 Commissioner and Director are free to create new substantive obligations by taking legislative and
10 discretionary action. The Ordinance does not provide any direction in guiding the Commissioner or
11 Director's discretion regarding these substantive and subjective legislative-type decisions. Applicant's
12 must abide by said checklists, and there is no procedure by which the public can appeal the
13 implementation, or any modifications to, said checklists.

14 214. As a result of the foregoing defects, Respondents prejudicially abused their discretion by
15 unlawfully delegating legislative authority to the Commissioner and Director. Accordingly,
16 Respondents' approval of the Project must be set aside.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Petitioners pray for judgment as set forth below:

19 A. For a Writ of Mandate commanding Respondent to vacate any purported approvals of the
20 Project, and to require Respondents to complete the CEQA environmental review and public comment
21 period as required by law;

22 B. For a temporary stay, temporary restraining order, and preliminary and permanent
23 injunctions enjoining Respondents and Real Parties in Interest, and their agents, employees, officers or
24 representatives, and all persons acting in concert or participating with Real Parties in Interest from taking
25 any action to implement the Project, unless and until Respondents fully comply with CEQA, PRC section
26 21168.5, California Government Code sections 65860, 65853, 65854, 65855, and 65857, County Code
27 sections 22.244.030, 22.244.040 and 22.02.050, and other state law;


28 C. For a declaration of the rights and duties of the parties hereto, including but not limited

1 to a declaratory judgment that Respondent violated its duty pursuant CEQA, PRC section 21168.5,
2 California Government Code sections 65860, 65853, 65854, 65855, and 65857, County Code sections
3 22.244.030, 22.244.040 and 22.02.050, and other state law, and that the Project approvals are null and
4 void and without legal effect;

5 D. For such other relief as this Court deems appropriate and just.

6
7 DATED: March 7, 2023

MITCHELL M. TSAI, ATTORNEY AT LAW

8
9 By:  _____

10 MITCHELL M. TSAI
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EXHIBIT A

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Mitchell M. Tsai
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VIA ELECTRONIC & U.S. MAIL

January 20, 2023

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RE: Notice of Intent to File Suit Under the California Environmental Quality Act

Dear Sirs/Madams:

I am writing on behalf of the following parties:

- 1) Fiber First Los Angeles;
- 2) Mothers of East LA;
- 3) Union Binacional de Organizaciones de Trabajadores Mexicanos Exbraceros 1942-1964;
- 4) Boyle Heights Community Partners;
- 5) California Fires & Firefighters;
- 6) Malibu for Safe Tech;
- 7) EMF Safety Network;
- 8) Californians for Safe Technology;
- 9) 5G Free California; and
- 10) Children's Health Defense.

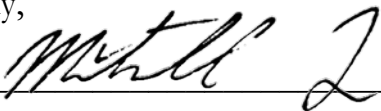
The above parties are a collection of public interest organizations and Los Angeles County residents (collectively “**Petitioners**”). On behalf of Petitioners, this office is contacting you regarding the County of Los Angeles’ (“**Respondent**”) action on January 10, 2023 and all subsequent actions approving the ordinance amending Title 16 – Highways and Title 22 – Planning and Zoning of the Los Angeles County Code, including any revisions and/or amendments thereto (hereinafter “**Project**”).

Please take notice, pursuant to Public Resources Code (“**PRC**”) § 21167.5, that Petitioners intend to file a Verified Petition for Peremptory Writ of Mandate and Complaint for Declaratory and Injunctive Relief (“**Petition**”), under the provisions of the California Environmental Quality Act (“**CEQA**”), PRC §§ 21000, *et seq.*, against Respondent challenging the unlawful actions taken by Respondent in approving the Project. Petitioner may also file the Petition for violations of other state and/or local laws.

The Petition being filed will seek the following relief:

- A. For a writ of mandate commanding Respondent to vacate and withdraw the approval of the Project, and to require Respondent to comply with CEQA;
- B. For a temporary stay, temporary restraining order, and preliminary and permanent injunctions enjoining Respondent, and its agents, employees, officers and/or representatives, from taking any action to implement the Project, unless and until Respondent fully complies with CEQA;
- C. For a declaration of the rights and duties of the parties hereto, including but not limited to a declaratory judgment that Respondent violated its duty pursuant to CEQA;
- D. For Petitioners' fees and costs, including reasonable attorneys' fees and costs, as authorized by California Code of Civil Procedure section 1021.5 and any other applicable provisions of law; and
- E. For such other relief as the Court deems appropriate and just.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell M. Tsai", is written over a horizontal line.

Mitchell M. Tsai

Attorneys for Petitioners

PROOF OF SERVICE

I, Steven Thong, declare as follows:

I am a resident of the State of California and am over the age of 18 years. My business address is: 139 South Hudson Avenue, Ste. 200, Pasadena, California 91101. On January 20, 2023, I served a copy of the foregoing document(s) entitled:

Notice of Intent to File Suit Under the California Environmental Quality Act

on the following parties:

Celia Zavala, Executive Officer
Los Angeles County Board of Supervisors
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 383
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Supervisor Hilda Solis, District 1
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Supervisor Janice Hahn, District 4
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Kenneth Hahn Hall of Administration
500 West Temple Street, Room 822
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Em: FourthDistrict@bos.lacounty.gov

- X by depositing a true and correct copy in a sealed envelope with the United States Postal Service with postage fully prepaid; and
- X by electronic service, via electronic transmission, to the email addresses specified above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 20, 2023 in Los Angeles, California.



Steven Thong

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F: (626) 389-5414
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Mitchell M. Tsai
Attorney At Law

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VIA ELECTRONIC & U.S. MAIL

March 7, 2023

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Kenneth Hahn Hall of Administration
500 West Temple Street, Room 822
Los Angeles, CA 90012
Em: FourthDistrict@bos.lacounty.gov

RE: Notice of Intent to File Suit Under the California Environmental Quality Act

Dear Sirs/Madams:

I am writing on behalf of United Keetoowah Band of Cherokee Indians in Oklahoma.

The above party is a public interest organization and Los Angeles County residents (hereinafter “**Petitioner**”). On behalf of Petitioner, this office is contacting you regarding the County of Los Angeles’ (“**Respondent**”) action on January 10, 2023 and all subsequent actions approving the ordinance amending Title 16 – Highways and Title 22 – Planning and Zoning of the Los Angeles County Code, including any revisions and/or amendments thereto (hereinafter “**Project**”).

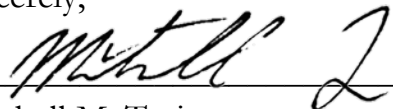
Please take notice, pursuant to Public Resources Code (“**PRC**”) § 21167.5, that Petitioner intend to file a Verified Petition for Peremptory Writ of Mandate and Complaint for Declaratory and Injunctive Relief (“**Petition**”), under the provisions of the California Environmental Quality Act (“**CEQA**”), PRC §§ 21000, *et seq.*, against Respondent challenging the unlawful actions taken by Respondent in approving the Project. Petitioner may also file the Petition for violations of other state and/or local laws.

The Petition being filed will seek the following relief:

- A. For a writ of mandate commanding Respondent to vacate and withdraw the approval of the Project, and to require Respondent to comply with CEQA;
- B. For a temporary stay, temporary restraining order, and preliminary and permanent injunctions enjoining Respondent, and its agents, employees, officers and/or representatives, from taking any action to implement the Project, unless and until Respondent fully complies with CEQA;
- C. For a declaration of the rights and duties of the parties hereto, including but not limited to a declaratory judgment that Respondent violated its duty pursuant to CEQA;

- D. For Petitioner’s fees and costs, including reasonable attorneys’ fees and costs, as authorized by California Code of Civil Procedure section 1021.5 and any other applicable provisions of law; and
- E. For such other relief as the Court deems appropriate and just.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell M. Tsai", is written over a horizontal line.

Mitchell M. Tsai

Attorneys for Petitioners

PROOF OF SERVICE

I, Jonathan Montano, declare as follows:

I am a resident of the State of California and am over the age of 18 years. My business address is: 139 South Hudson Avenue, Ste. 200, Pasadena, California 91101. On March 7, 2023, I served a copy of the foregoing document(s) entitled:

Notice of Intent to File Suit Under the California Environmental Quality Act

on the following parties:

Celia Zavala, Executive Officer
Los Angeles County Board of Supervisors
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Los Angeles, CA 90012
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Supervisor Hilda Solis, District 1
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Supervisor Janice Hahn, District 4
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Los Angeles, CA 90012
Em: FourthDistrict@bos.lacounty.gov

- X by depositing a true and correct copy in a sealed envelope with the United States Postal Service with postage fully prepaid; and
- X by electronic service, via electronic transmission, to the email addresses specified above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 7, 2023 in Los Angeles, California.

/s/ Jonathan Montano

Jonathan Montano

EXHIBIT B

Mitchell M. Tsai (Cal. Bar No. 277156)
Armita A. Ariano (Cal Bar No. 314434)
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Attorneys for Plaintiffs and Petitioners Fiber First Los
Angeles *et al* (Additional counsel on following page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FIBER FIRST LOS ANGELES; MOTHERS
OF EAST LA; UNION BINACIONAL DE
ORGANIZACIONES DE TRABAJADORES
MEXICANOS EXBRACEROS 1942-1964;
BOYLE HEIGHTS COMMUNITY
PARTNERS; UNITED KEETOOWAH BAND
OF CHEROKEE INDIANS IN OKLAHOMA;
CALIFORNIA FIRES & FIREFIGHTERS;
MALIBU FOR SAFE TECH; EMF SAFETY
NETWORK; CALIFORNIANS FOR SAFE
TECHNOLOGY; 5G FREE CALIFORNIA;
and CHILDREN’S HEALTH DEFENSE,

Plaintiffs and Petitioners,

v.

COUNTY OF LOS ANGELES; COUNTY OF
LOS ANGELES BOARD OF SUPERVISORS;
COUNTY OF LOS ANGELES REGIONAL
PLANNING COMMISSION; COUNTY OF
LOS ANGELES DEPARTMENT OF
REGIONAL PLANNING; COUNTY OF LOS
ANGELES DEPARTMENT OF PUBLIC
WORKS; and DOES 1–10, inclusive;

Defendants, Respondents, and Real
Parties in Interest

CASE NO.:

**ELECTION REGARDING
ADMINISTRATIVE RECORD**

California Environmental Quality Act, Cal. Pub
Res. Code § 21000 *et seq*; Planning & Zoning
Law, Cal. Government Code 65000 *et seq*;
County Code §§ 22.02.050, 22.232.040,
22.244.030, and 22.244.040; Cal. Const. art. I, §
7; Code of Civil Procedure §§ 1085, 1094.5

Dep’t:

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2 Chief Litigation Counsel, Children's Health
3 Defense
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(Cal. Bar No. 50656)
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1 TO THE HONORABLE COURT, RESPONDENTS AND REAL PARTIES:

2 PLEASE TAKE NOTICE THAT under the California Environmental Quality Act, Pub. Res.
3 Code § 21167.6(b)(2), Plaintiffs and Petitioners Fiber First Los Angeles, Mothers of East LA, Union
4 Binacional de Organizaciones de Trabajadores Mexicanos Exbraceros 1942-1964, Boyle Heights
5 Community Partners, United Keetoowah Band of Cherokee Indians in California, California Fires &
6 Firefighters, Malibu for Safe Tech, EMF Safety Network, Californians for Safe Technology, 5G Free
7 California, and Children's Health Defense hereby elect to prepare the administrative record of
8 proceedings in the referenced matter.

9 DATED: March 7, 2023

MITCHELL M. TSAI, ATTORNEY AT LAW


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11 By: 
12 MITCHELL M. TSAI
13 Attorneys for Plaintiffs and Petitioners
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EXHIBIT C

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Attorneys for Plaintiffs and Petitioners Fiber First Los
Angeles *et al* (Additional counsel on following page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FIBER FIRST LOS ANGELES; MOTHERS
OF EAST LA; UNION BINACIONAL DE
ORGANIZACIONES DE TRABAJADORES
MEXICANOS EXBRACEROS 1942-1964;
BOYLE HEIGHTS COMMUNITY
PARTNERS; UNITED KEETOOWAH BAND
OF CHEROKEE INDIANS IN OKLAHOMA;
CALIFORNIA FIRES & FIREFIGHTERS;
MALIBU FOR SAFE TECH; EMF SAFETY
NETWORK; CALIFORNIANS FOR SAFE
TECHNOLOGY; 5G FREE CALIFORNIA;
and CHILDREN’S HEALTH DEFENSE,

Plaintiffs and Petitioners,

v.

COUNTY OF LOS ANGELES; COUNTY OF
LOS ANGELES BOARD OF SUPERVISORS;
COUNTY OF LOS ANGELES REGIONAL
PLANNING COMMISSION; COUNTY OF
LOS ANGELES DEPARTMENT OF
REGIONAL PLANNING; COUNTY OF LOS
ANGELES DEPARTMENT OF PUBLIC
WORKS; and DOES 1–10, inclusive;

Defendants, Respondents, and Real
Parties in Interest

CASE NO.:

REQUEST FOR HEARING

California Environmental Quality Act, Cal. Pub
Res. Code § 21000 *et seq*; Planning & Zoning
Law, Cal. Government Code 65000 *et seq*;
County Code §§ 22.02.050, 22.232.040,
22.244.030, and 22.244.040; Cal. Const. art. I, §
7; Code of Civil Procedure §§ 1085, 1094.5

Dep’t:

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18 (pending *pro hac vice*)

Julian Gresser
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1 TO THE HONORABLE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:

2 NOTICE IS HEREBY GIVEN that, pursuant to Public Resources Code § 21167.4 and Los
3 Angeles County Superior Court Local Rule 3.232(h), Petitioners and Plaintiffs Fiber First Los Angeles
4 together with Mothers of East LA, Union Binacional de Organizaciones de Trabajadores Mexicanos
5 Exbraceros 1942-1964, Boyle Heights Community Partners, United Keetoowah Band of Cherokee
6 Indians in California, California Fires & Firefighters, Malibu for Safe Tech, EMF Safety Network,
7 Californians for Safe Technology, 5G Free California, and Children's Health Defense (collectively
8 "Petitioners") request a hearing on the merits of their Verified Petition for Peremptory Writ of Mandate
9 and Complaint for Declaratory and Injunctive Relief ("Petition"), which Petition alleges violations of,
10 inter alia, the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 *et seq.*

11 This request is being filed with the Court and served on the parties. Following the filing of this
12 Request for Hearing and Notice of Request, any party may apply to the Court to establish a briefing
13 schedule and hearing date for the hearing. *Leavitt v. County of Madera* (2004) 123 Cal.App.4th 1502,
14 1514-23. The hearing date, time, and place, and the briefing schedule for the hearing are to be
15 established by the Court following such application by any party. *Id.*

16 DATED: March 7, 2023

MITCHELL M. TSAI, ATTORNEY AT LAW

17
18 By:  _____

MITCHELL M. TSAI

Attorneys for Plaintiffs and Petitioners

EXHIBIT D

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Armita A. Ariano (Cal Bar No. 314434)
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Attorneys for Plaintiffs and Petitioners Fiber First Los
Angeles *et al* (Additional counsel on following page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FIBER FIRST LOS ANGELES; MOTHERS
OF EAST LA; UNION BINACIONAL DE
ORGANIZACIONES DE TRABAJADORES
MEXICANOS EXBRACEROS 1942-1964;
BOYLE HEIGHTS COMMUNITY
PARTNERS; UNITED KEETOOWAH BAND
OF CHEROKEE INDIANS IN OKLAHOMA;
CALIFORNIA FIRES & FIREFIGHTERS;
MALIBU FOR SAFE TECH; EMF SAFETY
NETWORK; CALIFORNIANS FOR SAFE
TECHNOLOGY; 5G FREE CALIFORNIA;
and CHILDREN’S HEALTH DEFENSE,

Plaintiffs and Petitioners,

v.

COUNTY OF LOS ANGELES; COUNTY OF
LOS ANGELES BOARD OF SUPERVISORS;
COUNTY OF LOS ANGELES REGIONAL
PLANNING COMMISSION; COUNTY OF
LOS ANGELES DEPARTMENT OF
REGIONAL PLANNING; COUNTY OF LOS
ANGELES DEPARTMENT OF PUBLIC
WORKS; and DOES 1–10, inclusive;

Defendants, Respondents, and Real
Parties in Interest

) CASE NO.:

) **NOTICE TO ATTORNEY GENERAL**

) California Environmental Quality Act, Cal. Pub
) Res. Code § 21000 *et seq*; Planning & Zoning
) Law, Cal. Government Code 65000 *et seq*;
) County Code §§ 22.02.050, 22.232.040,
) 22.244.030, and 22.244.040; Cal. Const. art. I, §
) 7; Code of Civil Procedure §§ 1085, 1094.5

) Dep’t:

1 Robert F. Kennedy, Jr.
2 Chief Litigation Counsel, Children's Health
3 Defense
4 752 Franklin Ave., Suite 511
5 Franklin Lakes, NJ 07417
6 V: (202) 854-1310
7 F: (512) 692-2522
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9 (pending *pro hac vice*)

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1 To the Attorney General of the State of California:

2 PLEASE TAKE NOTICE, under Public Resources Code § 21167.7 and Code of Civil
3 Procedure § 388, that on March 7, 2023, Plaintiffs and Petitioners filed a VERIFIED PETITION FOR
4 WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
5 against COUNTY OF LOS ANGELES, and DOES 1-10 (collectively, “Defendants, Respondents,
6 and Real parties in Interest”) in the Los Angeles County Superior Court. The Plaintiffs and
7 Petitioners allege, inter alia, violations of the California Environmental Quality Act (“CEQA”),
8 Public Resources Code § 21100, *et seq*, Planning & Zoning Law, Cal. Government Code 65000 *et*
9 *seq*; County Code §§ 22.02.050, 22.232.040, 22.244.030, and 22.244.040; Cal. Const. art. I, § 7;
10 Code of Civil Procedure §§ 1085, 1094.5

11 A copy of the Petition is attached as Exhibit A.

12 DATED: March 7, 2023

MITCHELL M. TSAI, ATTORNEY AT LAW

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14 By: 
15 MITCHELL M. TSAI
16 Attorneys for Plaintiffs and Petitioners
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I, Douglas A. Wood, am the Founder of Fiber First Los Angeles, a Petitioner and Plaintiff in this action. I am authorized to make this verification on its behalf. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know its contents. The facts alleged therein are within my own knowledge and I know these facts to be true, except as stated, on information and belief.

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

Executed on 21st, February 2023, at Port Washington, New York

A handwritten signature in black ink, appearing to read 'DAW', with a long horizontal line extending to the right.

Douglas A. Wood

1 I, Teresa Marquez, am President of Mothers of East LA, a Petitioner and Plaintiff in this action. I
2 am authorized to make this verification on its behalf. I have read the foregoing VERIFIED PETITION
3 FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
4 RELIEF and know its contents. The facts alleged therein are within my own knowledge and I know
5 these facts to be true, except as stated, on information and belief.

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is
7 true and correct.
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9 Executed on __22____, February 2023, at _Los Angeles__, California.
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12 *Teresa Marquez*
13 ____Teresa Marquez____
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1 I, Baldomero Capiz, am President of Union Binacional de Organizaciones de Trabajadores
2 Mexicanos Ex Braceros 1942-1964, a Petitioner and Plaintiff in this action. I am authorized to make this
3 verification on its behalf. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE
4 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know its contents. The
5 facts alleged therein are within my own knowledge and I know these facts to be true, except as stated, on
6 information and belief.

7 I declare under penalty of perjury under the laws of the State of California that the foregoing is
8 true and correct.
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10 Executed on 22, February 2023, at Los Angeles, California.
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13 *Baldomero Capiz*

14 Baldomero Capiz
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1 I, Vivian Escalante, am the Director of Boyle Heights Community Partners, a Petitioner and
2 Plaintiff in this action. I am authorized to make this verification on its behalf. I have read the foregoing
3 VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND
4 INJUNCTIVE RELIEF and know its contents. The facts alleged therein are within my own knowledge
5 and I know these facts to be true, except as stated, on information and belief.

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is
7 true and correct.
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9 Executed on __22_____, February 2023, at ____Los Angeles , California.
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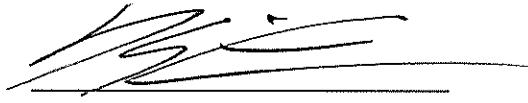
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12 *Vivian Escalante*

13 Vivian Escalante
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I, Klint Cowan, am Attorney General of the United Keetoowah Band of Cherokee Indians in Oklahoma, a Petitioner and Plaintiff in this action. I am authorized to make this verification on its behalf. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know its contents. The facts alleged therein with regard to Petitioner/Plaintiff United Keetoowah Band of Cherokee Indians in Oklahoma are within my own knowledge and I know these facts to be true, except as stated, on information and belief.

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

Executed on 21ST, February 2023, at Oklahoma City, Oklahoma.


Klint A. Cowan

1 San Antonio, am Boulder of California Fires & Firefighters, a Petitioner and
2 Plaintiff in this action. I am authorized to make this verification on its behalf. I have read the foregoing
3 VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND
4 INJUNCTIVE RELIEF and know its contents. The facts alleged therein are within my own knowledge
5 and I know these facts to be true, except as stated, on information and belief.

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

8 Executed on 17, February 2023, at Boulder County CO, California.
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10 [Signature]
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12 California Fires & Firefighters
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1 I, Lonnie Gordon, am Executive Director of Malibu for Safe Tech, a Petitioner and Plaintiff in
2 this action. I am authorized to make this verification on its behalf. I have read the foregoing VERIFIED
3 PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND
4 INJUNCTIVE RELIEF and know its contents. The facts alleged therein are within my own knowledge
5 and I know these facts to be true, except as stated, on information and belief.

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

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9 Executed on 22, February 2023, at Malibu, California.
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12 Lonnie Gordon
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I, Sidnee Cox, am Director of EMF Safety Network, and a Petitioner and Plaintiff in this action. I am authorized to make this verification on its behalf. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and know its contents. The facts alleged therein are within my own knowledge and I know these facts to be true, except as stated, on information and belief.

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

Executed on the 22 of February 2023 in Windsor, California.

A handwritten signature in cursive script, appearing to read "Sidnee Cox".

1 I, Jodi Nelson, am Director of Californians for Safe Technology, a Petitioner and Plaintiff in this
2 action. I am authorized to make this verification on its behalf. I have read the foregoing VERIFIED
3 PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND
4 INJUNCTIVE RELIEF and know its contents. The facts alleged therein are within my own knowledge
5 and I know these facts to be true, except as stated, on information and belief.

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

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9 Executed on 22nd, February 2023, at Benicia, California.

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1, Julie Levine, am Exec Director of 5G Free California, a Petitioner and Plaintiff in

this action. I am authorized to make this verification on its behalf. I have read the foregoing VERIFICATION
PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF and know its contents. The facts alleged therein are within my own knowledge
and I know these facts to be true, except as stated, on information and belief.

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

Executed on 21, February 2023, at Topanga, California.

Julie Levine

1 I, Mary Holland am General Counsel of Children's Health Defense, a Petitioner and Plaintiff
2 in this action. I am authorized to make this verification on its behalf. I have read the foregoing
3 VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND
4 INJUNCTIVE RELIEF and know its contents. The facts alleged therein are within my own knowledge
5 and I know these facts to be true, except as stated, on information and belief.

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is
7 true and correct.
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9 Executed on 24th, February 2023, at Christine Ridge, New ^{York}~~Jersey~~.
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