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SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

PLATED PERSONAL CHEF SERVICES LTD, a New York corporation d/b/a Saucy Bird,

Petitioner and Plaintiff,

vs.

CITY OF LOS ANGELES, a municipal corporation; CITY OF LOS ANGELES CITY COUNCIL; and DOES 1 through 10, inclusive,

Respondents and Defendants.

CASE NO. 24STCP02773

PETITIONER'S REPLY IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION; SUPPLEMENTAL DECLARATION OF BRIAN COLLESANO

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PETITIONER'S REPLY IN SUPPORT OF MOTION FOR PRELIMINARY INJUNTION

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I. INTRODUCTION

Like every other aspect of the Midvale Homeless Project (aka Lot 707), the City's arguments in its opposition demonstrate a single-minded determination to build this small facility regardless of any harmful impact on the immediate community, stakeholder concerns, or violations of state law. The City simply believes it can do what it wants, how it wants, and that any ordinance, law, regulation, or requirement is an inconvenience that can be brushed aside. This is of course not true. Code of Civil Procedure Section 1245.245, at issue here, is just one of many requirements the City appears to believe does not apply or which it can simply ignore.

The primary question before the Court is straight forward. Does Eminent Domain Law CCP § 1245.245 apply to a change of the previously approved use for Lot 707? If it does, then the City must stop this project, restore the property for its intended and approved use, and, if it chooses, seek a new Resolution of Necessity to change the public use of the property. Whether the City can or will issue a new Resolution of Necessity is not the question for this Preliminary Injunction hearing, but the City should be required to go through the constitutional and state law-mandated process, allow the public to voice its concerns, and then have its decision subject to judicial review. Despite the City's attempt to treat this process as a mere informality that it can easily accomplish, the statutorily required process of §1245.245 is essential to ensure due process and that the City complies with state law when it changes the public use of a property previously taken by eminent domain.

II. ARGUMENT

Not one of the City's hodge-podge of arguments against this injunction is sufficient to defeat the motion. The City's real argument is of course that §1245.245 simply does not apply to this property; if it does, however, as Petitioner asserts, the City proposes a laundry list of reasons why it believes the court should still deny the motion. Petitioner of course has no choice but to

address them, no matter how minor or blatantly wrong. At the end of the day, the bottom line is the same as it was when Petitioner filed its Petition for Writ of Mandamus: The City violated §1245.245 by purporting to change the use of the property without complying with the law. It must be enjoined from changing the use of that lot, which was and, unless and until the City issues a new Resolution of Necessity, must remain, an off-street public parking lot.

A. The City fails to rebut – or even address – Petitioner's argument that the statute unambiguously applies to a change of use that occurred after the effective date.

In its opposition, the City barely addresses Petitioner's main argument that the rules of statutory construction require application of the statute to the change of use of Lot 707. As set forth in Petitioner's motion, the statute as codified is clear and unambiguous and therefore there is no need to resort to examining legislative intent or history. Nothing in the text of §1245.245 would lead to a conclusion that a change of use in 2024 to Lot 707 would be exempt from the requirement for a new Resolution of Necessity. The City does not address this. In fact, as set forth in Section B, below, the text of §1245.245 makes it very clear that this section applies to all property acquired by eminent domain, no matter when acquired.

Second, even if the statute could be considered unclear or ambiguous in some way which would justify examining legislative intent, Section 4 of Senate Bill 1650 is clearly uncodified text, as the City acknowledges in its opposition, and therefore under *Canty* and *Allen,* as set forth in Petitioner's moving papers, such text cannot be used to "confer power, determine rights or enlarge the scope of a measure." This is exactly what the City is asking the Court to do.

Finally, even if the Court ignores the amendment to §1245.245 under Assembly Bill 299, which it should not, and considers Section 4, of Senate Bill 1650 as conveying some sort of legislative intent regarding the prospective nature of the act, it simply cannot be read as the City would like. The language states that the act applies prospectively to properties acquired after

January 1, 2007. But this case is not about an acquisition. This requested injunction deals with a ***change of use that occurred after January 1, 2007***. Section 1245.245 and Section 4 of Senate Bill 1650 do not say that the law does not apply to a change of use for a property after January 1, 2007, and the Court should not read such a requirement into the law. This would also defy common sense, actually defeat the legislative intent behind Section 1245.245, and improperly create two classes of property in terms of how a City can use such property. If acquired before January 1, 2007, the City is free to do whatever it wants without seeking any new Resolution of Necessity, but if acquired after January 1, 2007, any change of use would require a new Resolution of Necessity. There is no evidence that the legislature intended such an absurd result.

The City argues that because the statute is silent as to retroactivity, it must apply prospectively. This is an argument that simply misses the point; it is of course easier for the City to establish the general rule that statutes without explicit retroactivity provisions are meant to apply prospectively, than it is for the City to explain why a prospective statute does not apply to a change of use that occurred well after the statute was enacted. Petitioner is not asking the court to apply §1245.245 retroactively, but rather ***to apply it to a current purported change of use***. The City's fixation on the date the taking occurred rather than the date the change occurred makes no sense and is plainly meant as a distraction. The City's "reasoning is dubious at best and sophistic at worst." *Laube v. Stroh* (1992) 2 Cal.App.4th 364, 378, n. 2.

B. Section 1245.245(e)(1) establishes that all property acquisitions by eminent domain regardless of when they were acquired are subject to the change of use requirements set forth in Section 1245.245(a).

Section 1245.245 is a long multi-faceted statute that requires a careful reading. Section 1245.245(a) begins by stating that it applies to "Property acquired by a public entity by any means set forth in subdivision (e) . . ." Emphasis added. Section 1245.245(e)(1) and (2) then state "The following property acquisitions are subject to the requirements of this section: (1) Any acquisition

by a public entity pursuant to eminent domain; (2) Any acquisition by a public entity following adoption of resolution of necessity pursuant to this article for the property . . .”

Section (e)(2) covers any property taken by eminent domain that was subject to a resolution of necessity under Article 2, commencing at Section 1245.210. This article was enacted in 1975. However, properties have been acquired by eminent domain long before 1975 and before a resolution of necessity was a requirement. Therefore, Section 1245.245(e)(1) was required to make sure it was clear that Section 1245.245, enacted in 2007 and which includes a requirement for a new resolution of necessity in order to change the use, also applied to properties that were taken by eminent domain before 1975 and before a resolution of necessity was required. In fact, a careful read of Section 1245.245(e) leads on only one conclusion, the need for a new resolution of necessity under 1245.245(a) when the City wants to change the use of a property previously taken by eminent domain, applies to all properties regardless of when acquired if the change of use took place after 2007. The City’s position on the other hand simply cannot square with the existence of Section (e)(1) and would render it meaningless.

C. There is no “except in an emergency” exception in §1245.245

Next, the City makes much of its position that the homeless facility was meant to address an emergency situation in Los Angeles, as if that would excuse the City from following state laws. As an initial matter, of course, whether the City properly exercised that emergency authority in this case, and whether this project is properly considered an emergency, are contested and being litigated in the *Fix the City* case (Case No. 23STCP04410), which is set for trial in early November 2024.

Even if the project had been properly authorized and could be considered a response to an emergency, there is nothing in §1245.245 that excuses the City from its duty to maintain the original use of a property taken by eminent domain if it has not complied with the requirements of

the statute for changing that use. The City repeatedly tries to paint the issue in this case as merely one business owner trying to destroy the City's emergency response to homelessness, which is plainly nothing more than an attempt to sway the court's emotions and is inaccurate. Petitioner's claims have nothing to do with homelessness. They only seek to preserve a parking lot taken by eminent domain that cannot be changed unless the City complies with state law. Even if it were accurate to portray the case as the City asserts, and of course it is not, it would not matter because there is no emergency exception to the statute.

The City even goes so far as to accuse Petitioner – a small business constituent ostensibly served by the very government that is trying to run roughshod over it and then blaming it for the cost of standing up for its own rights – of being at fault for running up the City's costs. This is rich. In this case, the City would not have to complain about its allegedly wasted resources if it had properly followed the law and if it had not suddenly closed Lot 707 late on a Friday night without warning to anyone. The City has had abundant time to obtain a proper change of use authorization and reissue a Resolution of Necessity, but instead it chose to ignore the law. Again, the City appears intent to complete this project no matter what.

The City similarly tries to demonize its own constituent for taking too long to file this action. Of course, Petitioner had no reason to act sooner because it relied on the City's promises not to break ground until substitute parking had been secured. In its zeal to blame Petitioner for taking too long to file and for increasing the costs, the City now takes the position that there was nothing "binding" about Councilmember Yaroslavsky's repeated promise not to break ground until substitute parking had been secured. Yet she made that promise at the very City Council meeting where the vote on the project took place, not just to placate constituents but to induce Councilmembers who might have been concerned about the effect on local businesses to vote in

support of the project. The City could have followed through with its promise to secure alternate parking before breaking ground on the project, but it chose not to.

Indeed, the declaration of Fernando Morales saying he is currently trying to make good on that promise, over a year after it was made, and the most recent City Council Motion authorizing the pursuit of alternative parking, shows that the City, and not its constituents, is to blame for any unnecessary delays and costs by having failed to resolve the parking issue that they were aware of before proceeding with closing Lot 707. To date, the City has not provided any alternative parking, and the proposed alternative parking set forth in the recently filed City Council Motion is uncertain to happen, too far away to actually provide alternative parking, and, even if such parking was made available and could provide alternative parking, which it will not, will take way too long to be implemented to avoid the severe harm to Petitioner and the surrounding business community from the loss of Lot 707. See Supp Decl. of Brian Collesano ¶¶ 4-5.

If, as Petitioner asserts, §1245.245 applies to this project, the City has a duty to comply with that statute, emergency or otherwise.

D. The City insists the changed use is merely "temporary" even as it has dug up asphalt and begun to install electrical and sewage in the space where cars once parked.

The City's argument that the use is temporary and therefore not *really* a change in use to which the statute would apply is laughable. The comparison to a farmer's market in that space is frankly insulting. It is incredible that the City would make this argument with a straight face: on the one hand, it claims it is solving a city-wide housing emergency by placing 33 housing units (there are estimated to be more than 45,000 homeless people in the City of Los Angeles) in the parking lot, then it turns around and claims it is not really changing the use of that lot because the facility is not meant to be permanent. It is telling that the City also omits any definition of what "temporary" consists of, and surely it has no intention of turning Lot 707 back to a parking lot

anytime in the near future. Of course, even if the facility is temporary, whatever that may mean, it is the City's clear intent to stop using Lot 707 as a parking lot and the immediate and persistent harm to Petitioner and the surrounding business community will not be "temporary."

E. Petitioner has standing to seek this injunction to force the City to comply with state law.

Petitioner sufficiently alleges standing. "[W]here the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty, the relator need not show that he has any legal or special interest in the result, since it is sufficient that he is interested as a citizen in having the laws executed and the duty in question enforced." *Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 439 (internal citations omitted.) Petitioner seeks to enforce laws governing land use and local agency accountability, as implicated by §1245.245. Petitioner is interested as a constituent in having the laws executed and the City's duty to obtain authorization to change use of property procured via eminent domain enforced. This is sufficient to confer standing on Petitioner.

However, in addition, Petitioner's standing is even more clear as it is directly affected by the loss of Lot 707. This lot is directly across the street from Petitioner's business and provides the only off-street parking and ADA accessible parking for Petitioner's business, especially during the busy evening hours, and is required to provide code compliant parking and ADA parking for Petitioner and the neighboring businesses. See Declaration of Brian Collesano in Support of Motion for Prelminary Injunction ¶¶ 4-6; Declaration of Tom Waters in Support of Motion for Preliminary Injunction ¶¶ 6-9.

F. If Section 1245.245 applies, the City may exercise its discretion and has three choices: (a) restore and maintain the parking lot; (b) seek a new resolution of necessity for the changed use; or (c) sell the property.

The City's argument in Sections III(B) and IV(D) of its opposition are a little hard to follow, but the City seems to argue that applying §1245.245 would mean the City has two choices:

adopt a resolution of necessity for the changed use or sell the property. Of course, this ignores the other obvious choice, restore the parking lot and maintain the use consistent with the existing ordinance and Resolution of Necessity. See Ordinance No. 166003, passed by the City Council on April 11, 1990, and approved by Mayor Tom Bradley on April 18, 1990, stated that "the public interest and necessity" required the City to take this property and use it for "public off-street parking facilities" for the businesses along this stretch of Pico. The Ordinance stated that this parking use was "most compatible with the greatest public good." Request for Judicial Notice ("RFJN"), Declaration of Larry Slade in Support of Petitioner's Motion for Preliminary Injunction ("Slade Decl."), Exhibit B.

The City seems to misunderstand the relief that is being requested. Petitioner is merely asking that the City maintain the parking lot and be required to comply with §1245.245 if it wants to change the use. The City is free to seek or not to seek a new Resolution of Necessity, but, if it wants to change the use of this property, it must obey the constitutionally created and state law guided process that applies to properties taken by eminent domain. The City's discretion on how to proceed remains intact, but the City must obey the rules, and any new Resolution of Necessity should be sought in compliance with the Constitution, state law and be subject to judicial review to ensure compliance.

G. Injunctive relief is appropriate because the harm to Petitioner far exceeds the harm to the City and Petitioner's request for relief is timely.

The City argues that an injunction would cause financial harm to the City and would thwart it from addressing the emergency homeless crisis. The City believes that these harms far outweigh any harm established by Petitioner. It also asserts that the Petitioner's evidence is inadmissible and insufficient to establish any real harm. Both of these contentions are false, and a comparison of the hardships leans hard in favor of the Petitioner.

First, it is important to note that the City's reliance on claims that it will be damaged because it has entered into contracts for the demolition of the site and installation of the housing units would violate public policy by rewarding the City for willingly committing itself to costs and contractual obligations, all the while knowing that Fix the City's litigation against the project in Case No. 23STCP04410 was pending and the City had not obtained the Resolution of Necessity required by §1245.245. *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1203 ("As a matter of public policy and basic equity, developers should not be permitted to effectively defeat a CEQA suit merely by building out a portion of a disputed project during litigation . . ."). Indeed, when the City abruptly closed Lot 707 last month, a trial date had already been set by Judge Chalfant in Fix the City's case, and the filing of Fix the City's opening trial brief on August 27, 2024 was imminent. The City chose to proceed at its peril.

Second, the declarations submitted in support of the Petitioner's motion for a preliminary injunction demonstrate the reliance on Lot 707 and the clear harm that the loss of Lot 707 will cause. The City seems to contend that because Petitioner has not quantified this harm in the one month period since the City abruptly closed Lot 707 without sufficient notice, no such harm exists. However, the only way to not recognize the clear harm to the Petitioner and the surrounding business community is to abandon logic and reason. The City does not dispute and provides no evidence to contradict the following facts all of which are included and part of the declarations submitted in support of Petitioner's request for a preliminary injunction:

a. Lot 707 is critical to this business community (as evidenced by the original taking of this property by eminent domain in 1990 for public parking purposes, the lack of any evidence to show that this parking is no longer necessary, and the City's own statements, actions and admissions regarding the need for public, off-street parking in this community);

b. Pico Boulevard is subject to the grid lock ordinance and is no stopping between 4 pm – 7 pm – which severely limits access to Petitioner's business;

c. The surrounding residential neighborhood is permit only parking after 6 pm;

d. Lot 707 is required for Petitioner and the surrounding businesses to meet ADA parking requirements to obtain a permit, and provides the only off-street ADA parking spaces available to Petitioner's customers (See Declarations of Collesano and Waters); and

e. Food delivery services like Doordash and Uber are unable to service Petitioner's restaurant in the evening because there is nowhere for them to stop or park. (See also Supp. Collesano Decl. ¶¶ 4-5.)

These uncontested facts illustrate and result in only one conclusion. The loss of Lot 707 is having and will continue to have direct, immediate and severe consequences for Petitioner and his neighbors.[1] The City, in its zeal to convert Lot 707 from a parking lot to a homeless facility, simply ignores and minimizes the clear and undeniable harm that the closure of Lot 707 will cause.

On the other hand, what is the harm to the City if the injunction is imposed? To start, it is important for the Court to understand the current condition of Lot 707. Attached as Exhibit A to the Supp. Declaration of Brian Collesano in support of Petitioner's Reply is a current drone photograph of Lot 707. What is immediately obvious is that the TRO was put in place before any serious damage to the parking lot could take place, and as admitted by counsel for the City during the TRO hearing before Judge Kin and again during the September 17, 2024 Related Case Status Conference before Judge Chalfant, any restoration of Lot 707 to a parking lot would be quick, easy and inexpensive. In fact, the City contends this is true even after the homeless facility is installed, so it must be even less of a burden to restore the parking lot from its current condition.

[1] Even the City in the Motion submitted as supplemental evidence agrees that the loss of Lot 707 has "reduced the availability of parking in the area." See City's RJN of Late Developing Evidence.

The City also argues that an injunction would prevent it from addressing the homeless emergency. However, it provides no evidence that would show that the loss of 33-beds at this particular project is going to have any severe impact in its efforts to address the homeless situation. After all, it has been widely reported that there are more than 45,000 homeless individuals in the City of Los Angeles and it is hard to understand how 33 more or less housing units is going to have any large or immediate impact on the overall crisis. In addition, since the City's intended housing units are portable and can easily be moved as the City contends, surely the City will be able to redirect these units to other similar projects it is working on throughout the City. The bottom line, an injunction related to Lot 707 will have no meaningful impact on the City's ability to address homelessness, nor will it cause the City any significant damage or cost.

Finally, the City's contention that Petitioner's alleged year long delay in seeking relief warrants against an injunction is misplaced. First, the City did not violate §1245.245 when it allegedly approved the project; it did so when it closed the parking lot. This happened on August 19, 2024, and Petitioner moved as quickly as it could to file its Writ of Mandamus and to seek a TRO. In fact, contrary to the City's assertion in its opposition, the Petitioner did not wait weeks to file but did so in nine calendar days (seven business days), and scheduled a hearing for its TRO as soon as it could while having to work around and over the Labor Day weekend.

Further, the City lured Petitioner into inaction when the Petitioner relied on the City's statements and representations that alternative parking would be provided before Lot 707 was closed. See Petitioner's Motion for Preliminary Injunction pgs. 5-6. Whether or not this statement by the City was binding, it is troubling that a member of the City Council would make such a statement, and then, when challenged, the City takes the position that Petitioner's challenge is not timely. Not only did Petitioner act timely, but the City's conduct should excuse any delay and

should not be rewarded by now preventing Petitioner from asserting its claims and trying to protect its business.

To the extent that the Court gives any credence to the City's contentions, the City's arguments should also be rejected based upon equitable estoppel. "A public agency may be equitably estopped in the same manner as a private party." *Citizens for a Responsible Caltrans Decision v. Dep't of Transportation* (2020) 46 Cal.App.5th 1103, 1128. "The doctrine of equitable estoppel is based on the theory that a party who by his declarations or conduct misleads another to his prejudice should be estopped from obtaining the benefits of his misconduct. [Citation.] . . . 'A defendant should not be permitted to lull his adversary into a false sense of security . . . and then plead in defense the delay occasioned by his own conduct.' [Citation.]" *Id.* "'The government may be bound by an equitable estoppel in the same manner as a private party when the elements requisite for such an estoppel against a private party are present and, in the considered view of a court of equity, the injustice which would result from a failure to uphold an estoppel is of sufficient dimension to justify any effect upon public interest or policy which would result from the raising of an estoppel.'" *Id.* at 1128-1129, quoting *Long Beach v. Mansell* (1970) 3 Cal.3d 462, 496-497.

H. The City's attempts to find alternative parking do not impact the need to comply with §1245.245, and the City's apparent after the fact (i.e., after closing Lot 707) attempts to find alternative parking which remain unsuccessful only prove the importance of Lot 707 and the severe impact from its loss.

The City through its supplemental evidence submitted just prior to when this Reply Brief is due and the Declaration of Fernando Morales demonstrate that the City recognizes the importance of Lot 707 by trying to find alternative parking and that the City, despite those efforts, has been unsuccessful. While alternative parking that truly replaced Lot 707 for this business community, if such parking is even possible to find (See Supp. Collesano Decl. ¶¶ 1-5.), may have reduced the harm caused by the loss of Lot 707, it did not remove the obligation to comply with §1245.245.

Simply put, the existence or non-existence of alternative parking is irrelevant to the City's obligation to comply with §1245.245.

Also, the City's unsuccessful efforts and the latest proposal for possible alternative parking also provide clear evidence that alternative parking for Lot 707 is unlikely to be found and thus the harm of allowing the City to proceed with the removal of Lot 707 will have long term negative impacts on Petitioner and the surrounding business community that cannot be easily ameliorated. See Supp. Collesano Decl. ¶¶ 4-5. There is a reason Lot 707 was taken by eminent domain for parking in the first place - - public, off street parking in and around Lot 707 has been for years and continues to be critical and necessary to the survival of the business community.

I. Petitioner should not be required to post a bond under CCP Section 529.

The City requests a bond of between $400,000 to no less than $2,000,000 if the City is required to restore the parking. The City provides minimal analysis or information to support either number and it appears that they were plucked out of thin air. In fact, the City fails to even supply a copy of the underlying contract or address how it could mitigate any of the potential costs by directing resources to other projects. Further, absent any ability to conduct discovery, take depositions or otherwise challenge the City's potential costs, Petitioner has no way to rebut the City's estimates.

In addition, the Petitioner has been unable to find any case law that specifically addresses the imposition of a bond in an Administrative Mandamus case where the City is being required to comply with a law that it has otherwise ignored and there is no real party in interest whose rights will be affected. However, the Court in *Venice Canals Resident Home Owners Assn. v. Superior Court* (1972) 72 Cal. App. 3d 675 provided a clear summary of the analysis that the Court should entertain. In Venice Canals, the court stated:

"Code of Civil Procedure section 1094.5(f) does not require the petitioner to file a bond or undertaking as a condition of obtaining a stay order. However, although that section provides that

the court 'may stay the operation of the administrative order' the section cannot be considered to provide an absolute right to an unconditional stay. The law is to the contrary. The inherent power of the trial court to exercise reasonable control over litigation before it, as well as the inherent and equitable power to achieve justice and prevent misuse of processes lawfully issued is well established (Bloniarz v. Roloson, 70 Cal.2d 143, 148, 74 Cal.Rptr. 285, 449 P.2d 21; Hays v. Superior Court, 16 Cal.2d 260, 264, 105 P.2d 975 Calif.Code Civ.Proc., s 128, subd. 8, Calif. Administrative Mandamus (Cont. Ed. Bar 1977) s 10.14); the court may make discretionary orders with reasonable conditions; and even make subsequent limitations and modifications of prior orders in order to achieve justice (Morton v. Superior Court, 119 Cal.App.2d 665, 260 P.2d 215); and may waive statutory requirements under appropriate circumstances (Biasca v. Superior Court, 194 Cal. 366, 228 P. 861). Litigants who seek immediate restraint of conduct or other injunctive relief or partial relief in their favor pending a complete trial are often required to post some security as evidenced by many statutory provisions requiring posting of undertakings in the several provisional remedies statutes. (E.g., Code Civ.Proc. ss 515.010, 529, 489.210, 566. See discussion generally, 2 Witkin, Cal. Procedure, Provisional Remedies, ss 1, 2, 26, 86, 95, 151, 152, 251; at pp. 1465, 1482, 1522, 1529, 1569, and 1639, respectively.) Similar inherent power has been recognized as available to the court to prevent unfair results, although the relevant statute itself contains no provision for such limitation. "(T)he inherent power of all courts to control And prevent abuses in the use of their process.' . . . does not depend upon constitutional or legislative grant but is inherently 'necessary to the orderly and efficient exercise of jurisdiction.' (Citations omitted.)' (Emphasis in original; Arc Investment Co. v. Tiffith, 164 Cal.App.2d Supp. 853, 856, 330 P.2d 305, 307; 1 Witkin, Cal. Procedure, s 116, p. 385 et seq.)."

In this case, Petitioner seeks a Writ of Mandate under CCP section 1085, which like section 1094.5 does not specifically require a bond. Further, imposing a bond requirement in a case such as this would frustrate the ability of Petitioner, and for that matter any citizen, to require the City to comply with its laws. The Petitioner is a small business who has been dealing with the loss of parking and the obvious and clear harm to its business. Quite simply, the Petitioner will be unable to satisfy any significant bond requirement. (Supp. Collesano Decl., ¶6.) Any such requirement will be nothing more than a green light for the City to proceed and continue to ignore state law.

Moreover, the City's alleged damages are speculative and other than any contractual damage that the City brought upon itself by moving forward with the project and entering into contracts before it had obtained the necessary approvals or complied with state law, the City will not be damaged by the restoration of the parking lot. The City brought any damages upon itself, and to now require a bond from a small business would frustrate the legal process and impose an

undue burden on Petitioner. The Court should exercise its inherent discretion and deny the City's request for a bond.

III. **CONCLUSION**

Because Defendants have committed, and continue to commit, a violation of California law, including failing to comply with the laws regarding changing the use of a previously authorized taking through Eminent Domain, and because that violation has caused and will continue to cause irreparable harm to Petitioner, Petitioner respectfully requests that this Court exercise its statutory authority and issue a preliminary injunction.

Respectfully Submitted,

LAW OFFICE OF DARIN MARGULES, PLC

DATED: September 20, 2024

By: Darin Margules
DARIN MARGULES
Attorney for Plaintiff

SLADE LAW

DATED: September 20, 2024

By: _____
LARRY SLADE
Attorney for Plaintiff