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FRIENDS AND FAMILIES FOR MOVE
7 CULVER CITY

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

11 FRIENDS AND FAMILIES FOR MOVE
CULVER CITY,
12
13 Petitioner and Plaintiff,
14
15 v.
16 CITY OF CULVER CITY; CITY COUNCIL
OF THE CITY OF CULVER CITY; and
DOES 1-10, Inclusive.
17
18 Respondents and Defendants.

18 CITY OF CULVER CITY,
TRANSPORTATION PLANNING; and
19 DOES 11-20, Inclusive.
20
21 Real Parties in Interest and
Defendants.

Case No. **23STCP03833**
**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**
**IMMEDIATE STAY REQUESTED (CODE
CIV. PROC. § 1094.5(g))**
Environmental Litigation:
Code Civ. Proc. §§ 1085, 1094.5; Pub. Res.
Code § 21000 et seq. (California
Environmental Quality Act (“CEQA”)); Gov.
Code § 65300 et seq. (State Planning and
Zoning Law)

1 **INTRODUCTION**

2 1. In 2021, Respondent/Defendant City of Culver City (“**City**”) completed a series of
3 groundbreaking roadway safety improvements through the City’s MOVE Culver City Tactical
4 Mobility Lane Pilot Project. Among other things, this pilot project converted vehicular lanes at
5 key roadway segments into dedicated bus lanes and protected bicycle lanes. It also installed
6 crucial protective measures for pedestrians, including curb extensions, shorter crosswalks, leading
7 pedestrian intervals, and other features. The pilot project has been a resounding success. As of
8 April 2023, there was a 52% increase in transit ridership from 2021 to 2022 compared to only a
9 26% increase system-wide, and there was a 32% increase in cycling compared to pre-pandemic
10 levels. The City also observed an increase in pedestrian activity in the area of the pilot project.
11 According to City surveys, “most residents support how MOVE Culver City improved safety for
12 walking and biking and increased transportation alternatives.”

13 2. Despite overwhelming public support to maintain the pilot project as-is, a narrow
14 3-2 majority of the Culver City Council (“**City Council**”) has taken steps to remove the crucial
15 safety measures in the pilot project. These efforts culminated in a 3-2 vote on September 11, 2023
16 to approve a modified version of the MOVE Culver City - Downtown Corridor Pilot Project
17 (“**Modified Project**” or “**Project**”). The Modified Project will remove crucial pedestrian safety
18 measures (including curb extensions and protected crosswalks), it will add additional vehicle
19 lanes, and it will remove the protected bicycle lanes (thereby forcing bicyclists to use lanes that
20 will now be shared with busses and other motor vehicles). Undisputed substantial evidence shows
21 that these modifications will threaten the health and safety of pedestrians and bicyclists, and it will
22 also lead to other adverse environmental impacts.

23 3. By this action, Petitioner/Plaintiff Friends and Families for MOVE Culver City
24 (“**Petitioner**”) seeks a writ of mandate to order the City to stay enforcement of decisions made on
25 September 11, 2023 and to set those decisions aside to the extent that such decisions will remove
26 existing safety measures in the existing pilot project. Petitioner challenges the legal validity under
27 the California Environmental Quality Act (“**CEQA**,” Pub. Resources Code, § 21000 et seq.), the
28 State CEQA Guidelines (“**Guidelines**,” Cal. Code Regs., tit. 14, § 15000 et seq.) and the

1 California Planning and Zoning Law (“**Planning and Zoning Law**,” Gov. Code, § 65300 et seq.)
2 of actions taken by the City on September 11, 2023 to approve the Modified Project and to
3 approve CEQA exemptions for the Modified Project.

4 4. The City’s complete failure to disclose, analyze, and mitigate the Modified
5 Project’s human health and safety impacts violates CEQA and the Guidelines. A public agency
6 cannot utilize a CEQA exemption, and instead must prepare an environmental impact report
7 (“**EIR**”) when substantial evidence, in light of the whole record, shows that a project may have a
8 significant cumulative effect, or has “effects [that] will cause substantial adverse effects on human
9 beings, either directly or indirectly.” (Pub. Resources Code, § 21083, subd. (b)(3); Guidelines,
10 § 15065, subd. (a)(4).) Numerous community members presented substantial evidence at public
11 hearings that shows that adding traffic lanes, eliminating pedestrian safety measures, and
12 eliminating the protected bicycle lanes will substantially exacerbate adverse health and safety
13 hazards at affected road segments by placing pedestrians, bicyclists, and others in grave danger of
14 significant injury or death. Accordingly, the City prejudicially abused its discretion and failed to
15 proceed in the manner required by law when it did not prepare an EIR and instead found that the
16 Project is exempt from CEQA. Because the Project will have cumulatively considerable effects
17 and related, substantial adverse effects on human beings, the City had a public duty to prepare an
18 EIR for the Project. (See Pub. Resources Code, §§ 21080, subd. (d), 21083, subd. (a)(2)–(3);
19 Guidelines, §§ 15063, subd. (b)(1), 15064, subd. (a)(1), (f)(1), (h)(1), 15065, subd. (b)(3)–(4).)

20 5. To make matters worse, the City relied on two CEQA exemptions that do not apply
21 to the Project. The first of those two exemptions, the “Class 1” exemption (see Guidelines,
22 § 15301, subd. (c)) generally applies to development involving existing facilities. The City cited
23 the portion of the exemption in subdivision (c) that applies to “[e]xisting highways and streets,
24 sidewalks, gutters, bicycle and pedestrian trails and similar facilities,” but by its very terms, the
25 exemption does not apply to projects that “create additional automobile lanes.” Here, the Project
26 will, in fact, add additional automobile lanes that did not previously exist (e.g., at the intersection
27 of Duquesne Ave. and Culver Blvd.). Moreover, no substantial evidence, in light of the whole
28 record, supports the City’s determinations that the Project may not have a significant effect on the

1 environment. No substantial evidence supports the circumstances or any findings legally required
2 to support the City's use of the Class 1 exemption or the City's determination that none of the
3 exceptions to that exemption apply here. (Guidelines, § 15300.2.) Substantial evidence in the
4 record only supports findings to the contrary.

5 6. The second CEQA exemption cited by the City is also inapplicable here.
6 Specifically, the City took the position that the Project is eligible for the statutory exemption for
7 certain types of new transit projects in Public Resources Code section 21080.25. But that
8 exemption cannot be used when projects induce single-occupancy vehicle trips. (*Id.* at subd.
9 (c)(2).) Substantial evidence shows that the Project will induce additional single-occupancy
10 vehicle trips. Furthermore, in its analysis of whether the Project will increase vehicle trips, the
11 City relied on a legally impermissible baseline. (Guidelines, §§ 15125(a)(1), 15126.2(a).) Instead
12 of comparing traffic levels at existing roadway conditions, the City compared future Modified
13 Project traffic levels to pre-COVID-19 traffic levels that existed before the existing protected
14 bicycle lanes and other improvements were installed. Accordingly, the City prejudicially abused
15 its discretion and failed to proceed in the manner required by law by approving a methodology that
16 is not legally authorized and not supported by substantial evidence. Substantial evidence in the
17 record only supports the finding that the Modified Project will induce more single-occupancy
18 vehicle trips compared to existing conditions.

19 7. Contrary to the City's unsubstantiated assertions, by inducing additional vehicle
20 trips, the modified Project will result in a range of adverse environmental impacts. These include
21 adverse air quality, GHG, transportation, and other impacts. In fact, in April 2023, the City
22 Council was informed that 0.8 mile of new vehicular lanes on both sides of the street could
23 produce 1326.98 metric tons of new CO₂. These impacts should have been disclosed, analyzed,
24 and (to the extent feasible) mitigated in an EIR.

25 8. All of these impacts will have disproportionate, adverse impacts on disadvantaged
26 communities. By making it more difficult and less desirable to use alternative modes of
27 transportation, the Modified Project will disproportionately harm working class people who have
28 no choice but to rely on transit, cycling, or walking to get to work and return to their families. This

1 September 11 hearing and prior hearings, and objected to the City’s proposed actions.
2 Accordingly, Petitioner has standing to maintain this action pursuant to Public Resources Code
3 section 21177, subdivision (c). Petitioner and its members are committed to ensuring safe and
4 equitable access to public spaces and public streets in Culver City. Petitioner brings this action on
5 its own behalf and on behalf of all other similarly-situated individuals, including all residents,
6 electors, and taxpayers of the City who are interested in full, fair, correct and independent
7 enforcement of CEQA, the Guidelines, California Planning and Zoning Law, and all other
8 applicable laws. Petitioner and the members of the public benefiting from this action have a
9 substantial, beneficial interest in the relief they seek, and have a present interest, as citizens, in the
10 enforcement of the City’s public duties under CEQA, the Guidelines, California Planning and
11 Zoning Law, and all other applicable laws.

12 12. Respondent/Defendant City of Culver City is a California Charter City with quasi-
13 legislative and adjudicatory powers over land uses within its jurisdiction. The City is the lead
14 agency for the Project under CEQA. (Pub. Resources Code, § 21067; Guidelines, § 15367.) The
15 City has a legally enforceable public duty to strictly comply with CEQA, the Guidelines,
16 California Planning and Zoning Law, and all other applicable laws.

17 13. Respondent/Defendant City Council of the City of Culver City is the elected
18 decision-making and legislative body of the City. The City Council has final administrative
19 responsibility to determine the adequacy of environmental documents under CEQA. (Pub.
20 Resources Code, § 21151, subd. (c); Guidelines, § 15074, subd. (f).) The City Council has a
21 legally enforceable public duty to strictly comply with CEQA, the Guidelines, California Planning
22 and Zoning Law and all other applicable laws. The City of Culver City and the City Council of the
23 City of Culver City are sometimes referred to collectively as “Respondents” in this pleading.

24 14. Petitioner is informed and believes that Real Party in Interest/Defendant City of
25 Culver City, Transportation Planning is properly named as a real party in interest pursuant to
26 Public Resources Code section 21167.6.5, subdivision (a), because the notice of exemption filed
27 by the City identifies “City of Culver City, Transportation Planning” as the party undertaking the
28 Project. Petitioner is further informed and believes that the entity titled “City of Culver City,

1 Transportation Planning” is an agency of Respondent City of Culver City and is not a separate,
2 distinct legal entity that operates independently of the City.

3 15. Petitioner is informed and believes that it is currently unaware of the true names
4 and capacities of Does 1 through 20, inclusive, and therefore sue those parties by fictitious names.
5 Petitioner is informed and believes that Does 1 through 10, inclusive, are agents of the City, the
6 City Council, or are directors, officers, or other legal or de facto agents of the City or the City
7 Council, and are responsible in some manner for the conduct described in this pleading. Petitioner
8 is informed and believes that Does 11 through 20, inclusive, are directors, officers, or other legal
9 or de facto agents of or lobbyists for Real Party or are persons or entities with an ownership or
10 other legally cognizable interest in the Project or the Project site. Petitioner will seek leave to
11 amend this pleading to state the true names and capacities of the fictitiously named parties if
12 necessary and when the same have been ascertained.

13 **JURISDICTION AND VENUE**

14 16. This Court has jurisdiction over this action pursuant to California Constitution
15 article VI, section 10, and Public Resources Code sections 21167, 21167.1, 21168, 21168.5 and
16 21168.7. This Court has personal jurisdiction over Respondents and Real Party in Interest because
17 they are present or transact business within Los Angeles County’s jurisdictional limits.

18 17. Venue properly lies in this Court because an action against a city may be tried in
19 the superior court of the county in which the city is situated (Code Civ. Proc., § 394, subd. (a)), or
20 where some or all defendants reside at the commencement of the action. (*Id.*, § 395, subd. (a).)
21 Furthermore, venue is appropriate in this Court because many of the adverse impacts on the
22 environment alleged in this pleading occur in Los Angeles County. (*See California State Parks*
23 *Foundation v. Superior Court* (2007) 150 Cal.App.4th 826, 834, fn.2 [“when plaintiffs are
24 challenging an official act, the cause of action arises where the effects of that act are felt”].)

25 **FACTUAL, PROCEDURAL, AND LEGAL BACKGROUND**

26 18. The Project is located in the City of Culver City, Los Angeles County on Culver
27 Boulevard from Duquesne Avenue to Canfield Avenue, and on Washington Boulevard between
28 Ince Boulevard and Fairfax Avenue near the City boundary.

1 19. The MOVE Culver City pilot project reflects many years of advocacy by
2 proponents of safe streets. On May 18, 2020, the City Council directed the City’s Transportation
3 Department to capitalize on reduced traffic as a result of the pandemic by transforming automobile
4 lanes into protected bicycle lanes and dedicated bus lanes at certain roadway segments.
5 Subsequently, staff conducted preliminary planning work and returned to the Council on July 13,
6 2020, with a recommendation to implement mobility lanes on three major arterial corridors
7 (Culver Blvd./Washington Blvd., Sepulveda Blvd., and Jefferson Blvd.) to bring positive and
8 impactful changes to mobility throughout the City. The City Council directed staff to implement a
9 bus and bike lane pilot project.

10 20. Project design took place from October 22, 2020 to January 1, 2021. On February
11 1, 2021, the City Council approved the pilot project’s Design Guidelines and the design plans,
12 which included separate protected bus and bike lanes where space allowed and shared bus/bike
13 lanes where space was constrained. The pilot project also included numerous protective measures
14 for pedestrians.

15 21. The MOVE Culver City Tactical Mobility Lane Pilot Project was installed in
16 November 2021. Specifically, the City installed bollards, paint, and other features to create
17 protected bicycle lanes and other improvements.

18 22. On April 24, 2023, the City Council received a presentation from City staff on the
19 results of the pilot project. At this meeting, an overwhelming majority of public participants urged
20 the City to keep the pilot project as-is. Nevertheless, following the presentation, the Council
21 directed staff to continue with the MOVE Culver City Tactical Mobility Lane Pilot Project with a
22 modified design for a maximum evaluation period of two years. The City Council directed staff to
23 return with options for eliminating protected bicycle lanes and pedestrian protections.

24 23. On July 10, 2023, the City Council received a presentation from staff on the project
25 design efforts and the conceptual design. The City Council directed staff to move forward with the
26 design and provided feedback for potential incorporation into the Modified Project design.

27 24. At the September 11, 2023 meeting an overwhelming majority of the members of
28 the public in attendance urged the City Council to keep the pedestrian protections and protected

1 though fully set forth herein.

2 28. The Project constitutes a discretionary project within the meaning of Public
3 Resources Code section 21080, subdivision (a), and, therefore, is subject to CEQA and the
4 Guidelines.

5 29. “The foremost principle under CEQA is that the Legislature intended the act ‘to be
6 interpreted in such manner as to afford the fullest possible protection to the environment within
7 the reasonable scope of the statutory language.’ (*Friends of Mammoth v. Board of Supervisors*
8 (1972) 8 Cal.3d 247, 259.)” (*Laurel Heights Improvement Assn. v. Regents of University of*
9 *California* (1988) 47 Cal.3d 376, 390.)

10 30. CEQA requires public agencies to disclose and analyze adverse environmental
11 effects of projects before approving those projects. “[I]t is the policy of the state that public
12 agencies should not approve projects as proposed if there are feasible alternatives or feasible
13 mitigation measures available which would substantially lessen the significant environmental
14 effects of such projects.” (Pub. Resources Code, § 21002.) CEQA is “intended to assist public
15 agencies in systematically identifying both the significant effects of proposed projects and the
16 feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such
17 significant effects.” (*Ibid.*)

18 31. When reviewing whether a project will have adverse environmental impacts, public
19 agencies must disclose, analyze and mitigate any environmental effects on “human beings, either
20 directly or indirectly.” (Pub. Resources Code, § 21083, subd. (b)(3); Guidelines, § 15065, subd.
21 (a)(4).) California’s environmental justice statutes require CEQA to be applied in a manner that
22 fairly and equitably considers potential disparate impacts on the basis of age, disability, or other
23 protected characteristics. (Gov. Code, § 11135, subd. (a); *id.* at § 65040.12, subd. (e).)

24 32. Fundamentally, the purpose of CEQA is to enable decisionmakers and members of
25 the public to make meaningful and fully-informed decisions about new development and land use
26 planning in their community. (*See Vineyard Area Citizens for Responsible Growth, Inc. v. City of*
27 *Rancho Cordova* (2007) 40 Cal.4th 412, 448-450.) As the Court of Appeal explained in *Save Our*
28 *Big Trees v. City of Santa Cruz* (2015) 241 Cal.App.4th 694, 704-705, CEQA review procedures

1 generally involve a “three-tiered process:” “The first tier requires an agency to conduct a
2 preliminary review to determine whether CEQA applies to a proposed project. [Citation.] If
3 CEQA applies, the agency must proceed to the second tier of the process by conducting an initial
4 study of the project. [Citation.] Among the purposes of the initial study is to help ‘to inform the
5 choice between a negative declaration and an Environmental Impact Report [“EIR”].’ [Citation.] If
6 there is ‘no substantial evidence that the project or any of its aspects may cause a significant effect
7 on the environment,’ the agency prepares a negative declaration. (Guidelines, § 15063, subd.
8 (b)(2).) Alternatively, if ‘ “the initial study identifies potentially significant effects on the
9 environment but revisions in the project plans ‘would avoid the effects or mitigate the effects to a
10 point where clearly no significant effect on the environment would occur’ and there is no
11 substantial evidence that the project as revised may have a significant effect on the environment, a
12 mitigated negative declaration may be used.” ’ [Citation.] Finally, if the initial study uncovers
13 ‘substantial evidence that any aspect of the project, either individually or cumulatively, may cause
14 a significant effect on the environment’ (CEQA Guidelines, § 15063, subd. (b)(1)), the agency
15 must proceed to the third tier of the review process and prepare a full EIR [Citation.]”

16 33. As noted above, CEQA mandates a finding of significant impact, and thus
17 preparation of an EIR, when substantial evidence, in light of the whole record, shows that a project
18 may have a significant cumulative effect, or has “effects [that] will cause substantial adverse
19 effects on human beings, either directly or indirectly.” (Pub. Resources Code, § 21083, subd.
20 (b)(2), (3); Guidelines, § 15065, subd. (a)(3), (4).)

21 34. CEQA and the Guidelines require a CEQA analyses to disclose and evaluate a
22 project’s cumulative impacts and lead agencies may not, *ipso jure*, equate individually minor
23 effects with cumulatively minor effects. Rather, CEQA mandates “a finding that a project *may*
24 have ‘a significant effect on the environment’ ” where the “possible effects of a project are
25 individually limited but cumulatively considerable.” (Pub. Resources Code, § 21083, subd. (b),
26 emphasis added; Guidelines, § 15065, subd. (a)(3).) “[C]umulatively considerable means that the
27 incremental effects of an individual project are considerable when viewed in connection with the
28 effects of past projects, the effects of other current projects, and the effects of probable future

1 projects.” (Pub. Resources Code, § 21083, subd. (b)(2).)

2 35. Cumulative impacts may compound or increase other environmental impacts, and a
3 CEQA analysis must inquire into and discuss the incremental impacts of a project when added to
4 closely related past, present, and reasonably foreseeable probable future development projects
5 taking place over a period of time. (Guidelines, §§ 15130, 15355, 15358; *see North Coast Rivers*
6 *Alliance v. Kawamura* (2015) 243 Cal.App.4th 647, 682; *Kings County Farm Bureau v. City of*
7 *Hanford* (1990) 221 Cal.App.3d 692, 721.) Even when a combined cumulative impact associated
8 with a project’s incremental effect and the effects of other related projects is not significant, the
9 analysis still must “briefly indicate why the cumulative impact is not significant and is not
10 discussed in further detail.” (Guidelines, § 15130, subd. (a)(2).) “A Lead Agency shall identify
11 facts and analysis supporting the lead agency’s conclusion that the cumulative impact is less than
12 significant.” (*Ibid.*)

13 36. Under the first tier of CEQA review, agencies determine whether projects fall
14 within a category of projects that the Legislature has expressly exempted from review (Pub.
15 Resources Code § 21080, subds. (b)(1)–(15)), or whether projects qualify for one of the
16 categorical exemptions (Guidelines §§ 15300–15333) the California Resources Agency has
17 established for projects it found do not, as a general rule, have a significant effect on the
18 environment. (§ 21084; *see Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th
19 1086, 1092 [*Berkeley Hillside*].) Categorical exemptions must be construed narrowly “to afford
20 the fullest possible environmental protection.” (*Save Our Carmel River v. Monterey Peninsula*
21 *Water Management Dist.* (2006) 141 Cal.App.4th 677, 697.) “‘[E]xemption categories are not to
22 be expanded or broadened beyond the reasonable scope of their statutory language.’ [Citations.]
23 These rules ensure that in all but the clearest cases of categorical exemptions, a project will be
24 subject to some level of environmental review.” (*Ibid.*)

25 37. “Categorical exemptions are subject to exceptions in the Guidelines.” (*Save Our*
26 *Schools v. Barstow Unified School Dist. Bd. of Education* (2015) 240 Cal.App.4th 128, 140; *see*
27 *Save the Plastic Bag Coalition v. County of Marin* (2013) 218 Cal.App.4th 209, 224; *see also*
28 *Banker’s Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006)

1 139 Cal.App.4th 249, 260.) Guidelines section 15300.2 specifies exceptions to the categorial
2 CEQA exemptions, including:

- 3 • “Cumulative Impact. [Categorical exemptions] are inapplicable when the
4 cumulative impact of successive projects of the same type in the same place, over
5 time is significant.” (*Id.*, subd. (b).)
- 6 • “Significant Effect. A categorical exemption shall not be used for an activity where
7 there is a reasonable possibility that the activity will have a significant effect on the
8 environment due to unusual circumstances.” (*Id.*, subd. (c).)

9 38. If an agency finds that a project is categorically exempt from CEQA, reversal of
10 the agency’s action is appropriate (a) when the agency fails to proceed in the manner required by
11 law or (b) when substantial evidence fails to support that finding. (*Berkeley Hillside, supra*, 60
12 Cal.4th at p. 1110.) “In the CEQA context, substantial evidence ‘means enough relevant
13 information and reasonable inferences from this information that a fair argument can be made to
14 support a conclusion, even though other conclusions might also be reached. (Guidelines, § 15384,
15 subd. (a).)’” (*Keep Our Mountains Quiet v. County of Santa Clara* (2015) 236 Cal.App.4th 714,
16 730.) “The determination of whether a project may have a significant effect on the environment
17 calls for careful judgment in the part of the public agency involved. . . .” (Guidelines, § 15064,
18 subd. (b).)

19 39. Preliminarily, substantial evidence in the record shows that the Project will have
20 cumulatively considerable effects and related, substantial adverse effects on human beings that
21 will be exacerbated relative to pre-Project conditions. For this reason alone, the City had a
22 mandatory public duty to prepare an EIR for the Project. (See Pub. Resources Code, §§ 21080,
23 subd. (d), 21083, subd. (a)(2)–(3); Guidelines, §§ 15063, subd. (b)(1), 15064, subd. (a)(1), (f)(1),
24 (h)(1), 15065, subd. (b)(3)–(4).)

25 40. Because the cumulative impacts of the Project (including increased vehicle trips,
26 increased safety hazards, air quality impacts, GHG impacts, etc.) are cumulatively significant in
27 conjunction with the cumulative impact of successive roadway projects in nearby locations, the
28 Project is not eligible for a Class 1 categorical exemption. (Guidelines, § 15300.2, subd. (b).)

1 41. The use of the Class 1 exemption is also barred by the “unusual circumstances”
2 exception to the categorical exemptions. “The determination as to whether there are ‘unusual
3 circumstances’ (Guidelines, § 15300.2, subd. (c)) is reviewed under [Public Resources Code]
4 section 21168.5’s substantial evidence prong. However, an agency’s finding as to whether unusual
5 circumstances give rise to ‘a reasonable possibility that the activity will have a significant effect
6 on the environment’ (Guidelines, § 15300.2, subd. (c)) is reviewed to determine whether the
7 agency, in applying the fair argument standard, ‘proceeded in [the] manner required by law.’
8 [Citations.]” (*Berkeley Hillside*, 60 Cal.4th at p. 1114.) “The determination as to whether there are
9 ‘unusual circumstances’ (Guidelines, § 15300.2, subd. (c)) is reviewed under [Public Resources
10 Code] section 21168.5’s substantial evidence prong. However, an agency’s finding as to whether
11 unusual circumstances give rise to ‘a reasonable possibility that the activity will have a significant
12 effect on the environment’ (Guidelines, § 15300.2, subd. (c)) is reviewed to determine whether the
13 agency, in applying the fair argument standard, ‘proceeded in [the] manner required by law.’
14 [Citations.]” (*Berkeley Hillside*, 60 Cal.4th at p. 1114.)

15 42. “Application of [the fair argument] standard is a question of law and deference to
16 the agency’s determination is not appropriate. Rather, [courts] independently ‘review the record
17 and determine whether there is substantial evidence in support of a fair argument [the proposed
18 project] may have a significant environmental impact, while giving [the lead agency] the benefit
19 of a doubt on any legitimate, disputed issues of credibility.’ [Citations.] An agency’s ‘decision not
20 to require an EIR can be upheld only when there is no credible evidence to the contrary.’
21 [Citation.]” (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1996) 42
22 Cal.App.4th 608, 617–618.)

23 43. “Whether a fair argument can be made that a project may have a significant effect
24 on the environment is to be determined by examining the whole record before the lead agency.”
25 (Guidelines, § 15384, subd. (a).) “Because substantial evidence includes ‘reasonable assumptions
26 predicated upon facts’ (Guidelines, § 15384, subd. (b)) and ‘reasonable inferences’ (*id.*, subd. (a))
27 from the facts, factual testimony about existing environmental conditions can form the basis for
28 substantial evidence.” (*Keep Our Mountains Quiet, supra*, 236 Cal.App.4th at p. 730.) “Relevant

1 personal observations of area residents on nontechnical subjects may qualify as substantial
2 evidence for a fair argument.” (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th
3 903, 928.)

4 44. The decision to add new vehicular traffic lanes and to remove the pedestrian
5 protections, bus lanes, and protected bicycle lanes (i.e., infrastructure that promotes public safety)
6 is highly unusual. It is a type of project that causes inherent adverse impacts in the form of health
7 and human safety impacts. Accordingly, because there are substantial adverse environmental
8 impacts that will result from these unusual circumstances, the City cannot use the Class 1
9 categorical exemption. Substantial evidence shows that the Project will result in a broad range of
10 new adverse environmental impacts, including air quality, GHG, and transportation impacts due to
11 new vehicle trips that will be induced by the Project. Furthermore, by its very terms, the Class 1
12 exemption does not apply to projects that “create additional automobile lanes.” Here, the Project
13 will, in fact, add additional automobile lanes that did not previously exist (e.g., at the intersection
14 of Duquesne Ave. and Culver Blvd.)

15 45. Finally the Project is also ineligible for an exemption under section 21080.25
16 because the Project will induce single-occupancy vehicle trips. (*Id.* at subd. (c)(2).) The City failed
17 to conduct legally-adequate analysis of comparative vehicle trips. Instead of comparing existing
18 conditions to post-Project conditions, the City compared the Project to conditions that existed
19 during the COVID-19 pandemic. Specifically, attachments to the September 11, 2023 City
20 Council staff report state:

21 *The Original Project was approved at a time when westbound Culver Boulevard was*
22 *closed to general-purpose traffic in downtown Culver City to allow for temporary outdoor*
23 *dining during the COVID-19 pandemic. Because the road closure was a temporary*
24 *condition, the appropriate pre-project roadway configuration for consideration in the*
25 *environmental assessment for the Original Project was the permanent two lanes in each*
26 *direction that existed prior to the pandemic. The Modified Project is a continuation of the*
27 *Original Project and the pre-pandemic roadway configuration continues to be the*
28 *appropriate baseline condition for the environmental assessment for the Modified Project.*

1 This methodology violates CEQA. As a general rule, physical environmental conditions should be
2 described as they exist at the time the notice of preparation is published or, if no notice of
3 preparation is published, at the time the environmental analysis begins. (Guidelines,
4 §§ 15125(a)(1), 15126.2(a); *Communities for a Better Env't*, 48 Cal.4th at 320; *Save Our*
5 *Peninsula Comm.*, 87 Cal.App.4th at 125.) An agency's analysis should, however, employ a
6 realistic baseline. (*Communities for a Better Env't*, 48 Cal.4th at 328.) When existing physical
7 conditions change or fluctuate over time, the lead agency may define existing conditions by taking
8 account of historic conditions, or conditions expected when the project becomes operational, or
9 both. (Guidelines, §15125(a)(1).) Here, the City's environmental analysis for the proposed CEQA
10 exception did not commence until long after protected bikeways were installed, and long after the
11 height of the COVID-19 pandemic. Accordingly, the City should have compared relative vehicle
12 trips associated with the existing infrastructure (as of September 2023) relative to the proposed
13 Project. The City's failure to do so is prejudicial error. Had the City completed this analysis
14 according to proper legal requirements, the City would have found that the Project will induce
15 single-occupancy vehicle trips.

16 46. As noted above, the Project's impacts will have disproportionate, adverse impacts
17 on disadvantaged communities. By making it more difficult and less desirable to use alternative
18 modes of transportation, the Modified Project will disproportionately harm working class people
19 who have no choice but to rely on transit, cycling, or walking to get to work and return to their
20 families. This violates California's environmental justice requirements. (See Gov. Code,
21 § 65040.12, subd. (e); see also *id.* at 11135, subd. (a).)

22 47. Because the administrative record in this case contains substantial and indisputable
23 evidence of unusual circumstances, as well as substantial and indisputable evidence of significant
24 direct, indirect and cumulative impacts of the Project, due to the unusual circumstances, and
25 associated adverse effects on human beings, Respondents' failure to prepare an EIR constitutes a
26 prejudicial abuse of discretion under CEQA and the Guidelines. Accordingly, writ of mandate
27 relief as requested in the prayer to this pleading is indispensable.

28

1 **SECOND CAUSE OF ACTION**

2 **VIOLATION OF THE CALIFORNIA PLANNING AND ZONING LAW**

3 **(Code Civ. Proc., §§ 1085; 1094.5; Gov. Code, § 65300 et seq.)**

4 **By Petitioner Against Respondents and Real Party in Interest**

5 48. Petitioner incorporates by reference paragraphs 1 through 47 of this pleading, as
6 though fully set forth herein.

7 49. The general plan is at the top of the hierarchy of a local government’s land use
8 regulations. (*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 541;
9 *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 573.) The City has an
10 affirmative duty to ensure that development within its jurisdiction is consistent with its General
11 Plan. “[T]he consistency doctrine requires more than that the [project] recite goals and policies
12 that are consistent with those set forth in the [City]’s General Plan [Courts] do not require an
13 outright conflict between provisions before they can be found to be inconsistent. The proper
14 question is whether development of the Project . . . is compatible with and will not frustrate the
15 General Plan’s goals and policies.” (*Napa Citizens for Honest Government v. Napa County Board*
16 *of Supervisors* (2001) 91 Cal.App.4th 342.)

17 50. Inconsistency with adopted land use plans is, itself, grounds for overturning an
18 agency’s approval of a land use project. (Code Civ. Proc., §§ 1085; 1094.5.)

19 51. Here, the Project is inconsistent with various General Plan policies that require the
20 City to promote access to public transit and to protect pedestrians and bicyclists (see, e.g.,
21 Circulation Element Objective 2 [“Expand public transit service and ridership”] and related
22 policies, Objective 3 [“Provide a system of safe and enjoyable bikeways and support facilities”]
23 and related policies, and Objective 4 [“Provide convenient and pleasant pedestrian access”] and
24 related policies).

25 52. The City’s Bicycle and Pedestrian Action Plan implements various elements of the
26 City’s General Plan, including the Circulation Element and the Land Use Element. (See Bicycle
27 and Pedestrian Action Plan at Section 3.2.) The Project is inconsistent with numerous goals and
28 policies in the City’s Bicycle and Pedestrian Action Plan, including (but not limited to): Goal 1,

1 Goal 2 (“Culver City will empower residents to live a more active lifestyle by providing a network
2 of safe and comfortable active transportation facilities for everyone to enjoy. Culver City will
3 design (and re-design) the public realm with the goal of eliminating traffic fatalities and severe
4 injury crashes on the roadways.”); Goal 5; and other goals and policies.

5 53. The Project is also inconsistent with the City’s Transit-Oriented Development
6 Visioning Policy, which calls for measures to promote access to public transit and to protect
7 pedestrians and bicyclists.

8 54. Due to these inconsistencies, the City prejudicially abused its discretion and failed
9 to proceed in the manner required by law when it approved the Project. Accordingly, Petitioner is
10 entitled to peremptory writ of mandate relief as requested in the prayer to this pleading.

11 **THIRD CAUSE OF ACTION**

12 **DECLARATORY RELIEF**

13 **(Code Civ. Proc., § 1060)**

14 **By Petitioner Against Respondents and Real Party in Interest**

15 55. Petitioner incorporates by reference paragraphs 1 through 54 of this pleading, as
16 though fully set forth herein.

17 56. An actual controversy exists between Petitioner, Respondents, and Real Party in
18 that Petitioner contends that the City failed to comply with its legal obligations under CEQA, the
19 Guidelines, California Planning and Zoning Law, California’s environmental justice requirements,
20 and all other applicable laws when it approved the Project and approved the above-referenced
21 CEQA exemptions for the Project; and Respondents and Real Party contend the contrary to be
22 true.

23 57. Petitioner desires a declaration from this Court, pursuant to Code of Civil
24 Procedure section 1060, that the City must comply with its legal obligations under CEQA, the
25 Guidelines, California Planning and Zoning Law, California’s environmental justice requirements,
26 and all other applicable laws before approving the Project or any alternative project at the Project
27 Site. Declaratory relief is necessary and indispensable to resolve the actual and ongoing
28 controversy between Petitioner, Respondents, and Real Party.

1 **FOURTH CAUSE OF ACTION**

2 **INJUNCTIVE RELIEF**

3 **(Code Civ. Proc., § 526; 1094.5, subd. (g))**

4 **By Petitioner Against Respondents and Real Party in Interest**

5 58. Petitioner incorporates by reference paragraphs 1 through 57 of this pleading, as
6 though fully set forth herein.

7 59. Based on the facts alleged in this pleading, if the City fails to comply with its legal
8 obligations under CEQA, the Guidelines, California Planning and Zoning Law, and all other
9 applicable laws, and if the City develops the Modified Project as proposed, such actions will result
10 in waste and irreparable injury to Petitioner and to the general public, in violation of the rights of
11 Petitioner and the general public, for which there are no adequate legal remedies.

12 60. Pursuant to Code of Civil Procedure section 1094.5, subdivision (g), to the extent
13 that the City's September 11, 2023 actions will remove existing safety measures in the existing
14 pilot project, an immediate stay of the City's September 11, 2023 approvals and all other City
15 actions related to the Project is necessary to prevent irreversible harm to the environment and to
16 human health. Such a stay is in the public interest.

17 **EXHAUSTION OF ADMINISTRATIVE REMEDIES AND**

18 **INADEQUATE REMEDIES AT LAW**

19 61. Petitioner has exhausted all available administrative remedies which it was required
20 by law to exhaust.

21 62. Petitioner has no plain, speedy and adequate remedy at law. Without the relief
22 prayed for in this pleading, the rights of Petitioner, its supporters, and of all other citizens similarly
23 situated to informed self-government, a suitable living environment, fair and equitable
24 expenditures of public funds, and participatory, fair and independent land use decision making,
25 will be defeated.

26 63. In prosecuting this action, Petitioner is acting on behalf of all City residents,
27 electors and taxpayers interested in informed self-government, a suitable living environment, fair
28 and equitable expenditures of public funds, participatory, fair and independent land use decision

1 making, and meaningful and full enforcement of the laws that form the bases of this action, and
2 seek enforcement of important rights affecting the public interest.

3 WHEREFORE, Petitioner prays for relief as follows:

4 **ON THE FIRST AND SECOND CAUSES OF ACTION**

5 That the Court issue a peremptory writ of mandate, and, as Petitioner may apply for, an
6 alternative writ of mandate, commanding Respondents to (1) set aside and void the City's
7 September 11, 2023 actions (by which it approved the Project and CEQA exemptions for the
8 Project) to the extent that such decisions will remove existing safety measures in the existing pilot
9 project; (2) to prepare, circulate, review and certify an EIR for the Project before taking any
10 further approval action thereon; (3) to take all further specific action as shall be necessary to bring
11 the City's decisions, determinations, findings, mitigation measures, and mitigation monitoring and
12 reporting into full compliance with CEQA, the Guidelines, California Planning and Zoning Law,
13 and all other applicable laws; and (4) to take such other action as is specifically enjoined upon
14 Respondents by CEQA, the Guidelines, California Planning and Zoning Law, and all other
15 applicable laws, including but not limited to such action as shall be necessary to ensure
16 preparation of an adequate EIR and meaningful public review.

17 Petitioner further prays that the Court order Respondents and Real Party to suspend all
18 activities pursuant to the decisions made by the City Council on September 11, 2023 with respect
19 to the Project, to the extent that such decisions will remove existing safety measures in the existing
20 pilot project, and to suspend any subsequent decisions or actions of Respondents and Real Party
21 that could result in an adverse change or alteration to the physical environment, until Respondents
22 have taken all actions as shall be necessary to bring their environmental review, decisions,
23 determinations, findings, mitigation measures, and mitigation monitoring and reporting into full
24 compliance with CEQA, the Guidelines, California Planning and Zoning Law, and all other
25 applicable laws; and that the Court stay the operation of the City Council's actions of September
26 11, 2023, to the extent that such decisions will remove existing safety measures in the existing
27 pilot project, pending discharge of the writ petitioned for by Petitioner.

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ON THE THIRD CAUSE OF ACTION

For a declaratory judgment that the City must comply with its legal obligations under CEQA, the Guidelines, California Planning and Zoning Law, and all other applicable laws before approving the Project or any alternative project at the Project Site.

ON THE FOURTH CAUSE OF ACTION

For preliminary and permanent injunctive relief, including an immediate stay Pursuant to Code of Civil Procedure section 1094.5, subdivision (g), which shall command Respondents and Real Party to suspend all activities pursuant to the decisions made by the City Council on September 11, 2023, to the extent that such decisions will remove existing safety measures in the existing pilot project, and all other City actions relating to the Project, and any subsequent decisions or actions of Respondents and Real party that could result in an adverse change or alteration to the physical environment, until Respondents have taken all actions as shall be necessary to bring their environmental review, decisions, determinations, findings, mitigation measures, and mitigation monitoring and reporting into full compliance with CEQA, the Guidelines, California Planning and Zoning Law, and all other applicable laws.

ON ALL CAUSES OF ACTION

- 1. That the Court preliminarily and permanently enjoin Respondents from granting or issuing any further discretionary or ministerial entitlements purporting to implement the Project, to the extent that such entitlements will authorize the removal of existing safety measures in the existing pilot project.
- 2. That the Court preliminarily and permanently enjoin the Respondents and Real Party and their employees, agents and partners, from implementing any purported entitlements, or performing any Project activity that could result in an adverse change or alteration to the physical environment.
- 3. That the Court preliminarily and permanently enjoin Respondents and Real Party from taking any action contrary to their legally mandated duties under all applicable laws.
- 4. That the Court award Petitioner reasonable attorney fees pursuant to Code of Civil Procedure section 1021.5.

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VERIFICATION

I, Yotala Oszkay Febres-Cordero, declare as follows:

I am the Chair of Petitioner/Plaintiff Friends and Families of Move Culver City ("Petitioner"). I have read the foregoing petition for writ of mandate and complaint for injunctive relief. I know the contents of this pleading. The facts alleged in this pleading are true to my personal knowledge, except for facts alleged on information and belief. Those facts I verify upon information and belief. I have authority to execute this verification on behalf of Petitioner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I have executed this verification on October 17, 2023 in the County of Los Angeles, California.



Yotala Oszkay Febres-Cordero