

1 SONIA R. CARVALHO (SBN 162700)
CITY ATTORNEY
2 JOHN M. FUNK (SBN 204605)
SR. ASSISTANT CITY ATTORNEY
3 CITY OF SANTA ANA
20 CIVIC CENTER PLAZA M-29
4 P.O. BOX 1988
SANTA ANA, CALIFORNIA 92702
5 TELEPHONE: (714) 647-5201
FACSIMILE: (714) 647-6515
6 EMAIL: jfunk@santa-ana.org

7 Attorneys for Plaintiff, CITY OF SANTA ANA

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

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CITY OF SANTA ANA, a charter city
and municipal corporation,

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Plaintiff,

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v.

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DYER 18 LLC, a Delaware limited
liability company, and DOES 1 through
18 10 inclusive.

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Defendants.

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) Case No.:

) **PLAINTIFF’S EX PARTE**
) **APPLICATION FOR**
) **TEMPORARY RESTRAINING**
) **ORDER AND ORDER TO SHOW**
) **CAUSE WHY A PRELIMINARY**
) **INJUNCTION SHOULD NOT**
) **ISSUE; MEMORANDUM OF**
) **POINTS AND AUTHORITIES IN**
) **SUPPORT THEREOF;**
) **DECLARATION OF KENNETH**
) **GOMINSKY, JR.**

) **[PROPOSED ORDER LODGED**
) **CONCURRENTLY]**

24

Plaintiff City of Santa Ana, a charter city and municipal corporation
25 organized and existing under the Constitution and laws of the State of California,
26 hereby applies *ex parte* to this Court pursuant to Federal Rule of Civil Procedure 65
27 and Local Civil Rule 65-1 for a Temporary Restraining Order directing Defendant
28 Dyer 18 LLC (“Dyer” or “Defendant”), and all of its respective agents, servants,

1 and employees, and those in active concert or participation with it, to complete its
2 obligation under the Lease Agreement to construct the Carnegie Homeless Shelter
3 for the City, as further outlined below and the City's concurrently-filed complaint,
4 pending a hearing on the Order to Show Cause Why a Preliminary Injunction
5 Should Not Issue.

6 In accordance with Local Civil Rule 7-19, Plaintiff provides the following
7 contact information for Defendants' counsel:

8 Cory A. Baskin
9 Witkow Baskin
10 21031 Ventura Blvd, Suite 700
11 Woodland Hills, CA 91364
12 Tel: 818-296-9508
cb@witkowlaw.com

13 Counsel for Santa Ana advised the above counsel of the date and substance
14 of this Ex Parte Application by telephone and electronic mail on March 21, 2022.

15 Plaintiff Santa Ana seeks relief on the grounds that it will suffer imminent
16 and irreparable harm if the Carnegie Homeless Shelter is not completed pursuant to
17 the parties' respective Lease Agreement. Plaintiff satisfies all the applicable
18 criteria for injunctive relief, as demonstrated below.

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1 This Ex Parte Application is based on Plaintiff's Complaint on file with the
2 Court, the accompanying Memorandum of Points and Authorities, all other
3 pleadings and papers filed in this action, the argument of counsel, and further
4 evidence as the Court may consider at or before a hearing regarding this Ex Parte
5 Application or a hearing regarding the Order to Show Cause Why a Preliminary
6 Injunction Should Not Issue.

7 Respectfully submitted,
8 CITY OF SANTA ANA
9 Sonia R. Carvalho, City Attorney

10
11 Dated: March 21, 2022

12 By: John M. Funk
13 John M. Funk
14 Senior Assistant City Attorney
15 Attorneys for Plaintiff
16 CITY OF SANTA ANA
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TABLE OF CONTENTS

| | <u>Page(s)</u> |
|---|----------------|
| TABLE OF AUTHORITIES | ii-iii |
| I. BACKGROUND | 4 |
| II. ARGUMENT | 5 |
| A. Santa Ana is Likely to Succeed on the Merits | 6 |
| B. Santa Ana, and by Extension its Homeless Residents, is Likely to Suffer Imminent Irreparable Harm in the Absence of Preliminary Relief | 9 |
| C. The Balance of Equities Tips Sharply in Santa Ana’s Favor | 10 |
| D. Injunctive Relief Advances the Public Interest | 10 |
| E. The Court Should Excuse the Requirement of Security | 11 |
| III. CONCLUSION | 12 |

TABLE OF AUTHORITIES

| <u>Cases</u> | <u>Page(s)</u> |
|--|-----------------------|
| <i>Alliance for the Wild Rockies v. Cottrell</i> , 632 F.3d 1127 (9th Cir. 2011)..... | 6,8 |
| <i>Barahona-Gomez v. Reno</i> , 167 F.3d 1228 (9th Cir. 1999) | 11 |
| <i>Bernhardt v. Los Angeles County</i> , 339 F.3d 920 (9th Cir. 2003) | 10 |
| <i>CTIA - The Wireless Ass’n v. City of Berkeley</i> , 928 F.3d 832 (9th Cir. 2019) | 10 |
| <i>Diaz v. Brewer</i> , 656 F.3d 1008 (9th Cir. 2011) | 11 |
| <i>FTC v. Affordable Media, LLC</i> , 179 F.3d 1228 (9th Cir. 1999) | 9 |
| <i>HiQ Labs, Inc. v. LinkedIn Corp.</i> , 938 F.3d 985 (2019) | 5,6,10 |
| <i>Jorgensen v. Cassidy</i> , 320 F.3d 906 (9th Cir. 2003) | 11 |
| <i>League of Wilderness Defenders/Blue Mountains Biodiversity Project v. Connaughton</i> , 752 F.3d 755 (9th Cir. 2014) | 10 |
| <i>Moroccanoil, Inc. v. Zotos Int’l, Inc.</i> , 230 F. Supp. 3d 1161 (C.D. Cal. 2017) | 11 |
| <i>Sandpiper Vill. Condo. Ass’n., Inc. v. Louisiana-Pac. Corp.</i> , 428 F.3d 831 (9th Cir. 2005) | 8 |
| <i>Stormans, Inc. v. Selecky</i> , 586 F.3d 1109 (9th Cir. 2009) | 10 |

| | | |
|----|--|------|
| 1 | <i>Stuhlberg Int’l Sales Co. v. John D. Brush & Co.,</i> | |
| 2 | 240 F.3d 832, 839 n.7 (9th Cir. 2005) | 5 |
| 3 | <i>United States v. New York Tel. Co.,</i> | |
| 4 | 434 U.S. 159 (1977) | 8 |
| 5 | <i>Winter v. Natural Resources Defense Council, Inc.,</i> | |
| 6 | 555 U.S. 7 (2008) | 5,10 |
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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. BACKGROUND

3 On March 1, 2021, following approval by the Santa Ana City Council, the
4 City entered into a long-term lease agreement with Defendant for the premises at
5 1815 East Carnegie Avenue in the City of Santa Ana (“Carnegie Property”) for the
6 express purpose of operating an emergency homeless shelter (“Lease Agreement”).
7 A copy of the Lease Agreement is attached as Exhibit A to Plaintiff’s Complaint
8 and is incorporated by reference. The Carnegie Property consists of a freestanding
9 industrial building of approximately 29,503 square feet, where the City intends to
10 initially operate through a third party an emergency homeless shelter with 200
11 beds, with expansion plans for up to 100 or more beds (“Shelter”), in order to
12 provide temporary housing and related support services to individuals experiencing
13 homelessness in the City.

14 Not only is the Shelter necessary for humanitarian reasons but it is also
15 required as part of the City’s settlement agreement in the related federal case
16 entitled *Orange County Catholic Worker et al. v. Orange County et al.*, United
17 States District Court Case No. 8:18-cv-00155-DOC-JDE (“City Settlement
18 Agreement”). A copy of the City Settlement Agreement is attached to Plaintiff’s
19 Complaint as Exhibit B. Under the Lease Agreement, and at the City’s cost,
20 Defendant is obligated to construct, furnish, and install within the Carnegie
21 Property all improvements to enable the City to operate the Shelter.

22 A key provision of the Lease Agreement is that the City will have the option
23 to purchase the Carnegie Property beginning in year two of the Agreement. In a
24 cunning ploy to strip the City of the option to purchase the Carnegie Property and
25 coerce the City into giving up this right, Defendant has alleged several breaches of
26 the Lease Agreement by the City, whereby Defendant claims that the purchase
27 option is no longer available to the City and has threatened termination of the
28 Lease Agreement. This dispute is the subject of a pending state court action.

1 But as egregiously, Defendant has now either substantially slowed or
2 stopped work on the Shelter, when it was nearly 90% complete, and for no
3 apparent reason other than retaliation for the pending state court lawsuit by the
4 City against Dyer to enforce the purchase option or a misguided belief that the City
5 has insufficient funds for the project. Progress on the Shelter, originally scheduled
6 to open in early 2022, now hangs in the balance because of Dyer's actions.

7 To ensure completion of the Shelter – and compliance with the City
8 Settlement Agreement – the City is seeking injunctive and other relief against Dyer
9 in this Court because Dyer's actions have clearly frustrated the purpose of the City
10 Settlement Agreement, over which this Court has continuing jurisdiction. This
11 relief is of the utmost importance so that the City may continue to serve the needs
12 of its most vulnerable population and abate homelessness in the City, as directed
13 by this Court in the OC Catholic Worker and other homelessness-related actions it
14 has overseen in Orange County. To avoid imminent, irreparable harm, Santa Ana
15 seeks an order directing Dyer to complete its obligation under the Lease
16 Agreement to construct the Carnegie Homeless Shelter for the City. Dyer is
17 legally obligated to continue these efforts under the Lease Agreement.

18 **II. ARGUMENT**

19 The same legal standard applies to an application for a temporary restraining
20 order and an application for a preliminary injunction. *Stuhlberg Int'l Sales Co. v.*
21 *John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A plaintiff seeking
22 either remedy “must establish that he is likely to succeed on the merits, that he is
23 likely to suffer irreparable harm in the absence of preliminary relief, that the
24 balance of equities tips in his favor, and that an injunction is in the public interest.”
25 *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008); *see also*
26 *HiQ Labs, Inc. v. LinkedIn Corp.*, 938 F.3d 985, 992 (2019) (quoting *Winter*, 555
27 U.S. at 20). While all four elements must be satisfied, courts in the Ninth Circuit
28 use a “sliding scale” approach to these factors, according to which ““a stronger

1 showing of one element may offset a weaker showing of another.” *HiQ Labs*, 938
2 F.3d at 992 (quoting *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131
3 (9th Cir. 2011)). Accordingly, when the balance of hardships tips sharply in the
4 plaintiff’s favor, the plaintiff need demonstrate only “serious questions going to
5 the merits.” *Id.* (quoting *Cottrell*, 632 F.3d at 1135).

6 **A. Santa Ana is Likely to Succeed on the Merits**

7 Santa Ana can demonstrate that Dyer has either substantially slowed or
8 stopped construction on the Shelter, actions that frustrate the purpose of the City
9 Settlement Agreement and therefore require relief from this Court. On March 17,
10 2022, following the close of business, City staff received calls from Dyer
11 construction representatives Geoffrey and Jeremy Ogulnick advising the following:

- 12 • There was no money left in the project budget.
- 13 • All work at the Shelter had to stop as a result.
- 14 • Subcontractors were told not to report to the construction site.
- 15 • Expenses from subcontractors had been higher than expected and they
16 had to investigate.
- 17 • Only a “light crew” would be working at the site the next day.

18 *See* Declaration of Kenneth Gominsky, Jr., ¶¶ 17-20 (“Gominsky Decl.”)

19 Jeremy Ogulnick is Dyer’s representative designated in the Lease Agreement
20 “in all matters in connection with the Work,” and Geoffrey Ogulnick is overseeing
21 the on-site Shelter construction.

22 A site visit by City staff the very next morning confirmed that work had
23 either substantially slowed or stopped. That morning, City staff member Kenneth
24 Gominsky, who has been monitoring and visiting the project site daily, arrived at
25 the Carnegie construction site at approximately 8:15 a.m. and found it to be in
26 sharp contrast with what he had come to expect as normal activity. The front gate
27 was closed. There were virtually no cars parked in the parking lot and no
28 construction related parking on any of the streets surrounding the site, as there

1 ordinarily is. *See* Gominsky Decl., ¶ 21.

2 Upon approach, Mr. Gominsky found just one worker, who was cleaning up,
3 and Geoffrey Ogulnick. The site appeared to have been shut down. Mr. Gominsky
4 contacted Mr. Ogulnick and confirmed that work had stopped on the site. Mr.
5 Ogulnick indicated to Mr. Gominsky that he had a small group of roofing
6 professionals coming to the site to ensure there were no holes in the roof in case of
7 unexpected weather but that no other subcontractors were to be onsite that day. On
8 Monday morning, March 21, 2022, Mr. Gominsky again visited the site and found
9 that work had stopped. *See* Gominsky Decl., ¶¶ 21-22.

10 Dyer's actions are indefensible because the City has paid in full all
11 construction costs to date and has approved for expenditure all remaining costs,
12 despite what Dyer may believe. Specifically, the Lease Agreement entered into
13 between the City of Santa Ana and Dyer estimated that total tenant improvements
14 would cost \$8,500,000, plus a \$850,000 contingency, for a total of \$9,350,000. In
15 January 2022, Dyer presented to the City of Santa Ana, a document containing
16 updated anticipated costs, which increased the tenant improvement costs by
17 \$2,150,743. For this amount, Dyer requested to use the contingency in the amount
18 of \$850,000 as well as an additional \$1,300,743. Use of the contingency funds was
19 authorized by the City, and to cover the remaining amount, on February 15, 2022,
20 the Santa Ana City Council approved an additional \$2,000,000 in spending for the
21 Shelter, or \$700,000 more than what was necessary. *See* Gominsky Decl., ¶¶ 8-15.

22 As a result of the approved increase, the total allowable expenses for the
23 project are currently at least \$11,350,000. Additional monies can be allocated
24 subject to City Council approval, as Dyer is aware. To date, the City of Santa Ana
25 has paid a total of \$10,814,088 for tenant improvements, which constitutes all the
26 invoices presented to it for payment of construction costs as of the time of this
27 action. There are presently no outstanding invoices for construction costs. *See*
28 Gominsky Decl., ¶¶ 15-16.

1 Among the express purposes of the City Settlement Agreement was to
2 provide a City-sponsored Shelter for homeless residents of Santa Ana. In slowing
3 or stopping work on the Shelter for no legitimate reason, Dyer’s actions described
4 above serve only to frustrate this purpose of the City Settlement Agreement. The
5 City is therefore likely to succeed on its claim for injunctive relief under the All
6 Writs Act, which this Court may invoke in aid of its jurisdiction over the City
7 Settlement Agreement. The All Writs Act authorizes federal courts “to issue such
8 commands . . . as may be necessary or appropriate to effectuate and prevent the
9 frustration of orders it has previously issued in its exercise of jurisdiction otherwise
10 obtained.” *United States v. New York Tel. Co.*, 434 U.S. 159, 172, 98 S.Ct. 364, 54
11 L.Ed.2d 376 (1977). This authority extends to orders necessary or appropriate to
12 effectuate and prevent the frustration of a settlement agreement that has been
13 entered by the Court and which the Court has retained jurisdiction to enforce, such
14 as the City Settlement Agreement. *See Sandpiper Vill. Condo. Ass’n, Inc. v.*
15 *Louisiana-Pac. Corp.*, 428 F.3d 831, 841 (9th Cir. 2005) (“[A] provision in the
16 settlement agreement and order that expressly retains jurisdiction in the district
17 court for the purpose of overseeing and enforcing the prior judgment . . . , in
18 conjunction with the All Writs Act, empowers a district court to protect its
19 judgment from a subsequent action that frustrates the purpose of the settlement
20 agreement and order.”).

21 At the very least, Santa Ana has amply demonstrated the “serious questions
22 going to the merits” that are needed to support injunctive relief. *Cottrell*, 632 F.3d
23 at 1135. Under well-settled Ninth Circuit law, this is the standard by which the
24 likelihood of success is measured, and Santa Ana satisfies it.

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1 **B. Santa Ana, and by Extension its Homeless Residents, is Likely to**
2 **Suffer Imminent Irreparable Harm in the Absence of Preliminary**
3 **Relief**

4 The extensive public record of this Court’s efforts to alleviate homelessness
5 in Orange County, standing alone, underscores the imminent, irreparable harm that
6 will be suffered in the absence or delay of the Shelter, especially such a large one.
7 Santa Ana, and by extension its homeless residents, for whose benefit the Shelter is
8 being constructed, will be irrevocably impacted without access to it. The Shelter
9 will provide temporary housing for approximately 200 individuals who most need
10 it. Accordingly, the relief requested by the City is of the utmost importance so that
11 the City may continue to serve the needs of its most vulnerable population and
12 abate homelessness in the City, as directed by this Court in the OC Catholic Worker
13 and numerous other homeless-related actions it has overseen in Orange County.
14 *See Gominsky Declaration ¶¶ 23-25.*

15 Additionally, if the Shelter is not completed in a timely manner, Santa Ana
16 will be forced to start that process anew. The City is not currently equipped to
17 immediately do that, which will result in further delay, thereby creating
18 unnecessary health and safety burdens. *See Gominsky Declaration ¶¶ 23-25.*

19 Finally, the harm to Santa Ana caused by Dyer’s work interruption is simply
20 too severe and irreparable for even the threat of that action to endure. Even if Dyer
21 was to somehow reverse course, this case would not be rendered moot. To
22 establish mootness, a defendant must show that subsequent events have made it
23 absolutely clear that the allegedly wrongful behavior cannot reasonably be expected
24 to occur. *FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1238 (9th Cir. 1999)
25 (internal quotes omitted). The ongoing disputes between the parties offer no
26 assurances that Dyer will comply with its obligation to construct the Shelter as
27 required by the Lease Agreement despite that the City has paid all costs to date and
28 has committed funds for the remaining costs that have been identified by Dyer.

1 Only injunctive relief can adequately minimize the risk of injury to Santa Ana.

2 **C. The Balance of Equities Tips Sharply in Santa Ana’s Favor**

3 For injunctive relief to issue, the court must “balance the interests of all
4 parties and weigh the damage to each” in determining the balance of the equities.
5 *CTIA - The Wireless Ass’n v. City of Berkeley*, 928 F.3d 832, 852 (9th Cir. 2019)
6 (quoting *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1138 (9th Cir. 2009)). Here,
7 there is no identifiable harm to be faced by Dyer if injunctive relief is granted. For
8 Dyer, it is simply a matter of completing a preexisting obligation under the Lease
9 Agreement, for which it has been fully compensated to date and for which adequate
10 funds have been committed by the City. In contrast, Santa Ana faces grave
11 hardship if relief is not granted, as described above.

12 The absence of any harm to Dyer caused by the proposed injunctive relief, as
13 opposed to the substantial injury faced by Santa Ana without injunctive relief,
14 means that the balance of hardships tips sharply in favor of Santa Ana. Dyer faces
15 no risk of harm, whereas Santa Ana faces nothing but risk.

16 **D. Injunctive Relief Advances the Public Interest**

17 Courts pay particular regard for the public consequences in employing the
18 remedy of injunctive relief. *Winter*, 555 U.S. at 24. The public interest inquiry
19 addresses the impact upon nonparties rather than parties. *League of Wilderness*
20 *Defenders/Blue Mountains Biodiversity Project v. Connaughton*, 752 F.3d 755, 766
21 (9th Cir. 2014). It takes into consideration “the public consequences in employing
22 the extraordinary remedy of injunction.” *HiQ Labs*, 938 F.3d at 1004 (quoting
23 *Bernhardt v. Los Angeles County*, 339 F.3d 920, 931-32 (9th Cir. 2003)).

24 The public consequences of withholding injunctive relief in this matter are
25 grave. Simply put, there will be either no shelter or a delayed shelter if Dyer’s
26 work interruption is allowed. Either outcome is unacceptable for the scores of
27 individuals experiencing homelessness in Santa Ana and the overall quality of life
28 for its residents. This Court, more than any other, is well aware of the acute

1 homelessness crisis and the need for shelter beds in the Central Service Planning
2 Area, not to mention County-wide, and therefore should not permit Dyer’s conduct
3 to impede the public interest. Dyer’s conduct is nothing but hostile to the public
4 interest.

5 **E. The Court Should Excuse the Requirement of Security**

6 Federal Rule of Civil Procedure 65(c) ordinarily requires the posting of
7 security by the moving party “in an amount that the court considers proper to pay
8 the costs and damages sustained by any party found to have been wrongfully
9 enjoined or restrained.” Courts in the Ninth Circuit, however, have treated the
10 bond requirement as entirely discretionary, allowing for waiver of the bond under
11 particular circumstances. *See, e.g., Diaz v. Brewer*, 656 F.3d 1008, 1015 (9th Cir.
12 2011); *Moroccanoil, Inc. v. Zotos Int’l, Inc.*, 230 F. Supp. 3d 1161, 1178 (C.D. Cal.
13 2017).

14 The court may dispense entirely with the bond requirement when there is no
15 realistic likelihood of harm to the defendant from enjoining its conduct. *Jorgensen*
16 *v. Cassidy*, 320 F.3d 906, 919 (9th Cir. 2003) (citing *Barahona-Gomez v. Reno*,
17 167 F.3d 1228, 1237 (9th Cir. 1999)). Here, as explained above, there is no
18 demonstrable harm to Dyer from granting injunctive relief. Accordingly, Santa
19 Ana should be excused from the requirement of filing any security.

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1 **III. CONCLUSION**

2 For the foregoing reasons, Santa Ana respectfully requests that this Court
3 issue a temporary restraining order directing Dyer, and all of its respective agents,
4 servants, and employees, and those in active concert or participation with it, to
5 complete its obligation under the Lease Agreement to construct the Carnegie
6 Homeless Shelter for the City. Santa Ana further requests that the Court set a
7 hearing on the Order to Show Cause regarding why Dyer should not be similarly
8 directed during the pendency of this action.

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Respectfully submitted,
CITY OF SANTA ANA

Dated: March 21, 2022

By: John M. Funk
John M. Funk
Sr. Assistant City Attorney
Attorney for Plaintiff City of Santa Ana

1 Santa Ana. I routinely interact with the City's homeless population and have
2 extensive training and experience in addressing the specific and unique issues
3 raised by these encounters.

4 6. Since returning to the City in my current capacity, one of my primary
5 functions has been to monitor construction activities at 1815 East Carnegie in Santa
6 Ana, where the City's new homeless shelter is being constructed. Construction
7 activity has been ongoing at this location for some time, as the City of Santa Ana
8 has invested Federal Grant Funds, State Grant Funds and City General funds in the
9 leasing of the building as well as substantial tenant improvements.

10 7. The City of Santa Ana entered into a Lease Agreement with Defendant
11 Dyer 18 LLC on March 1, 2021, for the premises at 1815 East Carnegie, under
12 which Dyer is obligated to construct all improvements necessary for the operation
13 of the premises as a homeless shelter. In regards to this site, the City has invested
14 the following state and federal funds:

15 a. \$890,006.70 for Rent, Utilities, Property Insurance and Fire
16 Alarm Monitoring utilizing Federal ESG-CV grant funds.

17 b. \$112,080 for Property Taxes utilizing State of California
18 HHAP2 (Homeless Housing, Assistance and Prevention) grant funds.

19 c. \$22,588 for Electric and Water Meters utilizing State of
20 California HHAP2 (Homeless Housing, Assistance and Prevention) grant funds.

21 d. \$210,000 for construction costs associated with sewer line work
22 utilizing State of California HHAP2 (Homeless Housing, Assistance and
23 Prevention) grant funds.

24 e. In total, the City of Santa Ana has expended \$1,234,674.70 in
25 Federal and State Grant funds.

26 8. The Lease Agreement entered into between the City of Santa Ana and
27 Dyer estimated that total tenant improvements would cost \$8,500,000, plus a
28 \$850,000 contingency, for a total of \$9,350,000.

1 9. It was understood that additional funds may be necessary to complete
2 construction.

3 10. Dyer representatives notified the City of Santa Ana in January 2022
4 that additional funds would be necessary to complete construction.

5 11. In January 2022, Dyer presented to the City of Santa Ana, a document
6 containing updated anticipated costs, which increased the tenant improvement costs
7 by \$2,150,743. For these, Dyer requested to use the contingency in the amount of
8 \$850,000 as well as an additional \$1,300,743 to complete the project.

9 12. In January 2022, Dyer 18 was alerted that the use of the \$850,000
10 contingency fund was authorized for expenditure.

11 13. Additionally, in January 2022, Dyer was notified that the City of Santa
12 Ana was authorizing \$125,000 from the \$850,000 contingency for payroll overtime
13 to increase the speed at which the shelter would be completed.

14 14. Based on information received from Dyer, City staff submitted a
15 request to the Santa Ana City Council for authorization to increase the City
16 Manager's spending authority for the project by \$2,000,000 – or roughly \$700,000
17 above the additional expenditures requested by Dyer.

18 15. On February 15, 2022, the Santa Ana City Council approved increased
19 spending authority for the City manager of \$2,000,000, increasing the total
20 allowable expenses for this project to \$11,350,000.

21 16. To date, the City of Santa Ana has paid a total of \$10,814,088 for
22 tenant improvements, which constitutes all the invoices presented to the City for
23 payment of construction costs as of the time of this action. There are presently no
24 outstanding invoices for construction costs.

25 17. On March 17, 2022 at 5:57 p.m., I received a cellular telephone call
26 from Dyer construction representative Geoffrey Ogulnick. During this call,
27 Geoffrey informed me he had received a phone call from his brother Jeremy
28 Ogulnick advising there was no money left in the project budget and that all work

1 at the Carnegie site was to stop. Geoffrey further advised me that he had asked his
2 brother where all the money had gone and was told by Jeremy that he did not know.

3 18. I asked Geoffrey if he had contacted all of the subcontractors working
4 directly for Dyer and directed them not to come to the job site on Friday, March 18,
5 and he stated: "I had to." I also told Geoffrey that it was imperative that
6 representatives from Dyer contact Terri Eggers, another City point of contact for
7 the project, to advise the City of the work stoppage.

8 19. On March 17, 2022 at 6:15 p.m., I received a cellular phone call from
9 Ms. Eggers, who reported to me that she had received a cellular phone call at 6:04
10 p.m. from Jeremy and Geoffrey Ogulnick. Ms. Eggers related that Jeremy
11 indicated "they (Dyer 18)" were having some expenses coming in from their
12 subcontractors that were higher than expected and they needed to take some time to
13 look into this. They were concerned that the project would exceed the City Council
14 approved amount.

15 20. Ms. Eggers advised me that she asked both Jeremy and Geoffrey if
16 work would continue as usual. Ms. Eggers related that Jeremy Ogulnick stated that
17 on Friday there would only be a light crew of people and that no one would be
18 working over the weekend. According to Ms. Eggers, at that point, Geoffrey
19 Ogulnick interrupted and said, "You told me no one should be working tomorrow,"
20 to which Jeremy did not respond.

21 21. On March 18, 2022, at 8:15 a.m., I arrived at the Carnegie construction
22 site. I have arrived at this sight almost daily for the past several months and found
23 it to be in sharp contrast with what I had come to expect as normal activity. The
24 front gate was closed. There were virtually no cars parked in the parking lot and no
25 construction related parking on any of the streets surrounding the site, as there
26 ordinarily is. Upon approach, I found one worker who was cleaning up and
27 Geoffrey Ogulnick. The site appeared to have been shut down. I contacted
28 Geoffrey and confirmed that work had stopped on the site. Geoffrey related that he

1 had a small group of roofing professionals coming to the site to ensure there were
2 no holes in the roof in case of unexpected weather; however, no other
3 subcontractors were to be onsite that day.

4 22. On Monday morning, March 21, 2022, I again visited the site and
5 found that work had stopped.

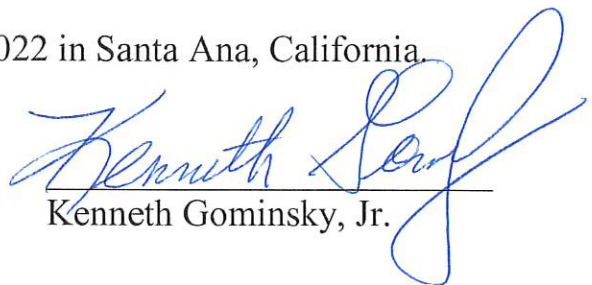
6 23. Dyer's decision to stop or slow work at the Carnegie construction site,
7 which is to house vulnerable, homeless residents, will cause Santa Ana irreparable
8 harm, including specific harm to these individuals. Dyer's actions will exacerbate
9 the impacts of homelessness in all of Santa Ana.

10 24. Because construction has either substantially slowed or stopped, and
11 the City of Santa Ana is not currently equipped to immediately begin the process of
12 completing an entirely new shelter project, the inability for the City to open this
13 shelter creates unnecessary health and safety burdens.

14 25. This work interruption undeniably impacts Santa Ana as a whole. As
15 part of this plan, Dyer offers no possible solutions to the City but in essence is
16 attempting to hold all residents, including the homeless population, of the City of
17 Santa Ana hostage to its work interruption for no legitimate purpose.

18 I declare under penalty of perjury of the laws of the United States of America
19 that the foregoing is true and correct.

20 Executed this 21st day of March, 2022 in Santa Ana, California.

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22 
23 Kenneth Gominsky, Jr.
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