

El Dorado Superior Court
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25CV2617
NATIVE DIRECTIONS, INC. ET AL. V. EL
DORADO COUNTY ET AL.

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INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF EL DORADO**

NATIVE DIRECTIONS INC., a California
nonprofit organization; HOMECA, INC., a
California nonprofit organization

Petitioners,

v.

EL DORADO COUNTY; DONALD
KNIGHT, in his official capacity as El
Dorado County Building Official; KAREN
GARNER, in her official capacity as El
Dorado County Director of Planning and
Building; DOES 1-10, inclusive,

Respondents.

Case No. 25CV2617

~~PROPOSED~~ JUDGMENT

Code Civ. Proc. §§ 1085, 1087; Welf. &
Inst. Code §§ 5960.3(a), 18999.97(l).

Assigned for all purposes to Hon. Gary S.
Slossberg

Action Filed: September 30, 2025

Filed concurrently with [Proposed]
Peremptory Writ of Mandate, Notice of
Lodging of [Proposed] Judgment and
[Proposed] Peremptory Writ of Mandate

Petitioners HomeCA, Inc. and Native Directions, Inc. ("Petitioners") brought a Verified
Petition for Alternative and Peremptory Writs of Mandate ("Petition") seeking to require the
County of El Dorado, through two of its officials (together, the "County"), to issue ministerial
building and grading permits for four Native-serving housing and services projects ("Projects").
Petitioners secured funding for the Projects under two different state programs: the Community
Care Expansion ("CCE") program and the Behavioral Health Continuum Infrastructure Program

1 (“BHCIP”). Petitioners seek to build two CCE-funded projects (“CCE Projects”) and two
2 BHCIP-funded projects (“BHCIP Projects”).

3 The hearing on the merits was held on October 17, 2025 before the Honorable Gary
4 Slossberg in Department 9 of the El Dorado County Superior Court. Gabriel Ross of Shute,
5 Mihaly & Weinberger LLP appeared on behalf of Petitioners; Joe Little appeared on behalf of
6 the County. On October 24, 2025, the Court, having reviewed the evidence, the briefs and
7 papers submitted, and the arguments of counsel, issued an oral decision (“Oral Decision”)
8 directing that judgment issue in this proceeding.

9 For the reasons set forth in the Oral Decision, IT IS ORDERED AND ADJUDGED
10 THAT:

11 1. All of Petitioners’ and the County’s written Requests for Judicial Notice are
12 granted;

13 2. Final judgment is entered in favor of Petitioners and against the County on the
14 First Cause of Action in the Petition;

15 3. Final judgment is entered in favor of the County and against Petitioners on the
16 Second Cause of Action in the Petition;

17 4. A peremptory writ of mandate directed to the County shall issue under seal of this
18 Court, ordering the County to use “best efforts,” as that term is construed in *California Pines*
19 *Property Owners Assn. v. Pedotti* (2012) 206 Cal.App.4th 384, 394-395, to:

20 a. As to grading permits # 0379717 and # 0380586, and building permits #
21 0379718 and # 0380585 (the “CCE Permits”), promptly facilitate the completion of all internal
22 approvals associated with the CCE Permits and provide to Petitioners and/or third parties, as
23 needed, all information and documentation at the County’s disposal that may be required for
24 third-party approvals;

25 b. Following the completion of all internal approvals, and once all third-party
26 approvals required for County permit issuance are completed, promptly issue the CCE Permits;
27 and

28 c. Take any further actions required to effectuate the CCE Permits.


5. The court finds that neither party is the prevailing party as both parties achieved partial success.

~~5. Petitioners are the prevailing parties and shall recover their costs of suit from the County to the extent allowed by law.~~

6. The Court reserves jurisdiction over any claims for costs and attorneys' fees under Code of Civil Procedure § 1021.5, as provided by Rules of Court, rule 3.1702.

7. The Court retains jurisdiction as consistent with law to ensure compliance with the writ issued pursuant to this judgment.

DATED: November 14, 2025


Hon. Gary S. Slossberg
Judge of the El Dorado County Superior Court

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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF EL DORADO**

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Dorado County Building Official; KAREN
19 GARNER, in her official capacity as El
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20 Building; DOES 1-10, inclusive,

21 Respondents.

ELECTRONICALLY FILED

Superior Court of California,
County of El Dorado

09/30/2025 at 05:12:21 PM

By: Tara Young, Deputy Clerk

Case No. **25CV2617**

**EX PARTE APPLICATION FOR
ALTERNATIVE WRIT**

Code Civ. Proc. §§ 1085, 1087; Welf. &
Inst. Code §§ 5960.3(a), 18999.97(l).

Filed Concurrently with Verified Petition
for Alternative and Peremptory Writs of
Mandate; Petitioners' Memorandum Of
Points And Authorities In Support Of
Petition For Alternative And Peremptory
Writs Of Mandate; Request For Judicial
Notice In Support Of Petition For
Alternative And Peremptory Writs Of
Mandate; [Proposed] Alternative Writ Of
Mandate

1 Petitioners HomeCA, Inc. and Native Directions, Inc. (together, “Petitioners”) apply ex
2 parte, pursuant to Code of Civil Procedure sections 1085, 1087 and 1107, for an alternative writ
3 of mandate directing Respondent to issue the following ministerial permits (collectively, “the
4 Permits”):

- 5 • Grading permit # 0372970 (application submitted February 21, 2024, approved July 30,
6 2024);
- 7 • Building permit # 0374255 (application submitted April 16, 2024, approved August 30,
8 2024);
- 9 • Grading permit # 0376039 (application submitted June 26, 2024, approved November 25,
10 2024);
- 11 • Building permit # 0376040 (application submitted June 26, 2024, approved November
12 22, 2024);
- 13 • Grading permit # 0379717 (application submitted November 13, 2024, approved April
14 18, 2025);
- 15 • Building permit # 0379718 (application submitted December 12, 2024, approved April
16 18, 2025);
- 17 • Grading permit # 0380586 (application submitted December 30, 2024, approved June 2,
18 2025);
- 19 • Building permit # 0380585 (application submitted December 30, 2024, approved June 2,
20 2025).

21 This application for alternative writ is based on this Application; the concurrently filed
22 Verified Petition for Alternative and Peremptory Writs of Mandate (“Petition”); the
23 accompanying Memorandum and Request for Judicial Notice; the Declaration of Tori Gibbons;
24 the Declaration of Max Peralta; and such other papers, evidence, and argument as may be
25 presented at the hearing.

26 Wherefore, Petitioners hereby request that this Court issue an alternative writ ordering
27 Respondents to issue the aforementioned Permits or to show cause before the Court on a date
28 designated by the Court why Respondents refuse to do so. The alternative writ should set an
expedited schedule for Respondents’ return to the Petition (its responsive pleading) and for
briefing the merits of the case in advance of the OSC hearing. As described in the accompanying
Gibbons Declaration, Petitioners have provided the County notice of the Petition and this

1 Application; Petitioners will formally serve them upon entry of the alternative writ. *See* Code of
2 Civ. Proc. § 1096 (“[W]rit must be served in the same manner as a summons in a civil action”).

3 At the ex parte hearing on this application, Petitioners will request that the Court issue an
4 alternative writ pursuant to Code of Civil Procedure section 1087, which will serve as a
5 summons for Respondents and direct them to either issue the Permits or appear at a hearing to
6 show cause why they have not done so. *See Ocheltree v. Gourley* (2002) 102 Cal.App.4th 1013,
7 1018 (“[I]t is reversible error for the superior court not to issue an alternative writ where the
8 petition alleges grounds for relief.”).¹ If Respondents opt to proceed to a hearing to show cause,
9 Petitioners will demonstrate their entitlement, pursuant to Code of Civil Procedure section 1085,
10 to a peremptory writ directing Respondents to issue the Permits. The Memorandum filed
11 concurrently with this Application explains Petitioners’ entitlement to both the alternative writ
12 and the peremptory writ.

13
14 DATED: September 30, 2025

Respectfully submitted,

SHUTE, MIHALY & WEINBERGER LLP



By: _____

GABRIEL M.B. ROSS
TORI GIBBONS
YEJI JUNG

Attorneys for Native Directions, Inc. and
HomeCA, Inc.

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26
27 ¹ Though *Ocheltree* is an administrative mandamus case under Code of Civil Procedure section
28 1094.5, there is nothing about *Ocheltree*’s analysis to suggest that this standard would not also
apply to an alternative writ seeking traditional mandamus under Code of Civil Procedure section
1085.

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF EL DORADO**

12 NATIVE DIRECTIONS INC., a California
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15 Petitioners,

16 v.

17 EL DORADO COUNTY; DONALD
KNIGHT, in his official capacity as El
18 Dorado County Building Official; KAREN
GARNER, in her official capacity as El
19 Dorado County Director of Planning and
Building; DOES 1-10, inclusive,
20 ,

21 Respondents.
22

Case No. **25CV2617**

[PROPOSED] ALTERNATIVE WRIT OF
MANDATE

Code Civ. Proc. §§ 1085, 1087; Welf. &
Inst. Code §§ 5960.3(a), 18999.97(l)

Filed concurrently with Verified Petition
for Alternative and Peremptory Writs of
Mandate; Application For Alternative Writ
Of Mandate; Petitioners' Memorandum Of
Points And Authorities In Support Of
Petition For Alternative And Peremptory
Writs Of Mandate; Request For Judicial
Notice In Support Of Petition For
Alternative And Peremptory Writs Of
Mandate;

23 The Ex Parte Application of Petitioners HomeCA, Inc. and Native Directions, Inc.
24 ("Petitioners") for an Alternative Writ of Mandate came on for hearing on [date] in Department
25 [##] , the Honorable [Name of Judge] presiding. Tori Gibbons appeared on behalf of Petitioners.
26 [Name of counsel] appeared on behalf of Respondents El Dorado County, Donald Knight, and
27 Karen Garner (together, "Respondents"). Having read and considered the Verified Petition for
28 Writ of Mandate and the other papers filed by the parties, having heard and considered the

1 arguments of counsel, and satisfactory evidence having been presented and good cause
2 appearing therefore,

3 IT IS ORDERED THAT Petitioner's Ex Parte Application for an Alternative Writ of
4 Mandate is GRANTED; and

5 IT IS FURTHER ORDERED THAT an Alternative Writ of Mandate issue under seal of
6 this Court commanding Respondents either to issue grading permits # 0372970, # 0376039, #
7 0379717, # 0380586, and building permits # 0374255, # 0376040, # 0379718, and # 0380585,
8 or, in the alternative, to show cause before this court on the date and time set out below why it
9 has not done so; and.

10 IT IS FURTHER ORDERED THAT Respondents shall file and serve their opposition to
11 Petitioners' papers in support of the peremptory writ on or before _____, Petitioners
12 shall file any reply to the opposition on or before _____, and

13 IT IS FURTHER ORDERED THAT the Court shall hear Petitioners' motion for
14 peremptory writ of administrative mandamus on _____ at _____.

15 DATED: September __, 2025

16
17
18 HON. [Name of Judge]
19 Judge of the El Dorado County Superior Court
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8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF EL DORADO

10 -o0o-

11 NATIVE DIRECTIONS INC., a California
12 nonprofit organization; HOMECA, INC., a
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16 EL DORADO COUNTY; DONALD KNIGHT,
17 in his official capacity as El Dorado County
18 Building Official; KAREN GARNER, in her
19 official capacity as El Dorado County Director
of Planning and Building; DOES 1-10,
inclusive,

20 Respondents.
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ELECTRONICALLY FILED

Superior Court of California,
County of El Dorado

10/08/2025 at 10:37:09 PM

By: Courtney Abila, Deputy Clerk

Case No. 25CV2617

**RESPONDENT COUNTY OF EL
DORADO'S OPPOSITION TO
PETITIONERS' EX PARTE
APPLICATION FOR ALTERNATIVE
WRIT**

[The County of El Dorado is exempt from filing
fees under Gov. Code § 6103]

1 I. INTRODUCTION

2 Petitioners are solely to blame for their need to seek emergency relief. They have been on
3 notice since February 2024 that the parties had irreconcilable differences in their respective
4 interpretations of the applicable laws, and that the state shared at least some of the County of El
5 Dorado's ("County") interpretations. The parties' lawyers have been going back and forth since
6 May 2024, and litigation was inevitable. Now that Petitioners are running up on a December 31,
7 2025 deadline of which they have always known, they seek emergency, ex parte relief. Emergency
8 relief should be denied because Petitioners' delay in filing suit was unreasonable, despite self-
9 serving allegations that the County strung them along until last month. The situation that Petitioners
10 have created prejudices the County, the public, and Petitioners themselves, altogether: there will be
11 virtually no time for either party to pursue appellate relief by this year's end *and* complete a CEQA
12 study by then for the BHCIP-funded projects, which appear to be the main subject of the ex parte
13 application.

14 Relatedly, Petitioners are wrong as to what the law says. Their two projects funded by
15 BHCIP (but not the two funded by CCE) are subject to CEQA. Petitioners' tortured interpretation of
16 W&I Code § 5960.3 cannot overcome the clear, necessary interpretation in the statute that *some*
17 BHCIP-funded projects are subject to CEQA, including the subject projects. Because the grading
18 permits at issue here are subject to considerable staff discretion, they are non-ministerial and thus
19 subject to CEQA. As a result, Petitioners must prove their entitlement to an exemption, which they
20 have not even attempted to do in their application and supporting papers.

21 For these reasons, the Court should refuse to award Petitioners the requested relief, and
22 certainly not on an ex parte basis.

23 II. ARGUMENT

24 A. **The doctrine of laches bars relief as to each permit and property.**

25 The doctrine of laches requires (1) unreasonable delay and (2) prejudice. *Julian Volunteer*
26 *Fire Co. Ass'n v. Julian-Cuyamaca Fire Prot. Dist.* (2021) 62 Cal.App.5th 583, 589. Prejudice to
27 the "general public" is the kind of prejudice that can justify the application of this equitable defense
28 in matters of public interest. *See id.* at 590.

1 Here, and respectfully, Petitioners have been ignoring reality since as early as February 2024,
2 when the state DHCS warned potential applicants in its Request for Applications in February 2024
3 that CEQA applies to BHCIP-funded projects. (Respondent's RJN, Ex. 1.) Additionally, assuming
4 that Petitioners received the joint CDSS-DHCS letter also issued in February 2024, they knew that
5 they had statutory interpretation problems. (Petitioners' RJN, Ex. E, Attachment). Then, in May
6 2024, Petitioners' attorneys recognized potential barriers to obtaining the permits based on statutory
7 interpretation differences, as evident in their detailed letter sent back then. (Respondent's RJN, Ex.
8 2.) Finally, on June 7, 2024, County Counsel memorialized via letter on behalf of the County the
9 same positions that the County has since maintained. (Respondent's RJN, Ex. 3.)

10 Petitioners' delay was unreasonable even despite their self-serving allegations that the
11 County strung them along until last month. Litigation was inevitable from the beginning of 2024
12 given the parties' (and the state's) differences of opinions, which at no point reached a resolution.
13 Rather than file a lawsuit in 2024 and litigate on a less truncated timeline, Petitioners sat on their
14 hands. Now, as to the two BHCIP-funded projects, Petitioners do not get the BHCIP funds unless
15 they obtain the requisite permits by December 31, 2025. (Petition at ¶ 41.) Moreover, Petitioners
16 believe that they must proceed on some properties as soon as possible to risk a scenario where they
17 are unable to complete construction by the sunset of these state initiatives. (MPA, p. 12, lines 4-
18 15.)

19 Moreover, this delay prejudices both the County and the general public (and even Petitioners
20 themselves). For one, because of the delay, the trial court loser in this litigation would have to seek
21 emergency review from the Third District Court of Appeal, and perhaps even the Supreme Court.
22 Moreover, because of their delay, if the Court finds in Respondent's favor that Petitioners must
23 comply with CEQA as to some of the projects, there is an extremely narrow window for Petitioners
24 to do that, which is contrary to the public's interest. A rushed study on the impact of two separate
25 projects creates the risk of shoddy analysis, and it may not even be possible to do even a half-baked
26 study in time to obtain the permits by year's end. And, due to the truncated window, there is less
27 time for the public to voice their opinions both on this lawsuit and on the results of any study.
28 Finally, the County will have less time to work with Petitioners on mitigation prior to funding

1 deadlines and their need to break ground.

2 In sum, Petitioners have created this mess by waiting until the 11th hour to file an emergency
3 lawsuit and the present ex parte application. There was no reason for them to wait more than a year
4 after being told “No” by the state and the County. They are not entitled to relief from this Court
5 under the doctrine of laches.¹

6 **B. CEQA applies to the BHCIP-funded projects here.**

- 7 1. W&I Code § 5960.3’s necessary implication is that CEQA can apply to BHCIP-
8 funded projects.

9 Even if the Court rejects the County’s laches argument, the permits as to the BHCIP-funded
10 projects² cannot issue. BHCIP-funded projects are subject to CEQA unless specific requirements
11 are met, per subsection (b), which reads:

12 Notwithstanding any other law, the California Environmental Quality Act . . . shall
13 not apply to a project . . . funded by a grant pursuant to this chapter if, where
14 applicable, all of the following applicable requirements are satisfied: . . . (emph.
added.)

15 Petitioners concede via their silence that they do not meet all of the requirements
16 under subsection (b) to be exempt from CEQA, so the County will not belabor those
17 requirements here.

18 Petitioners have taken the position that subsection (b) is a redundancy, or surplusage.
19 Subsection (b) contains 375 words and nine subparts. It is patently unreasonable that the Legislature
20 would have drafted and enacted a specific list of requirements to obtain a CEQA exemption for
21 BHCIP-funded projects if the broad and more general subsection (a) outright banned CEQA review
22 for BHCIP-funded projects. Why create a detailed pathway to a CEQA exemption if CEQA cannot
23 ever apply? Moreover, subsection (c) provides:

24
25
26 ¹ To the extent that the Court finds that laches only applies to the BHCIP-funded projects and not the
27 CCE-funded ones, it should find that the more relaxed schedule for completing the CCE-funded
28 projects does not merit emergency relief.

² The Youth Perennial Facility (permit nos. 0372970 and 0374255) and the Wellness Center (permit
nos. 0376040 and 0379717.)

1 If a project applicant determines that a project is not subject to the California
2 Environmental Quality Act pursuant to this section, and the lead agency for the
3 project publicly concurs in that determination, the project applicant shall file a notice
4 of exemption with the Office of Planning and Research and the county clerk of the
5 county in which the project is located in the manner specified in subdivisions (b) and
6 (c) of Section 21152 of the Public Resources Code.

7 If CEQA could *never* apply under § 5960.3, then subsection (c) would state that one
8 must *always* file a notice of exemption from CEQA. Also in that case, subsection (c) would
9 not state that the public agency is required to make a determination as to CEQA's
10 application, which the subsection does. Petitioners ignore subsection (c), which does not fit
11 into their redundancy and surplusage arguments regarding subsection (b).

12 In sum, a harmonious reading of subsections (a), (b), and (c) is that the Legislature *did*
13 indeed limit local discretionary review through subsection (a) for BHCIP-funded projects, *but* that
14 discretionary review under CEQA is an exception to that limitation.

15 2. The BHCIP projects here require an exercise of discretion and thus are subject
16 to CEQA.

17 CEQA must be interpreted “to afford the fullest possible protection to the
18 environment within the reasonable scope of statutory language.” *Friends of Mammoth v.*
19 *Board of Supervisors* (1972) 8 Cal.3d 247, 259 (superseded by statute on other grounds).
20 “[D]oubt [about] whether a project is ministerial or discretionary should be resolved in favor
21 of the latter characterization.” *People v. Dep’t of Hous. & Cmty. Dev.* (1975) 45 Cal.App.3d
22 185, 194.

23 A discretionary project is one that “requires the exercise of judgment or deliberation”
24 when the agency decides to approve or disapprove it. *Protecting Our Water & Env’tl. Res. v.*
25 *Cty. of Stanislaus* (2020) 10 Cal.5th 479, 500. “A project of mixed ministerial-discretionary
26 character . . . should be treated as a discretionary project.” *Day v. City of Glendale* (1975) 51
27 Cal.App.3d 817, 823 (local ordinances imposing discretionary requirements on grading
28 permits were subject to CEQA); *see also San Diego Tr. & Sav. Bank v. Friends of Gill*
(1981) 121 Cal.App.3d 203, 212 (extending *Day* to a demolition permit where the relevant
laws provided a “panoply of . . . options”).

Here, the County’s grading ordinance imbues the County with some discretion: for

1 example, when the department head *subjectively* determines that a grading project would
2 have negative effects, that person is prohibited from issuing the permit as-is. Rather, he or
3 she has several options as to how to proceed from there, not any of which are mandatory.
4 (Respondent's RJN, Ex. 4.) That is, the person reviewing the plans is given vast discretion at
5 multiple points along the way and is required to exercise their independent judgment. This
6 alone renders the grading permits here discretionary and subject to CEQA.

7 **III. CONCLUSION**

8 For all of the foregoing reasons, the County respectfully requests that the Court refuse to
9 award Petitioners all relief requested, and certainly not on an ex parte basis.

10 Dated: October 8, 2025

CAULFIELD LAW FIRM

11
12 By: 

Andrew T. Caulfield

Joe Little

Attorneys for Respondent County of El Dorado

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10 **Attorneys for Respondent County of El Dorado**

11 **SUPERIOR COURT OF CALIFORNIA**

12 **COUNTY OF EL DORADO**

13 **-o0o-**

14 **NATIVE DIRECTIONS INC., a California**
15 **nonprofit organization; HOMECA, INC., a**
16 **California nonprofit organization,**

17 **Petitioners,**

18 **vs.**

19 **EL DORADO COUNTY; DONALD KNIGHT,**
20 **in his official capacity as El Dorado County**
21 **Building Official; KAREN GARNER, in her**
22 **official capacity as El Dorado County Director**
23 **of Planning and Building; DOES 1-10,**
24 **inclusive,**

25 **Respondents.**

Case No. 25CV2617

**RESPONDENT COUNTY OF EL
DORADO'S REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF OPPOSITION
TO PLAINTIFF'S EX PARTE
APPLICATION FOR ALTERNATIVE
WRIT**

[The County of El Dorado is exempt from filing
fees under Gov. Code § 6103]

26 Under the provisions of Evidence Code sections 451 and 452, Defendant County of El
27 Dorado ("County") hereby requests that the Court take judicial notice of the matters set forth below.

28 Letters in the possession of government agencies are government records subject to judicial
notice. *See Water Audit Cal. v. Merced Irrigation Dist.* (2025) 111 Cal.App.5th 1147, 1168.
Government publications are also subject to judicial notice. *See San Franciscans for Reasonable
Growth v. City & Cty. of S.F.* (1987) 189 Cal.App.3d 498, 503 n.1.

Specifically, the County requests that the Court take judicial notice of the following:

1. DHCS' February 2024 Request for Applications. A true and correct copy of the Request for Applications is attached as Exhibit 1.
2. Petitioner Native Directions, Inc.'s May 17, 2024 letter to the County. A true and correct copy of the letter is attached as Exhibit 2.
3. County Counsel's June 7, 2024 letter to Petitioner HomeCA, Inc. A true and correct copy of the letter is attached as Exhibit 3.
4. County Code § 110.14.290. A true and correct copy of § 110.14.290 is attached hereto as Exhibit 4.

Dated: October 8, 2025

CAULFIELD LAW FIRM

By: 

Andrew T. Caulfield

Joe Little

Attorneys for Respondent County of El Dorado

Exhibit 1



DHCS Behavioral Health Continuum Infrastructure Program Launch Ready Grant and CDSS Community Care Expansion Program

Joint Request for Applications (RFA)

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Part One: Overview

1.1. INTRODUCTION TO THE GRANT OPPORTUNITY AND FUNDING

California Health and Human Services Agency (CalHHS) infrastructure funding, alongside significant new state and federal investments in homelessness, healthcare delivery reform, and the social safety net, is addressing historic gaps in the behavioral health and long-term care continuum to meet growing demand for services and supports across the life span.

The California Department of Health Care Services (DHCS) and California Department of Social Services (CDSS) are working in tandem to design and implement two new programs to support infrastructure projects: the Behavioral Health Continuum Infrastructure Program (BHCIP) and the Community Care Expansion (CCE) program. These investments will ensure care can be provided in the least restrictive settings by creating a wide range of options including outpatient alternatives, urgent care, peer respite, wellness centers, and social rehabilitation models. A variety of care placements can provide a vital off-ramp from intensive behavioral health service settings and transition individuals—including the most vulnerable and those experiencing or at risk of homelessness—to safe community living. Investing in adult and senior care facilities will divert Supplemental Security Income/State Supplementary Payment (SSI/SSP) and Cash Assistance Program for Immigrants (CAPI) applicants and recipients from homelessness as a key part of California's strategic multi-agency approach to increase housing options for seniors and persons with disabilities.

DHCS was authorized through 2021 legislation to establish BHCIP and award approximately \$2.1 billion to construct, acquire, and expand properties and invest in mobile crisis infrastructure related to behavioral health. CDSS oversees CCE, which was established through Assembly Bill (AB) 172 (Chapter 696, of Statutes 2021) as a companion effort focused on the acquisition, construction, and rehabilitation of adult and senior care facilities that serve SSI/SSP and CAPI applicants and recipients and other adults who are experiencing or at risk of homelessness.

These combined programs represent the largest such provision of resources for such infrastructure in the state's history and an unprecedented opportunity to effect meaningful, sustainable change in the behavioral health and long-term care continuums in California.

1.2. PURPOSE AND PROGRAM OBJECTIVES—STATE PRIORITIES

Both BHCIP and CCE are designed to address the following State Priorities:

- Invest in behavioral health and community care options that advance racial equity
- Seek geographic equity of behavioral health and community care options
- Address urgent gaps in the care continuum for people with behavioral health conditions, including seniors, adults with disabilities, and children and youth
- Increase options across the life span that serve as an alternative to incarceration, hospitalization, homelessness, and institutionalization
- Meet the needs of vulnerable populations with the greatest barriers to access, including people experiencing homelessness and justice involvement



- Ensure care can be provided in the least restrictive settings to support community integration, choice, and autonomy
- Leverage county and Medi-Cal investments to support ongoing sustainability
- Leverage the historic state investments in housing and homelessness

DHCS is releasing BHCIP funds through six grant rounds targeting various gaps in the state's behavioral health facility infrastructure.

BHCIP Rounds 1 and 2 were released in 2021:

- Round 1: Mobile Crisis, \$205M (\$55M Substance Abuse and Mental Health Services Administration grant funding)
- Round 2: County and Tribal Planning Grants, \$16M

The remaining BHCIP rounds will be released in 2022:

- Round 3: Launch Ready, \$518.5M
- Round 4: Children & Youth, \$480.5M
- Round 5: Behavioral Health Needs Assessment Phase One, \$480M
- Round 6: Behavioral Health Needs Assessment Phase Two, \$480.7M

Round 3: Launch Ready (\$518.5M), will provide funding to construct, acquire, and rehabilitate real estate assets to expand the behavioral health continuum of treatment and service resources in settings that serve Medicaid (Medi-Cal) beneficiaries. Proposed behavioral health infrastructure projects must demonstrate they have been through a planning process and are ready for implementation. For Round 3: Launch Ready, applications will only be accepted from projects that are determined to be launch ready and are submitted according to the timeline in this RFA (Section 1.4). Awarded grant funds for Round 3: Launch Ready must be obligated by June 2024 and liquidated by December 2026.

The CCE program will provide \$805 million in funding for acquisition, construction, and rehabilitation to preserve and expand adult and senior care facilities that serve SSI/SSP and CAPI applicants and recipients, including those who are experiencing or at risk of homelessness.

CCE Capital Expansion

- Approximately 75 percent of funds (\$570,000,000) will be made available for capital expansion projects, including acquisition, construction, and rehabilitation of residential care settings. Grantees may be approved to use a portion of these funds to establish a capitalized operating subsidy reserve (COSR) for these projects, available for use for up to 5 years.
- Applications for CCE Capital Expansion project funding will be accepted on a project-by-project basis through this joint RFA and funded on a rolling basis until funds are exhausted. However, projects that cannot be funded prior to applicable obligation and liquidation deadlines may not be funded. A portion of the CCE budget includes Home and Community-Based Services (HCBS) funding that must be obligated by December 2023 and liquidated by June 2026, as well as State Fiscal Recovery Funds (SFRF) that must be obligated by June 2024 and liquidated by December 2026. The exact timeline for obligation and liquidation of funds for each funded project will be provided in the grant award announcement.



CCE Preservation, Including Capital Preservation

- Approximately 25 percent of the funds will be made available for rehabilitation to preserve settings that currently serve the target populations, including \$55 million for a COSR for existing licensed facilities, including but not limited to those facilities that receive preservation capital funding. These funds will be provided to counties and tribes through a direct-to-county and -tribe allocation process that will be announced separately from this joint RFA.

1.3. AUTHORIZING AND APPLICABLE LAW

BHCIP: Welfare and Institutions Code, Division 5, Part 7

CCE: Welfare and Institutions Code, Division 9, Part 6, commencing with section 18999.97

1.4. TIMELINE

Table 1a: Timeline for BHCIP Applications

RFA release	January 31, 2022
Pre-application consultations	Beginning February 1, 2022; ongoing
Application portal open	February 15, 2022
Joint RFA informational webinar <u>Please preregister.</u>	February 10, 2022; 10:30 a.m.-12:00 p.m. PT
Frequently asked questions	Updated regularly and posted on <u>website</u>
Deadline for questions	7 days prior to each application due date
Part One application due date*	March 31, 2022
Part Two application due date*	May 31, 2022
Part One Award announcements*	May/June 2022
Part Two Award announcements*	July/August 2022

*See Section 2.2 Application Process (page 6)

Table 1b: Timeline for CCE Applications

RFA release	January 31, 2022
Pre-application consultations	Beginning February 1, 2022; ongoing
Application portal open	February 15, 2022
Joint RFA informational webinar <u>Please preregister.</u>	February 10, 2022; 10:30 a.m.-12:00 p.m. PT
Frequently asked questions	Updated regularly and posted on <u>website</u>
Deadline for questions	Ongoing
Application due date	Accepted on a rolling basis until grant funds are exhausted
Award announcements	Beginning in March 2022 and ongoing
Evaluation of statewide funding redistribution	October 2022



Part Two: Application, Submission, Award

2.1. TOTAL GRANT AMOUNTS

BHCIP Launch Ready: \$518,500,000 is available to construct, acquire, and rehabilitate real estate assets to expand the behavioral health continuum of treatment and service resources in settings that serve Medicaid (Medi-Cal) beneficiaries.

CCE: \$570,000,000 is available for acquisition, construction, and rehabilitation capital expansion projects (“expansion” projects) of residential care settings to expand the community care options that serve seniors and adults with disabilities experiencing or at risk of homelessness.

2.2. APPLICATION PROCESS

BHCIP

Round 3: Launch Ready will be composed of two application parts to balance the needs of projects capable of immediate expansion with applicants who require more time to develop their application. This will offer applicants two potential deadlines for submissions. Applicants in Part One will be evaluated competitively against each other. Round 3: Launch Ready Part One is intended for entities that can submit the application and necessary materials by March 31, 2022. Part One applicants will receive priority. Any remaining funds not awarded in Part One will be available for Part Two applicants. Part Two applicants will be evaluated competitively against each other.

Applications will be accepted electronically beginning February 15, 2022. Applications may not be hand-delivered or mailed. The application and attachments, along with instructions for submittal of the online application, can be found on the Improving California's Infrastructure website. No modified formats will be accepted. The cutoff date for all Part One applications is March 31, 2022, at 5:00 p.m. PT. The cutoff date for all Part Two applications is May 31, 2022, at 5:00 p.m. PT. Applications cannot be edited once submitted. It is the applicant's responsibility to ensure that the submitted application is accurate. Reviewers may request additional clarifying information from the applicant.

CCE

CCE applications will be accepted and reviewed on a rolling basis until all grant funds are exhausted. However, projects that cannot be funded prior to applicable obligation and liquidation deadlines may not be funded.

Applications will be accepted electronically beginning February 15, 2022. Applications may not be hand-delivered or mailed. The application and attachments, along with instructions for submittal of the online application, can be found in the Improving California's Infrastructure website. No modified formats will be accepted. Applications cannot be edited once submitted. It is the applicant's responsibility to ensure that the submitted application is accurate. Reviewers may request additional clarifying information from the applicant.



BHCIP and CCE application process

The application is a public record that is available for public review pursuant to the California Public Records Act (CPRA) (Chapter 3.5 [commencing with Section 6250] of Division 7 of Title 1 of the Government Code). After final awards have been issued, DHCS or CDSS may disclose any materials provided by the applicant to any person making a request under the CPRA. Applicants are cautioned to use discretion in providing information not specifically requested, such as personal phone numbers and home addresses. If the applicant does provide such information, they will be waiving any claim of confidentiality and will have consented to the disclosure of submitted material upon request.

Reasonable Accommodations for BHCIP and CCE: For individuals with disabilities, DHCS or CDSS will provide assistive services such as reading or writing assistance and conversion of the RFA, questions/answers, RFA addenda, or other Administrative Notices in Braille, large print, audiocassette, or computer disk. To request copies of written materials in an alternate format, please send an email to bhcip.cce.info@ahpnet.com or call (323) 545-6202.

DHCS and CDSS will prioritize completed applications by geographic distribution to ensure the equitable and fair distribution of funds (Table 2). Both programs will adopt a regional funding approach, similar to models used in other state-funded capital programs (e.g., Homekey). Counties are assigned to one of seven geographic regions, each with a specific funding amount reserved. The funding amount reserved was determined based on the program-specific methodology described below. Applicants within each region will compete against other applicants in that same region, thereby supporting geographic equity and funding disbursement across the state.

DHCS and CDSS will reserve up to 20 percent of the BHCIP Round 3 funds and CCE Capital Expansion funds to ensure funding is effectively used to address and support the needs of vulnerable populations and gaps within the care continuum, consistent with the State Priorities. For example, the discretionary set-aside may be used to fund high-scoring projects in regions that have met their funding reserve.

Regional Funding Reserve Methodology

For BHCIP funding reserves, a ratio of available Launch Ready funding to the Behavioral Health Subaccount county allocations has been used, with 5 percent set aside for tribal entities.

For BHCIP, following an initial round of funding allocations (timeframes to be determined by DHCS), funds **may** be used for viable applications falling outside of the initial allocation priority schedules, geographical divisions, or other initial fund allocation restrictions.

The CCE regional funding reserve methodology was calculated using the distribution of adult and senior care facilities in counties across the state, the 2019 Homeless Point-in-Time count, and the proportion of SSI/SSP applicants and recipients across the state. Of the total amount of CCE funding provided under this RFA, 8 percent will be competitively awarded to small counties (populations of 200,000 or fewer) and 5 percent of funds will be reserved for tribal communities.

The RFA will be open to CCE applicants on a rolling basis. CDSS has established an initial priority application period from the release date of the CCE application through September 30, 2022. During this prioritization period, CDSS will group applications into one of the seven geographic regions, unless the



application is prioritized for the rural or tribal entity set-asides. This timeframe will allow applicants time to prepare projects and seek relative technical assistance (TA). It also provides CDSS with additional data on the statewide need and interest. After September 30, 2022, CDSS reserves the right to stop grouping applications by geographic region, and instead deploy unused funds from any undersubscribed geographic region(s) to fund subsequent applications statewide.

Table 2: Regions and Counties

Counties by Geographic Distribution	BHCIP Launch Ready Estimated Targeted Funding Levels (less 20% discretionary and 5% tribal set-asides) (Total available: \$394,060,000)	Community Care Expansion Estimated Targeted Funding Levels (less 20% discretionary and 5% tribal set-asides) (Total available: \$430,171,874)
Los Angeles County	\$138,033,407	\$135,281,766
Bay Area: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma	\$80,110,607	\$85,690,868
Southern California: Imperial, Orange, Riverside, San Bernardino, San Diego, Ventura	\$75,954,578	\$100,473,714
San Joaquin Valley: Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, Tulare	\$44,552,480	\$45,982,932
Sacramento Area: El Dorado, Placer, Sacramento, Sutter, Yolo, Yuba	\$23,553,889	\$31,914,624
Central Coast: Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz	\$14,912,943	\$15,052,939
Balance of State: Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, Glenn, Humboldt, Inyo, Lake, Lassen, Mariposa, Mendocino, Modoc, Mono, Nevada, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity, Tuolumne	\$16,942,096	\$15,775,031



2.3. PRE-APPLICATION CONSULTATIONS AND TA

Advocates for Human Potential, Inc. (AHP), a consulting and research firm focused on improving health and human services systems, is serving as the administrative entity for both BHCIP and CCE. AHP assists state and local organizations to implement and evaluate a wide range of services focusing on mental health treatment and recovery, substance use disorder treatment and prevention, workforce development, homelessness, housing, long-term services and supports, and criminal justice.

Beginning on February 1, 2022, and as part of the RFA process, AHP will provide a pre-application consultation and individual agency/county TA. In addition, AHP will offer ongoing general training and TA throughout the life of the project. Applicants are required to submit a request for a pre-application consultation and complete a survey to determine their understanding of the RFA requirements. These include facility siting, permit and licensing requirements, construction plans and launch readiness, oversight and management, match requirements, and budgeting practices. In addition, applicants will be required to discuss how their proposed project meets local and/or regional gaps identified through an assessment, as well as how it addresses the state's priorities. An AHP implementation specialist will work with applicants to support them in these areas by connecting them with subject matter experts in real estate, financing, and programmatic best practices serving the prioritized or target population to bring targeted TA to applicants and grantees. Additional information related to pre-application consultation and TA throughout the grant period can be found [online](#).

The Round 2 funding via BHCIP consisted of a planning RFA for counties and tribes for BHCIP and CCE projects. For applicants who have received a BHCIP Round 2 Planning Grant, that grant will be considered during the TA planning process in order to leverage local planning already underway. AHP will also conduct informational webinars on topics such as strategies to serve target and prioritized populations, braiding resources to ensure viability, and green/sustainable building practices. This will include topics to help address concerns common to capital development projects serving the prioritized populations, such as best practices related to siting facilities and strategies for promoting community collaboration and support.

2.4. APPLICATION SCORING CRITERIA

Applications for BHCIP and CCE must meet the following minimum criteria to be considered for award:

- Full and complete application
- Commitment to serve population and to address the gaps identified in the community
- Demonstrated match
- Completed pre-application consultation
- Attested to meet federal, state, and local laws
- Reasonable cost compared to projects within the same region
- Able to expend funds within the required timeline

CCE applicants will be awarded on a rolling basis. Projects that meet the minimum criteria will be eligible to be funded, until all grant funds are committed. BHCIP is a competitive application process. Funding decisions will be based on a variety of factors, including

- Alignment with the State Priorities described in 1.2, above;



- Alignment with local and/or regional needs, gaps, and priorities as described in 3.2, below;
- Alignment with needs and gaps described in the statewide assessment, Assessing the Continuum of Care for Behavioral Health Services in California: Data, Stakeholder Perspectives, and Implications;
- Assurance that funds are invested throughout the state;
- Extent to which the project addresses gaps in underserved areas;
- Extent to which the project addresses gaps in underserved populations;
- Review of each project's proposed costs and a determination of reasonableness for the facility type, scope, budget, and schedule of rehabilitation or renovations proposed;
- Degree to which the applicant leverages local funding;
- Ability to use funds within the funding timeline;
- Degree to which the applicant demonstrates long-term sustainability of the proposed project;
- Proposed increase in the number of persons to be served by the expansion;
- Ability to meet match expectations; and
- Degree to which the proposed plan for serving the target population(s) demonstrates the use of established best practices.

Funds awarded pursuant to the program must be used to supplement, and not supplant, other funding available from existing local, state, or federal programs or from grants with similar purposes.

Real Estate Acquisition and Development experts under contract with AHP will conduct financial viability assessments of each applicant's project. Through review of the RFA pre-application consultation, interviews, and financial document review, they will assess long-term operational sustainability (i.e., once the capital project is complete and in use for its intended purpose). TA provided will not factor into the evaluation of the application submitted. Staff providing TA will not be scoring applications.

2.5. AWARD PROCESS

Successful applicants will receive an award letter and a Standard Agreement from AHP, the DHCS and CDSS administrative entity. The agreement must be signed, returned, and fully executed with AHP before initial funding will be awarded.

BHCIP only: Applications that are not funded during Round 3 may be considered for future funding rounds, subject to the requirements and priorities of those rounds. TA will be available to help applicants explore future BHCIP funding rounds, as well as other potential sources of funds to support the proposed projects.

CCE only: Applications that meet the minimum criteria outlined in Section 2.4, eligibility criteria described in Section 3.1, and the eligible uses requirements in Section 3.2 will be considered for funding until all available funds are fully obligated. However, projects that cannot be funded prior to applicable obligation and liquidation deadlines may not be funded. A portion of the CCE budget includes federal funding that must be obligated by June 2024 and liquidated by December 2026. The exact timeline for obligation and liquidation of funds for each funded project will be provided in the grant award announcement. Applicants that are not awarded initially will be provided TA for resubmission, subject to the availability of funds.



2.6. APPEALS

California law does not provide a protest or appeal process against award decisions made through an informal selection method. Applicants submitting a response to this RFA may not protest or appeal the award. All award decisions made by DHCS and CDSS shall be final. Applicants for CCE funds that fail to be awarded initially will be provided TA for resubmission, subject to the availability of funds.

Part Three: Program Requirements

3.1. ELIGIBILITY CRITERIA

Eligible applicants for BHCIP Launch Ready and CCE funds include counties, cities, tribal entities (including 638s and urban clinics), nonprofit organizations, for-profit organizations, and other private organizations, including private real estate developers, whose projects reflect the State Priorities. Each of these entities may apply independently or may apply jointly with another eligible entity as a co-applicant. Co-applicants can include multi-county projects. As allowed or required by context, “applicant” shall be interpreted to include any of the foregoing entities, as well as that entity’s nonprofit or for-profit corporation co-applicant. Upon receiving an award of funds, the eligible applicant and any co-applicant(s) will, both individually and collectively, be referred to as the “grantee” for purposes of this RFA.

Applicants are encouraged to apply for funding from both programs (BHCIP and CCE), as applicable. See Section 3.2 for examples.

Applicants may submit applications with a variety of partners to encourage innovative, comprehensive local and regional approaches. For applicants with partners, including co-applicants, all proposed partners must submit letters of commitment with the application. The required match will be determined by the types of applicants. If a private organization has a collaboration with a county, for example, the project qualifies for the county match amount, as long as supporting documentation is submitted.

Proposed BHCIP Launch Ready projects need to expand community capacity for serving the behavioral health (mental health and substance use disorder [SUD]) population and must make a commitment to serve Medi-Cal beneficiaries. Under CCE, projects need to expand capacity in residential care settings that serve seniors and adults with disabilities who require long-term care supports, with priority for people experiencing or at risk of homelessness who are applicants or recipients of SSI/SSP or CAPI benefits.

Private organizations that do not have prior experience must apply with a partner. These private organizations (including real estate developers) without related prior experience that are collaborating with nonprofit organizations, tribal entities, cities, or counties may apply, with the requirement that the private organization must have

- A Memorandum of Understanding (MOU) or other agreement with the nonprofit organization, tribal entity, city, or county to confirm the private organization’s role in the project, including that they are working on behalf of the service provider, and



- Related prior experience, reflected in the successful development, ownership, or operation of a relevant project for individuals who qualify as members of the target population.

3.2. ELIGIBLE USES

Eligible facility types for BHCIP Launch Ready projects must expand the community continuum of behavioral health treatment resources to build new capacity or expand existing capacity for short-term crisis stabilization, acute and sub-acute care, crisis residential, community-based mental health residential, SUD residential, peer respite, mobile crisis, community and outpatient behavioral health services, and other clinically enriched longer-term treatment and rehabilitation options for persons with behavioral health disorders in an appropriate and least restrictive and least costly setting.

Eligible settings for CCE include residential settings that expand the long-term care continuum and serve the target population, including but not limited to licensed adult and senior care facilities, recuperative or respite care settings, and independent residential settings. Facilities funded by regional centers are not eligible for CCE funds.

Applicants will be expected to define the types of facilities or settings they will operate and populations they will serve. Evaluation criteria will be used by the state to ensure that a given project is serving its target population in line with the State Priorities. In addition, all applicants must share data to demonstrate project need. This may include, for example, a local county/tribal/provider needs assessment, a facility wait list, the number of comparable facilities in the area, or other quantifiable documentation. Applicants will be required to demonstrate how the proposed project will advance racial equity and will be required to certify that they will not exclude populations, including those who are justice involved, unless required by state law. In addition, BHCIP-funded behavioral health facilities, as applicable, must provide Medi-Cal behavioral health services and will be expected to have in place a contract with their county to ensure the provision of Medi-Cal services once the funded facility's expansion or construction is complete.

Applicants are encouraged to think broadly about how BHCIP and CCE funds together can be maximized to design person-centered projects based on the needs and gaps within their local systems of care, coupled with the state's priorities. The following are examples of projects that could apply for both programs:

- An adult residential facility (ARF) applies for CCE funding to make the facility Americans with Disabilities Act (ADA) accessible and expand capacity to serve additional SSI/SSP or CAPI applicants and recipients. The provider also applies for BHCIP funds to add a day treatment, clubhouse, or peer-run/peer-operated center on their property.
- A residential care facility for the elderly (RCFE) applies for CCE funds to add additional beds to serve individuals who are experiencing homelessness and applies for BHCIP funds to add a behavioral health outpatient office within their network for their Medi-Cal population.
- A behavioral health crisis residential facility applies for BHCIP funding to expand facility capacity and CCE funding to create a residential setting that provides step-down residential support services for SSI/SSP or CAPI applicants and recipients at risk of homelessness.



The following facility types and subcategories may be considered for project funding through BHCIP or CCE, separately or together.

Outpatient Services (includes a variety of settings delivering clinical support services, but not overnight residential services)		
	BHCIP	CCE
Community wellness centers (including those that are youth focused)	x	
Hospital-based outpatient treatment (outpatient detoxification/withdrawal management)	x	
Intensive outpatient treatment	x	
Narcotic Treatment Programs (NTPs)	x	
NTP medication units	x	
Office-based outpatient treatment	x	
Sobering centers (funded under DMC-ODS and/or Community Supports)	x	

Residential Clinical Programs (includes a variety of settings primarily focused on delivering clinical services; also provide shelter and support, from overnight to many days, weeks, and months)		
	BHCIP	CCE
Acute inpatient hospitals—medical detoxification/withdrawal management (medically managed inpatient detoxification/withdrawal management facility)	x	
Acute psychiatric inpatient facilities	x	
Adolescent residential treatment facilities for SUD	x	
Adult residential treatment facilities for SUD	x	
Chemical dependency recovery hospitals	x	
Children's crisis residential programs (CCRP)	x	
Community treatment facilities (CTFs)	x	
Crisis stabilization units (CSUs)	x	
General acute care hospitals (GACHs) and acute care hospitals (ACHs)	x	
Mental health rehabilitation centers (MHRCs)	x	
Psychiatric health facilities (PHFs)	x	
Short-term residential therapeutic programs (STRTPs)	x	
Skilled nursing facilities with special treatment programs (SNFs/STPs)	x	
Social rehabilitation facilities (SRFs)	x	

Residential Support Programs (BHCIP-funded facilities listed here are primarily focused on shelter and support services, from overnight to many months; funded facilities are required to serve Medi-Cal recipients. CCE will fund adult and senior care settings to provide care and support to seniors and adults with disabilities.)		
	BHCIP	CCE
Peer respite	x	x
Recovery residence/sober living homes	x	x
Adult residential facilities (ARFs)		x
Residential care facilities for the elderly (RCFEs)		x



Permanent Supportive Housing that serves the needs of seniors and adults with disabilities (including models that provide site-based care, such as Program for All Inclusive Care for the Elderly [PACE] and the Assisted Living Waiver programs)		x
Other residential care settings that serve the target population, including recuperative care sites		x

Facility types that are not eligible for funding:

- Correctional settings
- Schools
- Facilities funded by regional centers (CCE only)

3.3. MATCH

Applicants will be required to provide matching funds as part of the project. Match requirements are set according to applicant type.

- Tribal entities = 5% match
- Counties, cities, and nonprofit providers = 10% match
- For-profit providers and/or private organizations = 25% match

In order to incentivize local partnerships while also helping to expedite projects, for-profit providers who partner with tribes, counties, cities, or nonprofit providers will be eligible for the lower match. For example, a sole proprietor operating a small ARF that has partnered with a county will have a match requirement of 10%.

Match in the form of cash and in-kind contributions—such as land or existing structures—to the real costs of the project will be allowed for both BHCIP and CCE. The state must approve the match source. Cash may come from

- American Rescue Plan Act (ARPA) funds granted to counties and cities,
- Local funding,
- Mental Health Services Act (MHSA) funds in the 3-year plan (considered “other local”),
- Opioid Settlement Funds for SUD facilities (BHCIP only),
- Foundation/philanthropic support,
- Loans or investments, or
- Other.

Real property in the form of publicly or privately owned or donated land and/or buildings owned may count as match. Examples include

- Unused city or county buildings,
- Buildings originally intended for another purpose,
- Surplus land,
- State property, and
- Land trust.



Services will not be allowed as match.

3.4. GENERAL PROGRAM REQUIREMENTS

To be eligible to receive funding, projects must meet the following requirements as they relate to the applicant and project types. Refer to Section 3.5 for additional information on eligible pre-development funding.

Site control: Applicant has clear control of the property to be acquired or rehabilitated, as evidenced by one of the following:

- Clear title with no encumbrances or limitations that would preclude the proposed use (fee title);
- Existing long-term lease for the required use restriction period, with provisions to make improvements on the property;
- A leasehold estate held by a tribal entity in federal tribal trust lands property, or a valid sublease thereof that has been or will be approved by the Bureau of Indian Affairs;
- Fully executed option to purchase, sales contract, or other enforceable agreement to acquire the property;
- A letter of intent (LOI) that outlines the terms of a sale or lease contract, providing that a fully executed option will be completed within 60 days; or
- Fully executed option to lease, or similar binding commitment from property owner to agree to a long-term lease for the required use restriction period.

Permits

- Applicant documents understanding of approvals and permitting needed, and the capacity to obtain these approvals and permits, as evidenced by both of the following:
 - Providing detailed information regarding the site of the proposed capital project, including zoning, land use limitations, permissible “as of right” uses, and any approvals or variances that may be required and
 - Including a list of the approvals and permits required to complete the project as described in the construction plan (below), along with the sequences of these approvals and permits.
- Applicant commits to making initial required applications within 60 days of award, as applicable.

Licensure/certification

- Applicant provides documentation of all required certifications/licenses, including but not limited to those required by the appropriate department under CalHHS.
- For applicable projects that cannot be licensed/certified by the state and/or local level until they are completed, applicant will demonstrate that they understand the applicable licensing/certification timelines and requirements. Tribal entities that are exempt from state licensing and/or requirements must describe the basis for their exemption and their plan for meeting programmatic requirements. As part of the TA that will be made available, applicants may receive information and guidance about the licensure and certification process.

Preliminary construction plans for proposed project, such as

- Site plan (if applicable);



- Architectural drawings, blueprints, and/or other renderings;
- If no construction plan is yet in place, a valid cost estimate from an architect, licensed general contractor, or engineer.

Acquisition and/or construction timeline

- Acquisition should begin within approximately 6 months of award. Development must begin immediately after acquisition and be completed within the approved timeline. Applicant should provide a timeline from a licensed general contractor or construction manager to illustrate how this will be achieved.
- Applications for projects that can start sooner may be rated higher.

Capacity to meet match requirements (see Section 3.3)

Approval and engagement

- Organizational support is indicated by a letter from the CEO and/or board, county board of supervisors, or tribal council resolution, as applicable.
- Applicant provides documentation of active community engagement and support, particularly with people with lived experience. Insights from the community should be included in project planning, design, implementation, and evaluation. Examples may include survey results, notes taken during stakeholder engagement sessions, etc.
- **BHCIP Launch Ready only:** City, nonprofit, or private applicants must include a letter of support from their county behavioral health agency or, if a tribal facility, the tribal board at the time of application or within the grant decision period.
 - The letter must indicate that BHCIP grantees that operate Medi-Cal behavioral health services will have in place a contract with their county to ensure the provision of Medi-Cal services once the financed facility's expansion or construction is complete.

Service use restriction

Applicants will be required to commit to a service use restriction as follows:

- BHCIP: Commitments to provision of services and building use restriction for entire 30-year period.
- CCE: Commitments to provision of services and building use restriction for 30 years for new facilities and a 20-year use restriction for capacity expansion for an existing facility.

3.5. PRE-DEVELOPMENT (CCE ONLY)

Prospective applicants that demonstrate viable projects via the pre-application consultation with real estate TA from the grant administrator or its Community Development Financial Institution (CDFI) partners may have the opportunity to apply for pre-development costs within the RFA using CCE funds only.

Examples may include but are not limited to:

- Hiring a development team (lawyer, architect, owner's representative or construction manager)
- Physical needs assessment



- Feasibility study
- Site plan
- Environmental survey (Phase 1 & 2 reports)
- Schematic and construction drawing and architectural plans
- Construction cost estimates
- Preliminary engineering/dry utilities
- Stakeholder coordination
- Preliminary development budgets
- Basic underwriting

3.6. BUDGET DEVELOPMENT

Applicants are required to submit a budget with their BHCIP Launch Ready and CCE applications to assist DHCS/CDSS in establishing reasonableness of the final amount awarded. Applicants are encouraged to use the BHCIP Launch Ready and CCE budget templates in Attachment A (Form 1) to create a budget and will be asked to insert the budget figures as part of the online application process. All items budgeted must be inclusive of all costs, including taxes and fees, in U.S. dollars. If an applicant has a current Negotiated Indirect Costs Rate Agreement (NICRA) established with a federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the applicant may use its current NICRA. Alternatively, if the applicant does not have a NICRA, the applicant may elect to use a rate of 10 percent of the modified total direct costs pursuant to 2 CFR 200.414(f).

3.7. CAPITALIZED OPERATING SUBSIDY RESERVE (COSR) (CCE)

CCE applicants may request a portion of their funds be used for a COSR. A COSR can be an essential component of development projects serving households with very low incomes. The COSR helps to ensure continued operations and long-term sustainability of capital projects like CCE. CCE projects wishing to use funds from the project development budget for a COSR will be required to create a Funding and Disbursement Agreement (FDA). The COSR can be used to cover operational costs associated with utilities, maintenance and repairs, taxes and insurance, and staff, among others. CCE COSR funds will be capitalized in the applicant's development budget, helping to mitigate risk among long-term project investors. A COSR is available for use for up to 5 years from the time operations in the new or expanded facility begin; future funding streams should be included in the project development budget, in the event that the facility carries an operating deficit after the 5-year CCE COSR timeframe ends.

3.8. ACCESSIBILITY AND NON-DISCRIMINATION

All developments shall adhere to the accessibility requirements set forth in California Building Code chapters 11A and 11B and the Americans with Disabilities Act, Title II. In addition, developments shall adhere to either the Uniform Federal Accessibility Standards (UFAS), 24 CFR Part 8, or the U.S. Department of Housing and Urban Development's (HUD) modified version of the 2010 ADA Standards for Accessible Design (Alternative 2010 ADAS), HUD-2014-0042-0001, 79 FR 29671 (5/27/14) (commonly referred to as "the Alternative Standards" or "HUD Deeming Memo"). Accessible units shall, to the



maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project and be available in a sufficient range of sizes and amenities consistent with 24 CFR Part 8.26.

Grantees shall adopt a written non-discrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), justice system involvement (except where explicitly required by law), or arbitrary characteristics, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with program funds made available pursuant to this RFA. Nor shall all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with program funds made available pursuant to this RFA.

Grantees shall comply with the requirements of the Americans with Disabilities Act of 1990, the Fair Housing Amendments Act, the California Fair Employment and Housing Act, the Unruh Civil Rights Act, Government Code Section 11135, Section 504 of the Rehabilitation Act of 1973, and all regulations promulgated pursuant to those statutes, including 24 CFR Part 100, 24 CFR Part 8, and 28 CFR Part 35.

3.9. STATE & FEDERAL PREVAILING WAGE

A project funded by a BHCIP or CCE grant is a “public work” if the applicant intends to use the BHCIP and/or CCE funds for the “[c]onstruction, alteration, demolition, installation, or repair” of a building or structure (Cal. Lab. Code section 1720(a); Cal. Lab. Code section 1750(b)(1)). Applicants using BHCIP and/or CCE grants to fund public works are subject to California’s prevailing wage and working hours laws (Division 2, Part 7, Chapter 1 of the California Labor Code) and the applicant’s project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (Cal. Lab. Code section 1771.4(a)(1)).

If DHCS or CDSS selects an applicant to receive a BHCIP and/or CCE grant and the applicant is using the grant to fund a public work, then the applicant shall submit a Certification of Compliance to the awarding department (i.e., DHCS or CDSS) certifying that the applicant shall comply with California’s prevailing wage and working hours laws (including posting job notices, as required by Labor Code section 1771(a)(2)) and all applicable federal prevailing wage laws. The Certification of Compliance shall also state that the applicant shall maintain its labor records in compliance with all applicable state and federal laws (Cal. Lab. Code section 1776), and shall make all labor records available to the Department of Industrial Relations, and any other applicable enforcement agencies upon request (Cal. Lab. Code section 1771.4(a)(3)). The Certification of Compliance shall be signed by the general contractor(s) and the applicant.

If DHCS or CDSS selects an applicant to receive a BHCIP and/or CCE grant and the applicant is not using the grant to fund a public work, then the applicant shall submit a Certification of Inapplicability to the awarding department (i.e., DHCS or CDSS) explaining why the project is not a public work as defined by



California Labor Code section 1720. The Certification of Inapplicability shall be signed by the general contractor(s) and the applicant.

An applicant shall not receive the BHCIP and/or CCE funds from the awarding department (i.e., DHCS or CDSS) until the awarding department has received and approved the applicant's Certification of Inapplicability or Certification of Compliance.

3.10. EXEMPTIONS

In accordance with California Welfare and Institutions Code sections 5960.3 and 18997.97(l), projects funded by a BHCIP or a CCE grant are

1. Deemed to be consistent with and in conformity with any applicable local plan, standard, or requirement;
2. Deemed to be allowed as a permitted use within the zone in which the structure is located; and
3. Not subject to a conditional use permit, discretionary permit, or to any other discretionary reviews or approvals.

3.11. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) EXEMPTION (BHCIP ONLY)

CEQA shall not apply to a project funded by BHCIP if that project meets the requirements outlined in California Welfare and Institutions Code section 5960.3(b). Applicants shall determine if they meet the requirements outlined in section 5960.3(b) to qualify for the exemption from CEQA. And, in accordance with section 5960.3(c), if an applicant determines that it qualifies for the exemption from CEQA, then the applicant shall file a Notice of Exemption with the Office of Planning and Research and the clerk of the county in which the project is located in the manner specified in subdivisions (b) and (c) of section 21152 of the Public Resources Code, and the applicant shall provide DHCS with a copy of the filed Notice of Exemption. If the applicant determines that CEQA applies to its project, the applicant shall provide DHCS with copies of all appropriate documentation demonstrating the project's compliance with CEQA once the applicant has received project approval.

DHCS is not responsible for determining if applicants meet the CEQA exemption requirements set forth in section 5960.3(b). Furthermore, DHCS is not responsible for filing a section 5960.3(c) notice of exemption on behalf of an applicant.

3.12 LOW-RENT HOUSING PROJECT EXEMPTION

In accordance with California Welfare and Institutions Code sections 5960.35(b)(1) and 18999.98, a project funded with a BHCIP or a CCE grant shall not be considered a "low-rent housing project," as defined in Section 1 of Article XXXIV of the California Constitution, if the project meets any one of the following criteria:

1. The project is privately owned housing, receiving no ad valorem property tax exemption, other than exemptions granted pursuant to subdivision (f) or (g) of Section 214 of the Revenue and Taxation Code, not fully reimbursed to all taxing entities, and not more than 49 percent of the dwellings,



apartments, or other living accommodations of the project may be occupied by persons of low income;

2. The project is privately owned housing, is not exempt from ad valorem taxation by reason of any public ownership, and is not financed with direct long-term financing from a public body;
3. The project is intended for owner-occupancy, which may include a limited-equity housing cooperative as defined in Section 50076.5 of the Health and Safety Code, or cooperative or condominium ownership, rather than for rental-occupancy;
4. The project consists of newly constructed, privately owned, one-to-four-family dwellings not located on adjoining sites;
5. The project consists of existing dwelling units leased by the state public body from the private owner of these dwelling units;
6. The project consists of the rehabilitation, reconstruction, improvement or addition to, or replacement of, dwelling units of a previously existing low-rent housing project, or a project previously or currently occupied by lower-income households, as defined in Section 50079.5 of the Health and Safety Code; or
7. The project consists of the acquisition, rehabilitation, reconstruction, improvement, or any combination thereof, of a project which, prior to the date of the transaction to acquire, rehabilitate, reconstruct, improve, or any combination thereof, was subject to a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households and maintains, or enters into, a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households.

If a project funded with a BHCIP or CCE grant is a “low-income housing project” as defined by Section 1 of Article XXXIV of the California Constitution but does not meet any of the criteria listed above, then the applicant shall comply with the requirements set forth in that section of the California Constitution.

Part Four: Program Operations

4.1. PROGRAM OVERSIGHT AND REPORTING

As specified by DHCS or CDSS and upon request, grantees shall provide progress reports in connection with the approved timeline, statement of work (SOW), and budget and any updates to the timeline for completion of the project. The progress reports should include the project’s completion milestones and any updates or substantial changes. Grantees shall promptly notify DHCS or CDSS of any changes in grantee organization, authorization, or capacity. This information will be outlined in the Standard Agreement.

Grantees are required to meet BHCIP Launch Ready, CCE program, and other state and federal reporting, financial, and administrative requirements, as well as submit required reporting data through an online grantee data portal. Reporting requirements will include quarterly reports and a final report, along with an annual BHCIP Launch Ready or CCE Program and Expenditure Report for 5 years following Standard Agreement execution. The annual report will be due no later than January 31 for the prior



calendar year of January 1 to December 31. The reports and data entered in the grantee data portal shall be in such form and contain such information as required by DHCS or CDSS, as appropriate, in its sole and absolute discretion. Funding will be contingent upon provision of submission of data and reporting. These requirements will be fully detailed upon award.

In addition to the foregoing, each grantee shall submit to DHCS or CDSS such periodic reports, updates, and information as deemed necessary by DHCS or CDSS to monitor compliance and/or perform program evaluation. Any requested data or information shall be submitted in electronic format in a format provided by DHCS or CDSS.

Additional reporting requirements may be required by DHCS and CDSS for up to 30 years after completion of project construction.

4.2. DISBURSEMENT OF GRANT FUNDS

The Standard Agreement will set forth the general conditions for disbursement. Once the Standard Agreement between the applicant and AHP is fully executed, an initial payment will be issued directly to the applicant to begin development activities. Subsequent funding will be released following the verified completion of project milestones and deliverables and the submission of required documentation and reports. More details regarding the funding and disbursement process will be provided upon award.

Grantees will be responsible for submitting invoices and ensuring expenses are allowable and have sufficient backup documentation. Grantees shall ensure that the expenditure of BHCIP Launch Ready or CCE program funds is consistent with the requirements of the relevant program.

The BHCIP Launch Ready and CCE program teams will monitor the expenditures to ensure they comply with this RFA and may conduct desk or site audits. The teams may also request the repayment of funds or pursue any other remedies available, at law or in equity, for failure to comply with program requirements.

Part Five: Attachments

Attachment A: Application

Form 1: Budget template

Form 2: Budget narrative and definition of terms

Form 3: Schematic design checklist

Form 4: Design/acquisition/construction milestone schedule

Form 5: Development team description/contact form

Form 6: Community engagement form

Form 7: Applicant's certification

Attachment B: Pre-Application Consultation Process



Exhibit 2



NATIVE DIRECTIONS, INC.
THREE RIVERS INDIAN LODGE

HomeCA

May 17, 2024

Karen L. Garner, Director
El Dorado County Planning and Building Department
2850 Fairlane Court
Placerville, CA 95667
Karen.L.Garner@edcgov.us

Dear Director Garner,

Thank you for taking the time to update us on the status of the grading permit application for 2761 Sands Road in Rescue and sharing the questions on which the Planning Division seeks clarification.

The attached materials address the questions raised in your letter sent on May 3, 2024, and offer clarification of the statute enacting the Behavioral Health Continuum Infrastructure Program (BHCIP.) These materials include: 1) a legal analysis, prepared by our legal counsel, outlining the project's exemption from local zoning requirements and qualifications for a CEQA exemption and 2) letters of support for the project.

Please do not hesitate to reach out should you have any further questions or if you would like any additional information. We appreciate your careful consideration of the grading permit application for this essential project.

Sincerely,

Ramona Valadez *Patrick Prado*

Native Directions, Inc. and HomeCA Inc.

cc: Kim Johnson, Director, California Department of Social Services
 Michelle Baass, Director, California Department of Health Care Services

Attached: Legal Opinion – Atty. Robert Naylor
 NDI Letters of Support

Robert W. Naylor Advocacy

A LAW CORPORATION

455 CAPITOL MALL, SUITE 600
SACRAMENTO, CA 95814

(916) 743-3289
robertwnaylor@yahoo.com

May 14, 2024

Ramona Valadez, Executive Director
Native Directions, Inc.
Patrick Prado, Chief Operating Officer
Home CA, Inc.
13505 Union Road
Manteca, CA 95336

RE: Legal analysis in response to Karen L. Garner letter of May 3, 2024

Dear Director Valadez and COO Prado:

I have reviewed the subject letter, which asserts the proposed project does not meet local zoning requirements and does not qualify for a CEQA exemption. Contrary to the conclusions in the letter, I believe the statute enacting the Behavioral Health Continuum Infrastructure Program (BHCIP), under which this project has received a grant, exempts the project from local zoning ordinances, and that the proposed project meets the conditions of the statute for a CEQA exemption.

Zoning

The project is exempt from local zoning provisions due to an explicit statewide zoning exemption in the statute that enacted the Behavioral Health Continuum Infrastructure Program, Welfare and Institutions Code section 5960.3 (a):

“Notwithstanding any other law, a facility project funded by a grant pursuant to this chapter shall be deemed consistent and in conformity with any applicable local plan, standard or requirement, and allowed as a permitted use within the zone in which the structure is located and shall not be subject to a conditional use permit, discretionary permit, or any other discretionary reviews or approvals [emphasis added].”

The Legislature deemed BHCIP to be of the highest priority in addressing serious behavioral health needs, appropriated significant funds to carry it out, and could not have been more crystal clear that local zoning or any other local regulations would not be allowed to stand in the way of

May 14, 2024
Letter to Home CA, Inc
Re: Legal Analysis in Response to Garner Letter
Page 2

approved projects. The Program Funding Agreement, the binding contract signed by Advocates for Human Potential, DHCS's designated manager of the BHCIP program, and Home CA, directly references section 5960.3(a) as the governing law relating to local land use restrictions. It is part of the contract on which both parties are relying.

CEQA

Welfare & Institutions Code section 5960.3 (b) states that the California Environmental Quality Act "shall not apply to a project...funded by a grant pursuant to this chapter if, where applicable, all of the following applicable requirements are satisfied [emphasis added]."

The letter from Director Garner raises questions about just two of the nine requirements (the other requirements are fulfilled either by the underlying facts (the property was not acquired by eminent domain) or because they are part of the basic performance elements secured by the Deed of Restrictions).

The two requirements at issue are:

"(5) The project applicant submits to the lead agency a letter of support, or other durable documentary proof for the project, from a county, city or other local public entity for any new proposed construction, major alteration work, or rehabilitation....

"(9) The project does not result in any increase in the onsite development footprint of structures or improvements."

Letter of Support

This project is co-sponsored by Native Directions, Inc., an urban tribal entity and nonprofit organization. Its Executive Director now and for the last 30 years is Ramona Valadez (of the Comanche tribe). According to Director Valadez, the organization was formerly called the San Joaquin Council for the American Indian, an urban tribal entity. The name changed because their service footprint extended to members of multiple tribes.

Native Directions operates Three Rivers Lodge, an urban Indian alcohol and substance abuse recovery facility located in Manteca, which is licensed by DHCS and funded by Indian Health Service, the federal health program for American Indians and Alaska Natives. Indian Health Service has extensive activities in California (see ihs.gov). Indian Health Service has formally recognized Native Directions as an Urban Indian Organization, which is one of the tribal entities, aside from tribes, recognized as eligible under the RFA.

May 14, 2024
Letter to Home CA, Inc
Re: Legal Analysis in Response to Garner Letter
Page 3

Given these credentials, Native Directions qualifies as a “local public entity” under the language of the statute.

The project is not relying solely on NDI: it has significant additional support from the El Dorado County region, submitted as part of the BHCIP application, including a petition signed by native American organizations and individuals and other businesses and individuals.

Increase in the Onsite Development Footprint

The land here is vacant land. There is no onsite development footprint. Accordingly, this section is not “applicable” within the meaning of the introductory sentence of section 5960.3 (b).

To consider this section “applicable” on vacant land would be to negate the entire purpose of the CEQA exemption, which the Legislature so clearly intended to smooth the way for and expedite the development of projects receiving BHCIP grants.

Other Issues

The subject letter also raises questions about whether NDI is eligible under the standards of the Request for Applications. The answer to that is the Department of Health Care Services, through its designated agent in charge of the BHCIP program, found that NDI was eligible, approved the grant and executed the Program Funding Agreement.

The letter also raises questions about NDI’s commitment to providing Medi-Cal services. The RFA is clear that any such contract is contemplated “once the funded facility’s expansion or construction is complete.” It also says that “community wellness centers and youth behavioral health prevention centers are not required to have a contract to provide Medi-Cal behavioral health services; however, they must provide services to Medi-Cal beneficiaries.”

For these reasons, we believe the project fully complies with Health and Safety Code section 5960.3 and that El Dorado County should approve the CEQA exemption and move forward with the grading permit to allow construction to proceed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert W. Naylor', with a stylized flourish at the end.

Robert W. Naylor

Exhibit 3

COUNTY COUNSEL
DAVID A. LIVINGSTON

ASSISTANT COUNTY COUNSEL
JANETH D. SANPEDRO

SR. DEPUTY COUNTY COUNSEL
KATHLEEN A. MARKHAM
ABIGAIL L. ROSEMAN
STEPHEN L. MANSELL
BETH A. McCOURT

**EL DORADO COUNTY
OFFICE OF
THE COUNTY COUNSEL**



COUNTY GOVERNMENT
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DEPUTY COUNTY COUNSEL
ROGER A. RUNKLE
DANIEL S. VANDEKOOLWYK
JEFFERSON B. BILLINGSLEY
TED D. WOOD
TRACI L. WHITEMORE
NICOLE C. WRIGHT

June 7, 2024

Patrick Prado, Chief Operating Officer
HomeCA Inc.
13505 Union Road
Manteca, CA 95336
patrickprado1@homeca.org

Re: Grading Permit #0372970

Dear Mr. Prado:

I am in receipt of your May 17, 2024, letter. Due to the legal issues addressed by your attorney, Ms. Garner requested that I respond on her behalf. I appreciate your efforts to respond to the questions raised by the County in Ms. Garner's May 3, 2024, letter. However, some of the County's questions were not answered or not answered sufficiently. I will address them in the order originally presented in Ms. Garner's letter.

Compliance with Local Zoning

After noting the apparent inconsistency between your proposed project and the County's Zoning Ordinance, the County sought clarification as to how your proposed project complies with the statement from the Directors of DHCS and CDSS that the project must "meet relevant zoning requirements." While we appreciate your citation to Welfare & Institutions Code § 5960.3(a), we are already aware of that section. The County's question to you was intended to assist us in reconciling that section with the statement from the Directors of DHCS and CDSS that the project must "meet relevant zoning requirements." Your response appears to imply that the Directors were simply incorrect in their understanding of the programs they administer. Unless you have further information to offer, the County will likely need to seek clarification directly from the Directors of DHCS and CDSS.

California Environmental Quality Act ("CEQA")

The County sought clarification from you to determine whether your project satisfies the requirements for the qualified CEQA exemption expressed in Welfare & Institutions Code § 5960.3(b). In particular, the County raised concerns regarding your project's ability to satisfy the conditions stated in § 5960.3(b)(5) and (9).

Subsection (b)(5) requires that the project applicant submit a letter of support to the lead agency (the County in this case) from “a county, city, or other local public entity.” Your response states that Native Directions’ letter of support for its own project satisfies this requirement because, in your opinion, Native Directions is a “local public entity.” We disagree. First it must be noted that a letter of support is generally understood to be offered by a third party, not the subject of the letter. Setting that aside, while the BHCIP statutes do not define the term “local public entity,” the term is defined in the Government Code as follows: “‘Local public entity’ includes a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State, but does not include the State.” (Gov. Code, § 900.4.) Native Directions and HomeCA are none of those things.

According to the California Secretary of State’s records, Native Directions is a nonprofit mutual benefit corporation and HomeCA is a nonprofit public benefit corporation. However, such nonprofit corporations are not the type of “public corporation” described in the Government Code’s definition of a “local public entity.” (*Hagman v. Meher Mount Corp.* (2013) 215 Cal. App. 4th 82, 87 [“public benefit corporations are not public corporations”].) More to the point, a nonprofit public benefit corporation is not a public entity at all. (*Id.*, at p. 88 [“public benefit corporations are not public entities”].) Accordingly, Native Directions is not a “local public entity” so its letter of support for its own project cannot satisfy the requirement of Welfare & Institutions Code § 5960.3(b)(5).

Turning now to Welfare & Institutions Code § 5960.3(b)(9), this requires that the project “not result in any increase in the existing onsite development footprint of structures or improvements.” Your response contends that this requirement is not applicable to projects on vacant land, but there is no support for such an interpretation which runs counter to general CEQA principles for protection of the environment. The environmental baseline of the parcel is vacant land, and there is no basis to claim new development, where none previously existed, does not increase the onsite footprint. Indeed, such a reading would lead to illogical results that could not have been intended by the Legislature. For instance, under your proffered interpretation, a project proposing a nominal expansion of an existing facility would be ineligible for the exemption when it is unlikely that such a project would have any potential effect on the environment while an expansive new project on undisturbed land with obvious potential impacts would be exempt. Therefore, it remains the County’s position that since the site on which you propose to construct your project is raw land, any new construction will necessarily result in an “increase in the existing onsite development footprint,” making your project ineligible for the CEQA exemption expressed in Welfare & Institutions Code § 5960.3.

As noted in Ms. Garner’s letter, the County is the lead agency for the project. As such, Welfare & Institutions Code § 5960.3(c) requires the County to publicly concur in any determination that the project is exempt from CEQA before a notice of exemption can be filed. Based on the foregoing analysis, the County cannot concur that the project is exempt from CEQA.

Letter of Support

The County sought clarification as to how your funding application met the requirements of the Request for Applications, which is incorporated by reference into your Program Funding Agreement. Despite your response, the County remains concerned about the potential Medi-Cal

June 7, 2024

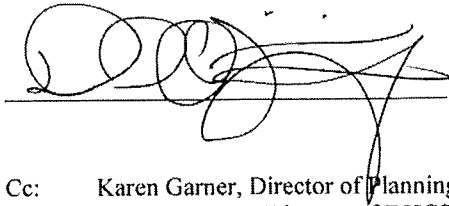
Page 2

related financial impacts to the County, particularly since there has been no meaningful consultation concerning this issue.

In closing, although we appreciate your efforts to address the County's questions and concerns, those questions and concerns remain. As the lead agency for CEQA, the County is required to ensure compliance with CEQA prior to issuance of any permits or other entitlements for your project. Based on the information presented to date, the County is currently unable to do so. Unless you have additional information for the County to consider, Planning & Building Department staff are ready to assist you with initiating the CEQA review process.

Very truly yours,

DAVID A. LIVINGSTON
County Counsel

A handwritten signature in black ink, appearing to read 'David A. Livingston', is written over a horizontal line.

Cc: Karen Garner, Director of Planning & Building (email only)
Michelle Baass, Director of DHCS (email only -- Michelle.Baass@dhcs.ca.gov)
Kim Johnson, Director of CDSS (email only -- Kim.Johnson@dss.ca.gov)

Exhibit 4

Sec. 110.14.290. - Hazards.

Grading activities that cause or have the potential to result in the following conditions, as determined by the Director, are prohibited.

- A. The creation of a hazard to public health and safety.
- B. A threat to the stability or use of adjacent property.
- C. Damage to public or private utilities.
- D. Damage to a public or private roadway or other transportation facility.
- E. Damage to, or obstruction of, watercourses or drainage facilities.
- F. Substantial degradation of water quality of any water body.
- G. Damage to existing septic systems and water supply wells.

If one or more of the conditions listed in Subsections A through G of this section exist or have the potential to occur, it is the responsibility of the landowner to immediately cease all grading activities and notify the Director. The landowner shall obtain a new or revised grading permit to authorize the work necessary to eliminate the hazard. The Director may require the submission of new plans and engineering or geological reports that include professional design recommendations. The Director may require design modifications to address the identified issues. In the case of an emergency condition, the Director may authorize immediate work to occur pursuant to Section 110.14.280.

(Ord. No. 4949, § 2(15.14.290), 8-10-2010)

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER: 224528; 286112; 361825 NAME: Gabriel Ross; Tori Gibbons; Yeji Jung FIRM NAME: Shute, Mihaly & Weinberger LLP STREET ADDRESS: 396 Hayes Street CITY: San Francisco STATE: CA ZIP CODE: 94102 TELEPHONE NO.: (415)552-7272 FAX NO.: 415-552-5816 EMAIL ADDRESS: ross@smwlaw.com; gibbons@smwlaw.com; yjung@smwlaw.com ATTORNEY FOR (name): Petitioners, NATIVE DIRECTIONS, INC. and HOMECA, INC.		FOR COURT USE ONLY FILED Superior Court of California, County of El Dorado 10/08/2025 at 02:35:14 PM By: Tara Young, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO STREET ADDRESS: 2927 Meder Road MAILING ADDRESS: CITY AND ZIP CODE: Cameron Park CA 95682 BRANCH NAME: Cameron Park Branch		
PLAINTIFF: NATIVE DIRECTIONS, INC. and HOMECA, INC. DEFENDANT: EL DORADO COUNTY, et al. OTHER CASE NAME:		
ORDER REGARDING REMOTE APPEARANCE		CASE NUMBER: 25CV2617

The court makes the following orders regarding remote appearances:

1. This order applies to the proceeding described below, including on any later dates if the proceeding is continued:

Type of proceeding: Ex Parte Hearing

Set on (date): 10/9/2025

at (time): 8:15 AM

in (department): Department 9

2. ☐ **Participant to appear in person.**

The following persons are required to appear or testify in person:

Name

Role in Case

3. ☒ **Participant may appear through remote technology.**

- a. The following persons may appear or testify through remote technology, subject to any requirement in b:

Name
Tori Gibbons

Role in Case
Attorney for Petitioners NATIVE DIRECTIONS, INC. and HOMECA, INC.

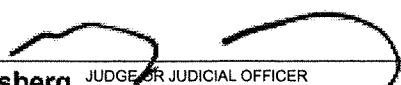
- b. If the following technology is not used, an in-person appearance is required. (See the court's website for specific information about the platforms used and how to appear remotely.)

- i. ☐ videoconference only
 ii. ☐ audio only (including telephone)
 iii. ☒ videoconference or audio

4. ☐ **Other Orders.** ZOOM INFO. FOR DEPT. 9

MEETING ID: 814 7721 7170
 PASSWORD: 783971

Date: 10/08/2025

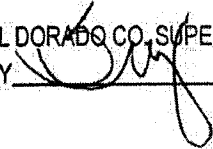

 Gary S. Slossberg JUDGE OR JUDICIAL OFFICER

1 GABRIEL M.B. ROSS (State Bar No. 224528)
TORI GIBBONS (State Bar No. 286112)
2 YEJI JUNG (State Bar No. 361825)
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6 yjung@smwlaw.com

7 Attorneys for Petitioners
NATIVE DIRECTIONS, INC. and HOMECA,
8 INC.

FILED

OCT 09 2025

EL DORADO CO. SUPERIOR COURT
BY  (DEPUTY)

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF EL DORADO**

12 NATIVE DIRECTIONS INC., a California
13 nonprofit organization; HOMECA, INC., a
14 California nonprofit organization

15 Petitioners,

16 v.

17 EL DORADO COUNTY; DONALD
KNIGHT, in his official capacity as El
18 Dorado County Building Official; KAREN
GARNER, in her official capacity as El
19 Dorado County Director of Planning and
20 Building; DOES 1-10, inclusive,

21 Respondents.

Case No. **25CV2617**

~~[PROPOSED]~~ ALTERNATIVE WRIT OF
MANDATE

Code Civ. Proc. §§ 1085, 1087; Welf. &
Inst. Code §§ 5960.3(a), 18999.97(l)

Filed concurrently with Verified Petition
for Alternative and Peremptory Writs of
Mandate; Application For Alternative Writ
Of Mandate; Petitioners' Memorandum Of
Points And Authorities In Support Of
Petition For Alternative And Peremptory
Writs Of Mandate; Request For Judicial
Notice In Support Of Petition For
Alternative And Peremptory Writs Of
Mandate;

22
23 The Ex Parte Application of Petitioners HomeCA, Inc. and Native Directions, Inc.
24 ("Petitioners") for an Alternative Writ of Mandate came on for hearing on [date] in Department
25 [##], the Honorable [Name of Judge] presiding. Tori Gibbons appeared on behalf of Petitioners.
26 [Name of counsel] appeared on behalf of Respondents El Dorado County, Donald Knight, and
27 Karen Garner (together, "Respondents"). Having read and considered the Verified Petition for
28 Writ of Mandate and the other papers filed by the parties, having heard and considered the

~~[PROPOSED]~~ ALTERNATIVE WRIT OF MANDATE
Case No. 25CV2617

ELECTRONICALLY RECEIVED
Superior Court of California,
County of El Dorado
09/30/2025 at 05:12:21 PM
By: Tara Young, Deputy Clerk

1 arguments of counsel, and satisfactory evidence having been presented and good cause
2 appearing therefore,

3 IT IS ORDERED THAT Petitioner's Ex Parte Application for an Alternative Writ of
4 Mandate is GRANTED; and

5 IT IS FURTHER ORDERED THAT ~~an Alternative Writ of Mandate issue under seal of~~
6 ~~this Court commanding Respondents either to issue grading permits # 0372970, # 0376039, #~~
7 ~~0379717, # 0380586, and building permits # 0374255, # 0376040, # 0379718, and # 0380585,~~
8 ~~or, in the alternative, to show cause before this court on the date and time set out below why it~~
9 has not done so; and. *G.S.*

10 IT IS FURTHER ORDERED THAT Respondents shall file and serve their opposition to
11 Petitioners' papers in support of the peremptory writ on or before 10/15/25 at 12pm, Petitioners
12 shall file any reply to the opposition on or before 10/16/25 at 12pm, and

13 IT IS FURTHER ORDERED THAT the Court shall hear Petitioners' motion for
14 peremptory writ of administrative mandamus on 10/17/25 at 2:30pm in Dept. 9

15 DATED: October 9, 2025

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18 HON. [Name of Judge] **GARY SLOSSBERG**
19 Judge of the El Dorado County Superior Court
20
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28

**SUPERIOR COURT OF CALIFORNIA •
COUNTY OF EL DORADO**

2927 Meder Road
Cameron Park, CA 95682

FOR COURT USE ONLY

FILED

OCT 09 2025

EL DORADO CO. SUPERIOR COURT
BY [Signature] (DEPUTY)

TITLE OF CASE: NATIVE DIRECTIONS, INC. ET AL.,

Petitioner/Plaintiff,

vs.

EL DORADO COUNTY ET AL.,

Defendant/Respondent.

NOTES/ORDERS AFTER EX PARTE APPLICATION (CIVIL)

CASE NUMBER
25CV2617

DATE: 10-10-2025

TIME: 8:15 A.M.

JUDGE: GARY SLOSSBERG

10/9/25

In chambers

☐ PETITIONER/PLAINTIFF PRESENT

☐ RESPONDENT/DEFENDANT PRESENT

☐ NOTICE OF EX PARTE GIVEN Date: _____ Time: _____

☐ TEMPORARY RESTRAINING ORDER: GRANTED ☐ AS REQUESTED ☐ AS MODIFIED

BRIEFING SCHEDULE:

Moving Papers Due: _____ Opposition Due: _____ Reply Due: _____

☐ TEMPORARY RESTRAINING ORDER DENIED

☐ ORDER SHORTENING TIME FOR HEARING GRANTED Hearing Date: _____

BRIEFING SCHEDULE:

Moving Papers Due: _____ Opposition Due: _____ Reply Due: _____

☐ ORDER SHORTENING TIME FOR HEARING DENIED

☐ REFER BACK TO CMC RE: TRIAL SETTING Date: _____ Time: _____

☐ COURT FINDS GOOD CAUSE TO SET HEARING BEYOND 20 DAYS

☒ OTHER EX PARTE APPLICATION: ALTERNATIVE WRIT OF MANDATE

☒ Granted

☐ Denied

☐ OTHER ORDERS:

Date: 10/9/25

[Signature]
Superior Court Judge, Gary Slossberg

ELECTRONICALLY FILED

Superior Court of California,
County of El Dorado

10/10/2025 at 01:15:13 PM

By: Katrina Abuzov, Deputy Clerk

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF EL DORADO**

NATIVE DIRECTIONS INC., a California
nonprofit organization; HOMECA, INC., a
California nonprofit organization

Petitioners,

v.

EL DORADO COUNTY; DONALD
KNIGHT, in his official capacity as El
Dorado County Building Official; KAREN
GARNER, in her official capacity as El
Dorado County Director of Planning and
Building; DOES 1-10, inclusive,

Respondents.

Case No. 25CV2617

**UNOPPOSED EX PARTE
APPLICATION FOR ALTERNATIVE
WRIT; MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT OF
SAME**

Code Civ. Proc. §§ 1085, 1087, 1107.

Assigned for All Purposes to Hon.
Gary S. Slossberg

Date: October 13, 2025
Time: 8:15 AM
Department: 9

Action Filed: September 30, 2025

Filed Concurrently with Declaration of
Tori Gibbons in Support of Unopposed Ex
Parte Application for Alternative Writ;
Declaration of Notice of Ex Parte
Application; [Proposed] Modified
Alternative Writ of Mandate

1 **UNOPPOSED APPLICATION**

2 Petitioners HomeCA, Inc. and Native Directions, Inc. (together, “Petitioners”) apply ex
3 parte, pursuant to Code of Civil Procedure sections 1085, 1087 and 1107 and California Rules of
4 Court, rules 3.1200 et seq., to modify this Court’s order issued October 9, 2025. This application
5 and memorandum of points and authorities (“Application”) is filed concurrently with the
6 Declaration of Tori Gibbons in Support of Unopposed Ex Parte Application for Alternative
7 Writ. Petitioners have complied with the Court’s requirements for ex parte application, including
8 notice requirements, as set forth in the concurrently filed Declaration of Notice of Ex Parte
9 Application (“Notice Declaration”).

10 Petitioners appeared ex parte before this Court on October 9, 2025, having complied with
11 all notice requirements, seeking an alternative writ of mandate directing Respondents to issue
12 certain ministerial permits (collectively, “the Permits”) and setting a hearing date and briefing
13 schedule. In a document titled “Alternative Writ of Mandate” (“the October 9 Order”), the Court
14 granted the ex parte application and set an expedited hearing schedule but did not direct that an
15 alternative writ shall issue. Because the alternative writ is procedurally necessary for the Court
16 to have jurisdiction over Respondents, Petitioners now seek to modify the October 9 Order. A
17 modified proposed order that replicates the Court’s October 9 Order with the requisite
18 alternative writ language is filed with this Application (“[Proposed] Modified Alternative Writ
19 of Mandate”).

20 This application for alternative writ is based on this Application; the [Proposed] Modified
21 Alternative Writ of Mandate, Declaration of Tori Gibbons in support of this Application, and
22 Notice Declaration; the previously filed Verified Petition for Alternative and Peremptory Writs
23 of Mandate; and the other previously filed documents in this case and such other papers,
24 evidence, and argument as may be presented at the hearing.

25 Wherefore, Petitioners hereby request that this Court issue the [Proposed] Modified
26 Alternative Writ of Mandate ordering Respondents to show cause before the Court on a date
27 designated by the Court why Respondents refuse to issue the ministerial permits at issue in this
28 matter. The [Proposed] Modified Alternative Writ of Mandate replicates the schedule set in the

1 October 9 Order. As described in the Notice Declaration, Petitioners have provided Respondents
2 notice of this application, and Respondents have indicated that they do not intend to oppose this
3 application.

4 Good cause exists for granting Petitioners' application. An ex parte application for
5 issuance of a writ of mandate is authorized under Code of Civil Procedure section 1107, in the
6 Court's discretion and for good cause, which Petitioners have shown. As demonstrated at the
7 October 9 ex parte hearing, Petitioners need the Permits to construct four state-funded projects.
8 If Petitioners do not have the Permits in hand by the end of October, they will be unable to
9 complete construction before their funding expires as early as December 31, 2026. Declaration
10 of Tori Gibbons in Support of Unopposed Ex Parte Application for Alternative Writ ¶ 4. The
11 October 9 Order directs an expedited hearing and briefing schedule as requested. As described
12 in the Memorandum of Points and Authorities below, to effectuate that schedule and vindicate
13 Petitioners' rights, the Court must also issue the alternative writ.

14 MEMORANDUM OF POINTS AND AUTHORITIES

15 In the October 9 Order, this Court found that good cause exists to direct Respondents to
16 either issue the Permits or show cause why the law does not require them to do so. Where, as
17 here, "the petition alleges grounds for relief," "it is reversible error for the superior court not to
18 issue an alternative writ." *Ocheltree v. Gourley* (2002) 102 Cal.App.4th 1013, 1018.¹
19 Moreover, the Code of Civil Procedure expressly provides for issuance of an alternative writ in
20 an ex parte proceeding. Code Civ. Proc. § 1088 (providing for issuance of alternative writ
21 "without notice to the adverse party").

22 The alternative writ provides that the respondent can either undertake the mandatory duty
23 at issue in the case, *or, in the alternative*, it can show cause as to why it has not done so—i.e.,
24 provide a defense on the merits. *See* Code Civ. Proc. § 1087 ("The alternative writ must

25
26
27 ¹ Though *Ocheltree* is an administrative mandamus case under Code of Civil Procedure section
28 1094.5, there is nothing about *Ocheltree's* analysis to suggest that this standard would not also
apply to an alternative writ seeking traditional mandamus under Code of Civil Procedure section
1085.

1 command the party to whom it is directed immediately after the receipt of the writ, or at some
2 other specified time, to do the act required to be performed, or to show cause before the court at
3 a time and place then or thereafter specified by court order why he has not done so.”) The
4 alternative writ allows the Court to set an expedited time frame in which the respondent can do
5 so. *Id.* The alternative is also critical because it acts as a summons, establishing the Court’s
6 jurisdiction over the respondent once it is personally served on the respondent, along with the
7 verified petition. *See* Code Civ. Proc. § 1096 (“The writ must be served in the same manner as a
8 summons in a civil action, except when otherwise expressly directed by order of the Court.”).

9 The alternative writ is distinct from the peremptory writ. Usually issued after a hearing
10 on the merits of the matter, the peremptory writ orders the respondent to undertake the
11 mandatory duty that is at issue in the Code of Civil Procedure section 1085 challenge. *See* Code
12 Civ. Proc. § 1087 (“The peremptory writ must be in a similar form [as the alternative writ],
13 except that the words requiring the party to show cause why he has not done as commanded
14 must be omitted.”). This typically provides the full relief that writ petitioners seek. Here,
15 Petitioners seek a peremptory writ from the Court following the October 17, 2025 hearing on the
16 statutory interpretation question at the center of the matter.

17 Petitioners now seek to personally serve Respondents with the Petition and Alternative
18 Writ, thus giving this Court jurisdiction to hear the matter and enforce any orders. Pursuant to
19 Code of Civil Procedure section 1096, the alternative writ must serve as a summons for
20 Respondents.

21 Therefore, Petitioners respectfully request that the Court modify the October 9 Order by
22 entering the [Proposed] Modified Alternative Writ of Mandate filed concurrently with this
23 Application, directing that an alternative writ issue.

1 DATED: October 10, 2025

SHUTE, MIHALY & WEINBERGER LLP

2 

3 By:

4 GABRIEL M.B. ROSS
5 TORI GIBBONS
6 YEJI M. JUNG

7 Attorneys for Petitioners
8 NATIVE DIRECTIONS, INC. and HOMECA,
9 INC.

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ELECTRONICALLY FILED
Superior Court of California,
County of El Dorado
10/09/2025 at 01:37:26 PM
By: Tara Young, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF EL DORADO

NATIVE DIRECTIONS INC., a California
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California nonprofit organization
,

Petitioners,

v.

EL DORADO COUNTY; DONALD
KNIGHT, in his official capacity as El
Dorado County Building Official; KAREN
GARNER, in her official capacity as El
Dorado County Director of Planning and
Building; DOES 1-10, inclusive,

Respondents.

Case No. 25CV2617

**VERIFIED PETITION FOR
ALTERNATIVE AND PEREMPTORY
WRITS OF MANDATE**

Code Civ. Proc. §§ 1085, 1087; Welf. &
Inst. Code §§ 5960.3(a), 18999.97(l).

Filed concurrently with Application For
Alternative Writ Of Mandate; Petitioners'
Memorandum Of Points And Authorities
In Support Of Petition For Alternative And
Peremptory Writs Of Mandate; Request
For Judicial Notice In Support Of Petition
For Alternative And Peremptory Writs Of
Mandate; [Proposed] Alternative Writ Of
Mandate

Petitioners Native Directions, Inc. and HomeCA, Inc. ("Petitioners") allege as follows:

INTRODUCTION

1. This action against El Dorado County ("County") challenges the County's willful
and unlawful withholding of ministerial permits for Petitioners' projects, which the County has
no authority to withhold.

2. Petitioners are advancing four Native housing and services projects in El Dorado County. All four of these Projects, defined below, have received state funding that exempts them from local discretionary review and the California Environmental Quality Act (Pub. Res. Code § 21000 et seq., “CEQA”). *See* Welf. & Inst. Code §§ 5960.3(a), 18999.97(l). Petitioners have been waiting over a year for the County to issue permits that are by statute ministerial and exempt from CEQA. During this period, County staff and representatives have been willfully and unlawfully obstructing what the Legislature intended to be a streamlined process.

3. Petitioners submitted applications for building and grading permits for the Projects (together, the “Permits”) as early as February 21, 2024, with the most recent applications submitted on December 30, 2024.

4. The County's Building Division ("Building") approved all of the building and grading Permits for each of the four Projects (defined below), with the first approval in July 2024 and the last in June 2025.

5. Despite this approval, the County refused, and continues to refuse, to issue the Permits.

6. Under the plain language of the applicable statutes, the County has no authority to withhold any of the Permits for any of the four Projects. The County's refusal to issue them appears to be an attempt to run out the clock on Petitioners' state funding, which could be terminated for two projects if permits are not secured and ground broken by the end of 2025, and which expires altogether as early as the end of 2026. The County's actions clearly constitute unlawful obstruction of state law and a failure to perform a mandatory duty.

PARTIES

7. Petitioner Native Directions, Inc. (“Native Directions”) is California mutual benefit corporation that provides culturally relevant and client-centered treatment services for Native Americans and others experiencing chemical dependency. Native Directions is a tribal entity under Welfare and Institutions Code section 5960.35(b)(2), specifically an urban Indian organization as defined in section 1603 of title 25 of the United States Code. Native Directions has a clear, present, and beneficial right to the County’s compliance with the statutory

1 requirements of the state funding programs, as the County's failure to act jeopardizes Native
2 Directions' funding and puts the entirety of the four projects at risk. The maintenance and
3 prosecution of this action will confer a substantial benefit on the public by enabling the
4 legislative intent of the state programs to provide critical services to underserved Native
5 populations.

6 8. Petitioner HomeCA, Inc. ("HomeCA") is a California public benefit corporation
7 dedicated to ending the state-wide homelessness crisis and assisting individuals in securing
8 transitional and permanent housing in the least restrictive environment. As Native Directions'
9 partner on the four Projects, HomeCA has the same clear, present, and beneficial right to the
10 County's compliance with the statutory requirements of the state funding programs.

11 9. Respondent El Dorado County, a political subdivision of the State of California, is
12 responsible for issuing building and grading permits in El Dorado County in accordance with
13 applicable state and local laws, including the state funding programs' enabling legislation.

14 10. Respondent Donald Knight is the Acting Deputy Director of Building/Building
15 Official, responsible for issuing building permits under the El Dorado County Code. El Dorado
16 County Code §§ 2.18.050, § 110.16.010, Cal. Code Regs., tit. 24, § 1.8.4.1.

17 11. Respondent Karen Garner is the Director of the County Planning and Building
18 Department ("Planning"), responsible for issuing grading permits under the El Dorado County
19 Code. El Dorado County Code §§ 110.14.120-130.

20 12. Petitioner does not know the true names and capacities, whether individual,
21 corporate, associate, or otherwise, of Respondents Doe 1 through Doe 10, inclusive, and
22 therefore sues said Respondents under fictional names. Petitioner alleges, upon information and
23 belief, that each fictionally named Respondent is responsible in some manner for committing the
24 acts upon which this action is based. Petitioner will amend this Petition to show their true names
25 and capacities if and when they have been ascertained.

26 JURISDICTION AND VENUE

27 13. This Court has jurisdiction over the matters alleged in this Petition pursuant to
28 Code of Civil Procedure section 1085.

1 14. Venue is proper in this Court because the cause of action alleged in this Petition
2 arose in El Dorado County, and would be carried out in the County.

3 15. The County's refusal to issue the Permits rests upon an incorrect understanding of
4 the governing statutes, which cannot be resolved without judicial intervention. On September
5 19, 2025, the County stated that it would "act on the subject permit applications" only "[u]pon
6 resolution" of its concerns regarding zoning and CEQA. Petitioners' Request for Judicial Notice
7 ("RJN"), Ex. E at 2. These concerns, however, are legally irrelevant to the County's duty to
8 issue the Permits given the statutory exemptions. But because the County is misreading the plain
9 language of the funding statutes, the only way to resolve their concerns is through writ relief.
10 The County's refusal to issue the Permits pending the "resolution" of inapplicable matters is a
11 constructive denial of the Permits. *See Powell v. County of Humboldt* (2014) 222 Cal.App.4th
12 1424, 1434-35 (correspondence "sufficiently established a final, definitive decision" that no
13 building permit would be issued without easement, satisfying ripeness requirement). As a
14 "purely legal issue" of statutory interpretation, on which the facts have "little bearing," this
15 dispute is fit for judicial decision. *See Security National Guaranty, Inc. v. California Coastal*
16 *Com.* (2008) 159 Cal.App.4th 402, 418 (interpretation of scope of commission's authority under
17 Coastal Act was legal question fit for immediate review). If this Court withholds consideration
18 of this action, the continued delay would jeopardize funding for and the viability of the Projects,
19 resulting in significant hardship for Petitioners. Thus, this action is ripe for judicial review.

20 16. Petitioners have performed any and all conditions precedent to filing this Petition
21 and have exhausted any and all available administrative remedies to the extent required by law.
22 The County has unreasonably delayed issuance of the Permits for over a year in some cases, and
23 constructively denied the Permits as discussed above. Thus, the County's administrative
24 proceedings on this matter have come to a halt, and Petitioners have exhausted their
25 administrative remedies. *See Hollon v. Pierce* (1967) 257 Cal.App.2d 468, 476 (petitioner
26 exhausted remedies where agency proceedings had come to a halt).

27 17. Petitioners have no plain, speedy, or adequate remedy in the course of ordinary
28 law unless this Court grants the requested writ of mandate to require the County to issue the

1 requested permits. In the absence of such remedies, the County’s refusal to act will cause
2 Petitioners to miss construction milestones specified in their funding agreements, which will
3 jeopardize not only their funding but their ability to complete the Projects at all. *See* ¶ 41 below.

4 **STATEMENT OF FACTS**

5 18. In 2021, the state Legislature enacted two laws to support infrastructure projects
6 addressing the historic gaps and growing demand for services in the state’s behavioral health
7 and long-term care continuum. *See* Assem. Bill Nos. 133 & 172 (2021-2022 Reg. Sess.) (“AB
8 133” and “AB 172”). AB 133 authorized the California Department of Health Care Services
9 (“DHCS”) to establish the Behavioral Health Continuum Infrastructure Program (“BHCIP”) and
10 award state funding to construct, acquire, and expand properties and invest in mobile crisis
11 infrastructure related to behavioral health. AB 133 § 355; Welf. & Inst. Code §§ 5960-5960.05.
12 AB 172 authorized the California Department of Social Services (“CDSS”) to establish the
13 Community Care Expansion program (“CCE”) as a companion effort to award funds focused on
14 the acquisition, construction, and rehabilitation of adult and senior care facilities that serve
15 adults experiencing or at risk of homelessness. AB 172 § 27; Welf. & Inst. Code §§ 18999.97-
16 18999.98. These combined programs represent the largest provision of resources for such
17 infrastructure in the state’s history and an unprecedented opportunity to effect meaningful,
18 sustainable change in the behavioral health and long-term care continuums in California.

19 19. Aimed at addressing state priorities, BHCIP and CCE are both designed to: invest
20 in behavioral health and community care options that advance racial equity; address urgent gaps
21 in the care continuum for people with behavioral health conditions, including adults with
22 disabilities and children and youth; meet the needs of vulnerable populations with the greatest
23 barriers to access, including people experiencing homelessness; and ensure care can be provided
24 in the least restrictive settings to support community integration, choice, and autonomy.

25 20. The Legislature provided a streamlined process that should ensure timely
26 completion of these urgently needed projects. Under their enabling legislation, any projects
27 funded by BHCIP or CCE are exempt from local zoning requirements and CEQA review and
28

are subject to ministerial approval. Welf. & Inst. Code § 5960.3(a) (BHCIP projects); *id.* § 18999.97(l) (CCE projects).

21. In 2022, Petitioners jointly applied for and were awarded grants for four projects, two under CCE and two under BHCIP (together, the “Projects”).

22. The CCE projects (“CCE Projects”) are:

- a. an Adult Residential Facility for Native Women in Rescue, California: a 30-bed adult residential facility for Native women (“ARF Women”); and
- b. an Adult Residential Facility for Native Men in Shingle Springs, California: a 30-bed adult residential facility for Native men (“ARF Men”).

23. The BHCIP projects (“BHCIP Projects”) are:

- a. a Youth Perinatal Facility in Rescue, California: a 40-bed perinatal residential facility for Native pregnant youth, young mothers, and their infants (“Youth Perinatal Facility”); and
- b. a Wellness Center in Shingle Springs, California: a center promoting traditional healing practices (“Wellness Center”).

The CCE Projects

24. In 2024, Petitioners submitted applications for grading and building permits to the County for the CCE Projects, all of which have been approved by Building.

a. For ARF Men, Petitioners applied for a grading permit (# 0379717) and a building permit (# 0379718) on November 13, 2024. Building approved the permits on April 18, 2025. RJN, Ex. A at 40, 49.

b. For ARF Women, Petitioners applied for a grading permit (# 0380586) and a building permit (# 0380585) on December 30, 2024. Building approved these permits on June 2, 2025. RJN, Ex. A at 55, 62.

25. The County has refused to issue any of the approved permits for the CCE Projects (the “CCE Permits”).

26. Throughout their discussions with the County, Petitioners have consistently explained that the CCE Projects are exempt from zoning and CEQA review. For example, on

1 January 7, 2025, Petitioners communicated to the County that Welfare and Institutions Code
2 section 18999.97(1) established zoning and CEQA exemptions for the CCE Projects.

3 ***The BHCIP Projects***

4 27. In 2024, Petitioners submitted grading and building permit applications to the
5 County for the BHCIP Projects, all of which have been approved by Building.

6 a. For the Youth Perinatal Facility, Petitioners applied for a grading permit (#
7 0372970) on February 21, 2024, and a building permit (# 0374255) on April 16, 2024. Building
8 approved the permits on July 30, 2024, and August 30, 2024. RJN, Ex. A at 9, 17.

9 b. For the Wellness Center, Petitioners applied for both a grading permit (#
10 0376039) and a building permit (# 0376040) on June 26, 2024. Building approved the permits
11 on November 25, 2024, and November 22, 2024, respectively. RJN, Ex. A at 26, 34.

12 28. The County has refused to issue any of the approved permits for the BHCIP
13 Projects (the “BHCIP Permits”).

14 29. Throughout their discussions with the County, Petitioners have explained that the
15 BHCIP Projects are exempt from zoning and CEQA review. For example, in letters to the
16 County dated October 31, 2024, and November 6, 2024, Petitioners asserted the ministerial
17 nature of the BHCIP Projects pursuant to Welfare and Institutions Code section 5960.3(a). As
18 Petitioners stated, the statute exempts the BHCIP Projects from “any other discretionary reviews
19 or approvals,” precluding zoning review as well as CEQA review. *See* CEQA Guidelines §
20 15268¹ (ministerial projects not subject to CEQA review).

21 30. On October 31, 2024, and November 6, 2024, Petitioners formally requested
22 expedited review for the Youth Perinatal Facility and Wellness Center, respectively, and
23 clarified the source of the CEQA exemptions as Welfare and Institutions Code section 5960.3(a)
24 and CEQA Guidelines § 15268.

25 31. On November 11, 2024, Assemblymember James Ramos, the Chair of the
26 California Native American Legislative Caucus and member of the Assembly Budget

27 _____
28 ¹ The “CEQA Guidelines” are found at Cal. Code Regs., tit. 14, § 15000 et seq.

1 Committee that introduced the relevant legislation, sent a letter to Board Chair Wendy Thomas
2 expressing his “strong support” for the Youth Perinatal Facility. Confirming Petitioners’
3 understanding, he explained that the BHCIP statute “clearly mandates that projects like [the
4 Youth Perinatal Facility] be prioritized to serve vulnerable populations and has designated this
5 residential facility as a ministerial project, *exempting it from local zoning and CEQA*
6 *requirements to expedite development*” (emphasis added). Assemblymember Ramos also
7 highlighted the urgent gap in care that these Projects fill: El Dorado County has “43 residential
8 facilities serving various vulnerable populations, yet none of them serve the specific needs of
9 Native American pregnant teens” as the Youth Perinatal Facility would.

10 ***Community opposition and County complicity***

11 32. Given the ministerial nature of the Permits, state law required the County to issue
12 them after Building approval. However, the County is unlawfully blocking the issuance of the
13 Permits, apparently due to residents’ complaints, which legally have no place in the statutory
14 ministerial approval process.

15 33. A group of local residents operating as “Rescue Deer Valley” organized
16 opposition to the Youth Perinatal Facility and ARF Women, located in Rescue, California. This
17 group has lobbied the Board, especially Supervisor Lori Parlin, to stop the two Rescue projects,
18 ostensibly on grounds such as wildfire and traffic risks and strain on infrastructure.

19 34. However, both Rescue Deer Valley’s materials and other public comments reveal
20 the underlying prejudice toward the population the Projects would serve. Rescue Deer Valley’s
21 website characterizes the projects in Rescue as “ruining communities” and lists “unfunded drain
22 on county services” and “potential spike in crime” among its concerns. One public comment
23 stated, “the reality about addiction is that it makes it’s [sic] victims inherently prone to crime”
24 and “certain drugs...directly cause violent behavior.” Another comment called the project a
25 “nightmare” that would cause “who knows even worse interactions with the local residents.”

26 35. Petitioners have repeatedly reached out to County officials to engage in dialogue,
27 clarify the County’s ministerial legal obligations, and offer good-faith responses to resident
28 concerns, which Petitioners had no legal obligation to address. In addition to thorough

1 correspondence, Petitioners met with multiple County officials throughout 2024, including
2 Supervisors Lori Parlin and Brooke Laine, late Supervisor John Hidahl, and Health and Human
3 Services Chief Assistant Director Jim Diel. Petitioners worked with Supervisor Hidahl to
4 develop measures that would address environmental and infrastructure concerns for the projects
5 in Rescue, especially fire safety—again, in good faith efforts at collaboration, as Petitioners had
6 no obligation to develop these measures due to the Projects’ statutory exemptions. Supervisor
7 Laine also provided guidance that Petitioners willingly incorporated into their plans.

8 36. Supervisor Parlin, however, has continually expressed hostility to the Projects,
9 which are located in her district, and leveraged the Board’s influence to improperly obstruct the
10 issuance of the Permits. For example, on January 30, 2024, Supervisor Parlin recommended the
11 Board lobby state representatives to oppose the Projects. On July 19, 2024, after several written
12 exchanges seeking to clarify misunderstandings, Petitioners met with Supervisor Parlin. When
13 they asked about the County’s concerns, Supervisor Parlin’s position was that “correspondence
14 is now between legal counsels.”

15 37. On October 18, 2024, after months of correspondence with Supervisor Parlin,
16 Director Garner, and other County staff, and multiple inquiries by Petitioners on the status of the
17 Permits, Director Garner wrote, “The County is not yet prepared to publicly concur that your
18 project is exempt from CEQA, but we are continuing to evaluate the matter in order to reach a
19 final determination.”

20 38. On December 11, 2024, Director Garner wrote that the County required
21 “additional time to consider how to proceed” due to the “new arguments” for CEQA exemption,
22 and the upcoming holiday season.

23 ***Continued delays into 2025***

24 39. Planning continued to delay issuance of the Permits throughout 2025. In March
25 2025, Director Garner requested an additional 30 days to determine whether the CEQA
26 exemptions applied. After 30 days, Planning still failed to act on the Permits.

27 40. County staff themselves have admitted that the cause of this unlawful delay is the
28 (improper) influence of the Board. On April 23, 2025, Planning staffer Aaron Mount stated that

1 “Planning is waiting for direction from County Counsel and the Board of Supervisors.” When
2 Petitioners asked for clarification, Mount confirmed that Planning was waiting on direction
3 before even beginning the decision process to consider issuing the Permits.

4 41. The unlawful interference from County leadership in what should be a streamlined
5 ministerial process is delaying critical care for the Native communities who need these Projects
6 the most. Not only has the County impeded Petitioners’ ability to address these community
7 needs, it has jeopardized the Projects’ very existence. The state may terminate funding for the
8 BHCIP Projects if construction has not commenced by December 31, 2025, and funding for the
9 Wellness Center will expire altogether as early as December 31, 2026. RJN, Ex. D at 1; Ex. B at
10 2. Funding for the Youth Perinatal Facility will expire on June 30, 2027, and funding for the
11 CCE Projects will expire on March 31, 2029. RJN, Ex. B at 10; Ex. C at 1. The County appears
12 eager to exploit these rapidly approaching deadlines through its strategic delay.

13 42. On September 5, 2025, Petitioners’ counsel sent the County a letter reiterating the
14 Projects’ zoning and CEQA exemptions and the ministerial nature of the Permits. The letter
15 demanded the County issue the Permits by September 19, 2025.

16 43. On September 19, 2025, the County sent Petitioners’ counsel a letter stating that it
17 “is not currently in a position to issue the subject permits or to publicly concur that the BHCIP
18 funded projects are exempt from CEQA” because the Projects “do not appear to meet the
19 County’s zoning requirements” and the County “do[es] not believe that Native Directions /
20 HomeCA’s BHCIP funded projects meet § 5960.3(b)’s requirements to be exempt from
21 CEQA.” RJN, Ex. E at 1, 2. The County did not challenge Petitioners’ assertion that the CCE
22 Projects are exempt from CEQA. *Id.*

23 44. The County has failed to issue ministerial permits it has no authority to withhold.
24 Thus, Petitioners file this action to compel the County’s compliance with its statutory duties and
25 to compel the issuance of all Permits for the Projects.

26 ///

27 ///

28 ///

1 **FIRST CAUSE OF ACTION**

2 **Writ of Mandate to Compel Issuance of Ministerial Permits for CCE Projects**
3 **Welf. & Inst. Code § 18999.97(l); Civ. Proc. Code § 1085**
4 **(Against All Respondents)**

5 45. Petitioners reallege and incorporate by reference the preceding paragraphs in their
6 entirety.

7 46. The County has a clear, present, and ministerial duty to issue the CCE Permits
8 under Welfare and Institutions Code section 18999.97(l).

9 47. Welfare and Institutions Code section 18999.97(l), codifying AB 172, states that
10 any funded project “shall be deemed consistent and in conformity with any applicable local
11 plan, standard, or requirement, and ... shall be allowed as a permitted use..., shall not be subject
12 to a conditional use permit, discretionary permit, or any other discretionary reviews or
13 approvals, and shall be deemed as a ministerial action under Section 15628 of Title 14 of the
14 California Code of Regulations.”

15 48. By the plain language of the statute, the County has no discretionary authority
16 over the CCE Projects; they are subject only to ministerial review and approval. The County has
17 completed its review of the CCE Permits and has approved them. Thus, the County has a present
18 ministerial duty to issue those permits.

19 49. The County violates its duty by continuing to delay issuing the CCE Permits.
20 Petitioners seek to compel the County to fulfill its ministerial duty and issue the CCE Permits.

21 **SECOND CAUSE OF ACTION**

22 **Writ of Mandate to Compel Issuance of Ministerial Permits for BHCIP Projects**
23 **Welf. & Inst. Code § 5960.3(a); Pub. Res. Code § 21080(b)(1); Civ. Proc. Code § 1085**
24 **(Against All Respondents)]**

25 50. Petitioners reallege and incorporate by reference the preceding paragraphs in their
26 entirety.

27 51. The County has a clear, present, and ministerial duty to issue the BHCIP Permits
28 under Welfare and Institutions Code section 5960.3(a).

52. Welfare and Institutions Code section 5960.3(a), codifying AB 133, states that any
funded project “shall be deemed consistent and in conformity with any applicable local plan,

1 standard, or requirement, and allowed as a permitted use...and shall not be subject to a
2 conditional use permit, discretionary permit, or any other discretionary reviews or approvals.”

3 53. By the plain language of the statute, the County has no discretionary authority
4 over the BHCIP Projects; they are subject only to ministerial review and approval. The County
5 has completed its review of the BHCIP Permits and has approved them. Thus, the County has a
6 present ministerial duty to issue the BHCIP Permits.

7 54. The County violates its duty by continuing to refuse to issue the BHCIP Permits. It
8 claims that it cannot issue the BHCIP Permits in part because the Projects are subject to CEQA.
9 See RJN, Ex. E at 2. CEQA, however, does not apply to ministerial projects. Pub. Resources
10 Code § 21080(b)(1) (CEQA “does not apply to...[m]inisterial projects proposed to be carried
11 out or approved by public agencies”); CEQA Guidelines § 15268(a) (“Ministerial projects are
12 exempt from the requirements of CEQA.”); *Mission Peak Conservancy v. State Water*
13 *Resources Control Bd.* (2021) 72 Cal.App.5th 873, 882 (“CEQA does not regulate ministerial
14 decisions—full stop.”)

15 55. Petitioners seek to compel the County to fulfill its ministerial duty and issue the
16 BHCIP Permits.

17 PRAYER FOR RELIEF

18 WHEREFORE, Petitioners pray for relief as follows:

19 1. For alternative and peremptory writs of mandate directing the County to issue all
20 permits for the CCE Projects;

21 2. For alternative and peremptory writs of mandate directing the County to issue all
22 permits for the BHCIP Projects;

23 3. For costs of suit;

24 4. For attorneys’ fees as authorized by Code of Civil Procedure section 1021.5 and
25 other provisions of law; and

26 5. For such other and further relief as the Court deems just and proper.
27
28

1 DATED: September 30, 2025

SHUTE, MIHALY & WEINBERGER LLP

2 

3 By:

4 GABRIEL M.B. ROSS
5 TORI GIBBONS
6 YEJI JUNG

7 Attorneys for Native Directions, Inc. and
8 HomeCA, Inc.

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ELECTRONICALLY FILED

Superior Court of California,
County of El Dorado

10/10/2025 at 01:15:13 PM

By: Katrina Abuzov, Deputy Clerk

GABRIEL M.B. ROSS (State Bar No. 224528)
TORI GIBBONS (State Bar No. 286112)
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Attorneys for Petitioners
NATIVE DIRECTIONS, INC. and HOMECA,
INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF EL DORADO**

NATIVE DIRECTIONS INC., a California
nonprofit organization; HOMECA, INC., a
California nonprofit organization

Petitioners,

v.

EL DORADO COUNTY; DONALD
KNIGHT, in his official capacity as El
Dorado County Building Official; KAREN
GARNER, in her official capacity as El
Dorado County Director of Planning and
Building; DOES 1-10, inclusive,

Respondents.

Case No. 25CV2617

**UNOPPOSED EX PARTE
APPLICATION FOR ALTERNATIVE
WRIT; MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT OF
SAME**

Code Civ. Proc. §§ 1085, 1087, 1107.

Assigned for All Purposes to Hon.
Gary S. Slossberg

Date: October 13, 2025
Time: 8:15 AM
Department: 9

Action Filed: September 30, 2025

Filed Concurrently with Declaration of
Tori Gibbons in Support of Unopposed Ex
Parte Application for Alternative Writ;
Declaration of Notice of Ex Parte
Application; [Proposed] Modified
Alternative Writ of Mandate

1 **UNOPPOSED APPLICATION**

2 Petitioners HomeCA, Inc. and Native Directions, Inc. (together, “Petitioners”) apply ex
3 parte, pursuant to Code of Civil Procedure sections 1085, 1087 and 1107 and California Rules of
4 Court, rules 3.1200 et seq., to modify this Court’s order issued October 9, 2025. This application
5 and memorandum of points and authorities (“Application”) is filed concurrently with the
6 Declaration of Tori Gibbons in Support of Unopposed Ex Parte Application for Alternative
7 Writ. Petitioners have complied with the Court’s requirements for ex parte application, including
8 notice requirements, as set forth in the concurrently filed Declaration of Notice of Ex Parte
9 Application (“Notice Declaration”).

10 Petitioners appeared ex parte before this Court on October 9, 2025, having complied with
11 all notice requirements, seeking an alternative writ of mandate directing Respondents to issue
12 certain ministerial permits (collectively, “the Permits”) and setting a hearing date and briefing
13 schedule. In a document titled “Alternative Writ of Mandate” (“the October 9 Order”), the Court
14 granted the ex parte application and set an expedited hearing schedule but did not direct that an
15 alternative writ shall issue. Because the alternative writ is procedurally necessary for the Court
16 to have jurisdiction over Respondents, Petitioners now seek to modify the October 9 Order. A
17 modified proposed order that replicates the Court’s October 9 Order with the requisite
18 alternative writ language is filed with this Application (“[Proposed] Modified Alternative Writ
19 of Mandate”).

20 This application for alternative writ is based on this Application; the [Proposed] Modified
21 Alternative Writ of Mandate, Declaration of Tori Gibbons in support of this Application, and
22 Notice Declaration; the previously filed Verified Petition for Alternative and Peremptory Writs
23 of Mandate; and the other previously filed documents in this case and such other papers,
24 evidence, and argument as may be presented at the hearing.

25 Wherefore, Petitioners hereby request that this Court issue the [Proposed] Modified
26 Alternative Writ of Mandate ordering Respondents to show cause before the Court on a date
27 designated by the Court why Respondents refuse to issue the ministerial permits at issue in this
28 matter. The [Proposed] Modified Alternative Writ of Mandate replicates the schedule set in the

1 October 9 Order. As described in the Notice Declaration, Petitioners have provided Respondents
2 notice of this application, and Respondents have indicated that they do not intend to oppose this
3 application.

4 Good cause exists for granting Petitioners' application. An ex parte application for
5 issuance of a writ of mandate is authorized under Code of Civil Procedure section 1107, in the
6 Court's discretion and for good cause, which Petitioners have shown. As demonstrated at the
7 October 9 ex parte hearing, Petitioners need the Permits to construct four state-funded projects.
8 If Petitioners do not have the Permits in hand by the end of October, they will be unable to
9 complete construction before their funding expires as early as December 31, 2026. Declaration
10 of Tori Gibbons in Support of Unopposed Ex Parte Application for Alternative Writ ¶ 4. The
11 October 9 Order directs an expedited hearing and briefing schedule as requested. As described
12 in the Memorandum of Points and Authorities below, to effectuate that schedule and vindicate
13 Petitioners' rights, the Court must also issue the alternative writ.

14 MEMORANDUM OF POINTS AND AUTHORITIES

15 In the October 9 Order, this Court found that good cause exists to direct Respondents to
16 either issue the Permits or show cause why the law does not require them to do so. Where, as
17 here, "the petition alleges grounds for relief," "it is reversible error for the superior court not to
18 issue an alternative writ." *Ocheltree v. Gourley* (2002) 102 Cal.App.4th 1013, 1018.¹
19 Moreover, the Code of Civil Procedure expressly provides for issuance of an alternative writ in
20 an ex parte proceeding. Code Civ. Proc. § 1088 (providing for issuance of alternative writ
21 "without notice to the adverse party").

22 The alternative writ provides that the respondent can either undertake the mandatory duty
23 at issue in the case, *or, in the alternative*, it can show cause as to why it has not done so—i.e.,
24 provide a defense on the merits. *See* Code Civ. Proc. § 1087 ("The alternative writ must
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26
27 ¹ Though *Ocheltree* is an administrative mandamus case under Code of Civil Procedure section
28 1094.5, there is nothing about *Ocheltree*'s analysis to suggest that this standard would not also
apply to an alternative writ seeking traditional mandamus under Code of Civil Procedure section
1085.

1 command the party to whom it is directed immediately after the receipt of the writ, or at some
2 other specified time, to do the act required to be performed, or to show cause before the court at
3 a time and place then or thereafter specified by court order why he has not done so.”) The
4 alternative writ allows the Court to set an expedited time frame in which the respondent can do
5 so. *Id.* The alternative is also critical because it acts as a summons, establishing the Court’s
6 jurisdiction over the respondent once it is personally served on the respondent, along with the
7 verified petition. *See* Code Civ. Proc. § 1096 (“The writ must be served in the same manner as a
8 summons in a civil action, except when otherwise expressly directed by order of the Court.”).

9 The alternative writ is distinct from the peremptory writ. Usually issued after a hearing
10 on the merits of the matter, the peremptory writ orders the respondent to undertake the
11 mandatory duty that is at issue in the Code of Civil Procedure section 1085 challenge. *See* Code
12 Civ. Proc. § 1087 (“The peremptory writ must be in a similar form [as the alternative writ],
13 except that the words requiring the party to show cause why he has not done as commanded
14 must be omitted.”). This typically provides the full relief that writ petitioners seek. Here,
15 Petitioners seek a peremptory writ from the Court following the October 17, 2025 hearing on the
16 statutory interpretation question at the center of the matter.

17 Petitioners now seek to personally serve Respondents with the Petition and Alternative
18 Writ, thus giving this Court jurisdiction to hear the matter and enforce any orders. Pursuant to
19 Code of Civil Procedure section 1096, the alternative writ must serve as a summons for
20 Respondents.

21 Therefore, Petitioners respectfully request that the Court modify the October 9 Order by
22 entering the [Proposed] Modified Alternative Writ of Mandate filed concurrently with this
23 Application, directing that an alternative writ issue.

1 DATED: October 10, 2025

SHUTE, MIHALY & WEINBERGER LLP

Tori Gifford Gibbons

By: _____

GABRIEL M.B. ROSS
TORI GIBBONS
YEJI M. JUNG

Attorneys for Petitioners
NATIVE DIRECTIONS, INC. and HOMECA,
INC.

FILED
Superior Court of California,
County of El Dorado
10/10/2025 at 03:54:40 PM
By: Katrina Abuzov, Deputy Clerk

GABRIEL M.B. ROSS (State Bar No. 224528)
TORI GIBBONS (State Bar No. 286112)
YEJI JUNG (State Bar No. 361825)
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Ross@smwlaw.com
Gibbons@smwlaw.com
Yjung@smwlaw.com

Attorneys for Petitioners
NATIVE DIRECTIONS, INC. and HOMECA,
INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF EL DORADO**

NATIVE DIRECTIONS INC., a California
nonprofit organization; HOMECA, INC., a
California nonprofit organization

Petitioners,

v.

EL DORADO COUNTY; DONALD
KNIGHT, in his official capacity as El
Dorado County Building Official; KAREN
GARNER, in her official capacity as El
Dorado County Director of Planning and
Building; DOES 1-10, inclusive,

Respondents.

Case No. 25CV2617

~~PROPOSED~~ MODIFIED
ALTERNATIVE WRIT OF MANDATE

Code Civ. Proc. §§ 1085, 1087; Welf. &
Inst. Code §§ 5960.3(a), 18999.97(l)

Filed concurrently with Unopposed Ex
Parte Application for Alternative Writ;
Memorandum of Points and Authorities in
Support of Same; Declaration of Tori
Gibbons in Support of Unopposed Ex Parte
Application for Alternative Writ;
Declaration of Notice of Ex Parte
Application.

The Ex Parte Application of Petitioners HomeCA, Inc. and Native Directions, Inc.
("Petitioners") for an Alternative Writ of Mandate came on for hearing on October 9, 2025 in
Department 9, the Honorable Gary Slossberg presiding. Tori Gibbons appeared on behalf of
Petitioners. Joe Little appeared on behalf of Respondent El Dorado County. Having read and
considered the Verified Petition for Writ of Mandate and the other papers filed by the parties,
having heard and considered the arguments of counsel, and satisfactory evidence having been
presented and good cause appearing therefore,

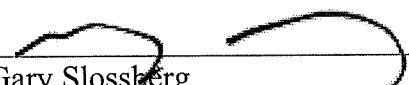
1 IT IS ORDERED THAT Petitioner's Ex Parte Application for an Alternative Writ of
2 Mandate is GRANTED; and

3 IT IS FURTHER ORDERED THAT an Alternative Writ of Mandate issue under seal of
4 this Court commanding Respondents to show cause before this Court on October 17, 2025 at
5 2:30 p.m. in Department 9 why Respondents have not issued Petitioners' requested Permits; and

6 IT IS FURTHER ORDERED THAT Respondents shall file and serve their opposition to
7 Petitioners' papers in support of the peremptory writ on or before October 15, 2025 at 12:00
8 p.m.; Petitioners shall file any reply to the opposition on or before October 16, 2025 at 12:00
9 p.m.; and

10 IT IS FURTHER ORDERED THAT the Court shall hear Petitioners' motion for
11 peremptory writ of administrative mandamus on October 17, 2025 at 2:30 p.m in Department 9.

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13 DATED: October 10, 2025

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16 HON. Gary Slossberg
17 Judge of the El Dorado County Superior Court
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1. This order applies to the proceeding described below, including on any later dates if the proceeding is continued:
Type of proceeding: Ex Parte Hearing
Set on (date): 10/13/2025 at (time): 8:15 AM in (department): Department 9

2. ☐ Participant to appear in person.

The following persons are required to appear or testify in person:

Name

Role in Case

3. ☒ Participant may appear through remote technology.

- a. The following persons may appear or testify through remote technology, subject to any requirement in b:

Name
Tori Gibbons

Role in Case
Attorney for Petitioners NATIVE DIRECTIONS, INC. and
HOMECA, INC.

- b. If the following technology is not used, an in-person appearance is required. (See the court's website for specific information about the platforms used and how to appear remotely.)

- i. ☒ videoconference only
- ii. ☐ audio only (including telephone)
- iii. ☒ videoconference or audio

4. ☐ **Other Orders.**

Date: October ____, 2025

JUDGE OR JUDICIAL OFFICER

ORDER REGARDING REMOTE APPEARANCE

ELECTRONICALLY RECEIVED

Superior Court of California,
County of El Dorado
10/10/2025 at 01:15:13 PM
By: Katrina Abuzov, Deputy Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER: 224528; 286112; 361825 NAME: Gabriel Ross; Tori Gibbons; Yeji Jung FIRM NAME: Shute, Mihaly & Weinberger LLP STREET ADDRESS: 396 Hayes Street CITY: San Francisco STATE: CA ZIP CODE: 94102 TELEPHONE NO.: (415) 552-7272 FAX NO.: (415) 552-5816 EMAIL ADDRESS: ross@smwlaw.com; gibbons@smwlaw.com; yjung@smwlaw.com ATTORNEY FOR (name): Petitioners, NATIVE DIRECTIONS, INC. and HOMECA, INC.		FOR COURT USE ONLY <div style="text-align: center;"> FILED Superior Court of California, County of El Dorado 10/23/2025 at 10:14:54 AM By: Tara Young, Deputy Clerk </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO STREET ADDRESS: 2927 Meder Road MAILING ADDRESS: CITY AND ZIP CODE: Cameron Park 95682 BRANCH NAME: Cameron Park Branch		
PLAINTIFF: NATIVE DIRECTIONS, INC. and HOMECA, INC. DEFENDANT: EL DORADO COUNTY, et al. OTHER CASE NAME:		
ORDER REGARDING REMOTE APPEARANCE		CASE NUMBER: 25CV2617

The court makes the following orders regarding remote appearances:

1. This order applies to the proceeding described below, including on any later dates if the proceeding is continued:

Type of proceeding: Oral Decision

Set on (date): 10/24/2025

at (time): 2:30 PM

in (department): 9

2. ☐ **Participant to appear in person.**

The following persons are required to appear or testify in person:

Name

Role in Case

3. ☒ **Participant may appear through remote technology.**

- a. The following persons may appear or testify through remote technology, subject to any requirement in b:

Name
Gabriel Ross

Role in Case
Attorney for Petitioners, NATIVE DIRECTIONS, INC. and HOMECA, INC.

- b. If the following technology is not used, an in-person appearance is required. (See the court's website for specific information about the platforms used and how to appear remotely.)

- i. ☒ videoconference only
 ii. ☐ audio only (including telephone)
 iii. ☐ videoconference or audio

4. ☐ **Other Orders.** ZOOM INFO FOR DEPT. 9

MEETING ID: 814 7721 7170
 PASSWORD: 783971

Date: 10/23/2025

Gary S. Slossberg

JUDGE OR JUDICIAL OFFICER

Page 1 of 1

ORDER REGARDING REMOTE APPEARANCE

ELECTRONICALLY RECEIVED

Superior Court of California,
 County of El Dorado
10/22/2025 at 01:25:21 PM
 By: Tara Young, Deputy Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: 224528; 286112; 361825 NAME: Gabriel Ross; Tori Gibbons; Yeji Jung FIRM NAME: Shute, Mihaly & Weinberger LLP STREET ADDRESS: 396 Hayes Street CITY: San Francisco STATE: CA ZIP CODE: 94102 TELEPHONE NO.: (415)552-7272 FAX NO.: 415-552-5816 E-MAIL ADDRESS: ross@smwlaw.com; gibbons@smwlaw.com; yjung@smwlaw.com ATTORNEY FOR (name): Petitioners, NATIVE DIRECTIONS, INC. and HOMECA, INC.		FOR COURT USE ONLY FILED Superior Court of California, County of El Dorado 11/14/2025 By: Ashley Richards, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO STREET ADDRESS: 2927 Meder Road MAILING ADDRESS: CITY AND ZIP CODE: Cameron Park CA 95682 BRANCH NAME: Cameron Park Branch		
PLAINTIFF/PETITIONER: NATIVE DIRECTIONS, INC. and HOMECA, INC. DEFENDANT/RESPONDENT: EL DORADO COUNTY, et al. OTHER:		CASE NUMBER: 25CV2617
		JUDICIAL OFFICER: Hon. Gary S. Slossberg
PROPOSED ORDER (COVER SHEET)		DEPT: 9

NOTE: This cover sheet is to be used to electronically file and submit to the court a proposed order. The proposed order sent electronically to the court must be in PDF format and must be attached to this cover sheet. In addition, a version of the proposed order in an editable word-processing format must be sent to the court at the same time as this cover sheet and the attached proposed order in PDF format are filed.

- Name of the party submitting the proposed order:
NATIVE DIRECTIONS, INC. and HOMECA, INC.
- Title of the proposed order:
[PROPOSED] JUDGMENT
- The proceeding to which the proposed order relates is:
 - Description of proceeding: October 17, 2025 (Hearing on Merits); October 24, 2025 (Oral Decision)
 - Date and time: 2:30 PM
 - Place: Cameron Park Branch
2927 Meder Road
Cameron Park, CA 95682

- The proposed order was served on the other parties in the case.

Note: An editable word version of the [Proposed] Judgment was not emailed to the court because we were informed the court does not accept documents by email.

Gabriel Ross

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME: NATIVE DIRECTIONS, INC. et al. v. EL DORADO COUNTY, et al.	CASE NUMBER: 25CV2617
--	--------------------------

**PROOF OF ELECTRONIC SERVICE
PROPOSED ORDER**

1. I am at least 18 years old and **not a party to this action.**

a. My residence or business address is (*specify*):

396 Hayes Street, San Francisco CA, 94102

b. My electronic service address is (*specify*): fpasco@smwlaw.com

2. I electronically served the *Proposed Order (Cover Sheet)* with a proposed order in PDF format attached, and a proposed order in an editable word-processing format as follows:

a. On (*name of person served*) (*If the person served is an attorney, the party or parties represented should also be stated.*):
Joe Little; Andrew Caulfield, attorneys for El Dorado County; Donald Knight, in his Official Capacity As El Dorado County Building Official; KAREN GARNER, in her Official Capacity As El Dorado County Director Of Planning And Building; David Livingston, attorney for El Dorado County

b. To (*electronic service address of person served*): andrew@caulfieldlawfirm.com; joe@caulfieldlawfirm.com;
David.livingston@edcgov.us

c. On (*date*): November 4, 2025

☐ Electronic service of the *Proposed Order (Cover Sheet)* with the attached proposed order in PDF format and service of the proposed order in an editable word-processing format on additional persons are described in an attachment.

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

Date: November 4, 2025

Frederick Ezekiel R. Pasco

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

1 GABRIEL M.B. ROSS (State Bar No. 224528)
TORI GIBBONS (State Bar No. 286112)
2 YEJI JUNG (State Bar No. 361825)
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5 Ross@smwlaw.com
Gibbons@smwlaw.com
6 Yjung@smwlaw.com

7 Attorneys for Petitioners
NATIVE DIRECTIONS, INC. and HOMECA,
8 INC.

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF EL DORADO**

12 NATIVE DIRECTIONS INC., a California
13 nonprofit organization; HOMECA, INC., a
California nonprofit organization

14 Petitioners,

15 v.

16 EL DORADO COUNTY; DONALD
17 KNIGHT, in his official capacity as El
Dorado County Building Official; KAREN
18 GARNER, in her official capacity as El
Dorado County Director of Planning and
19 Building; DOES 1-10, inclusive,

20 Respondents.

Case No. 25CV2617

[PROPOSED] JUDGMENT

Code Civ. Proc. §§ 1085, 1087; Welf. &
Inst. Code §§ 5960.3(a), 18999.97(l).

Assigned for all purposes to Hon. Gary S.
Slossberg

Action Filed: September 30, 2025

Filed concurrently with [Proposed]
Peremptory Writ of Mandate, Notice of
Lodging of [Proposed] Judgment and
[Proposed] Peremptory Writ of Mandate

21
22 Petitioners HomeCA, Inc. and Native Directions, Inc. ("Petitioners") brought a Verified
23 Petition for Alternative and Peremptory Writs of Mandate ("Petition") seeking to require the
24 County of El Dorado, through two of its officials (together, the "County"), to issue ministerial
25 building and grading permits for four Native-serving housing and services projects ("Projects").
26 Petitioners secured funding for the Projects under two different state programs: the Community
27 Care Expansion ("CCE") program and the Behavioral Health Continuum Infrastructure Program
28

1 (“BHCIP”). Petitioners seek to build two CCE-funded projects (“CCE Projects”) and two
2 BHCIP-funded projects (“BHCIP Projects”).

3 The hearing on the merits was held on October 17, 2025 before the Honorable Gary
4 Slossberg in Department 9 of the El Dorado County Superior Court. Gabriel Ross of Shute,
5 Mihaly & Weinberger LLP appeared on behalf of Petitioners; Joe Little appeared on behalf of
6 the County. On October 24, 2025, the Court, having reviewed the evidence, the briefs and
7 papers submitted, and the arguments of counsel, issued an oral decision (“Oral Decision”)
8 directing that judgment issue in this proceeding.

9 For the reasons set forth in the Oral Decision, IT IS ORDERED AND ADJUDGED
10 THAT:

11 1. All of Petitioners’ and the County’s written Requests for Judicial Notice are
12 granted;

13 2. Final judgment is entered in favor of Petitioners and against the County on the
14 First Cause of Action in the Petition;

15 3. Final judgment is entered in favor of the County and against Petitioners on the
16 Second Cause of Action in the Petition;

17 4. A peremptory writ of mandate directed to the County shall issue under seal of this
18 Court, ordering the County to use “best efforts,” as that term is construed in *California Pines*
19 *Property Owners Assn. v. Pedotti* (2012) 206 Cal.App.4th 384, 394-395, to:

20 a. As to grading permits # 0379717 and # 0380586, and building permits #
21 0379718 and # 0380585 (the “CCE Permits”), promptly facilitate the completion of all internal
22 approvals associated with the CCE Permits and provide to Petitioners and/or third parties, as
23 needed, all information and documentation at the County’s disposal that may be required for
24 third-party approvals;

25 b. Following the completion of all internal approvals, and once all third-party
26 approvals required for County permit issuance are completed, promptly issue the CCE Permits;
27 and

28 c. Take any further actions required to effectuate the CCE Permits.


5. The court finds that neither party is the prevailing party as both parties achieved partial success.

~~5. Petitioners are the prevailing parties and shall recover their costs of suit from the County to the extent allowed by law~~

6. The Court reserves jurisdiction over any claims for costs and attorneys' fees under Code of Civil Procedure § 1021.5, as provided by Rules of Court, rule 3.1702.

7. The Court retains jurisdiction as consistent with law to ensure compliance with the writ issued pursuant to this judgment.

DATED: November 14, 2025



Hon. Gary S. Slossberg
Judge of the El Dorado County Superior Court

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: 224528; 286112; 361825 NAME: Gabriel Ross; Tori Gibbons; Yeji Jung FIRM NAME: Shute, Mihaly & Weinberger LLP STREET ADDRESS: 396 Hayes Street CITY: San Francisco STATE: CA ZIP CODE: 94102 TELEPHONE NO.: (415)552-7272 FAX NO.: 415-552-5816 E-MAIL ADDRESS: ross@smwlaw.com; gibbons@smwlaw.com; yjung@smwlaw.com ATTORNEY FOR (name): Petitioners, NATIVE DIRECTIONS, INC. and HOMECA, INC.	FOR COURT USE ONLY FILED Superior Court of California, County of El Dorado 11/14/2025 By: Ashley Richards, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF EL DORADO STREET ADDRESS: 2927 Meder Road MAILING ADDRESS: CITY AND ZIP CODE: Cameron Park CA 95682 BRANCH NAME: Cameron Park Branch	
PLAINTIFF/PETITIONER: NATIVE DIRECTIONS, INC. and HOMECA, INC. DEFENDANT/RESPONDENT: EL DORADO COUNTY, et al. OTHER:	CASE NUMBER: 25CV2617 JUDICIAL OFFICER: Hon. Gary S. Slossberg
PROPOSED ORDER (COVER SHEET)	DEPT: 9

NOTE: This cover sheet is to be used to electronically file and submit to the court a proposed order. The proposed order sent electronically to the court must be in PDF format and must be attached to this cover sheet. In addition, a version of the proposed order in an editable word-processing format must be sent to the court at the same time as this cover sheet and the attached proposed order in PDF format are filed.

1. Name of the party submitting the proposed order:
NATIVE DIRECTIONS, INC. and HOMECA, INC.
2. Title of the proposed order:
[PROPOSED] PEREMPTORY WRIT OF MANDATE
3. The proceeding to which the proposed order relates is:
 - a. Description of proceeding: October 17, 2025 (Hearing on Merits); October 24, 2025 (Oral Decision)
 - b. Date and time: 2:30 PM
 - c. Place: Cameron Park Branch
2927 Meder Road
Cameron Park, CA 95682

4. The proposed order was served on the other parties in the case.

Note: An editable word version of the [Proposed] Peremptory Writ of Mandate was not emailed to the court because we were informed the court does not accept documents by email.

Gabriel Ross

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME:

NATIVE DIRECTIONS, INC. et al. v. EL DORADO COUNTY, et al.

CASE NUMBER:

25CV2617

**PROOF OF ELECTRONIC SERVICE
PROPOSED ORDER**

1. I am at least 18 years old and **not a party to this action.**

a. My residence or business address is (*specify*):

396 Hayes Street, San Francisco CA, 94102

b. My electronic service address is (*specify*): fpasco@smwlaw.com

2. I electronically served the *Proposed Order (Cover Sheet)* with a proposed order in PDF format attached, and a proposed order in an editable word-processing format as follows:

a. On (*name of person served*) (*If the person served is an attorney, the party or parties represented should also be stated.*):
Joe Little; Andrew Caulfield, attorneys for El Dorado County; Donald Knight, in his Official Capacity As El Dorado County Building Official; KAREN GARNER, in her Official Capacity As El Dorado County Director Of Planning And Building; David Livingston, attorney for El Dorado County

b. To (*electronic service address of person served*): andrew@caulfieldlawfirm.com; joe@caulfieldlawfirm.com;
David.livingston@edcgov.us

c. On (*date*): November 4, 2025

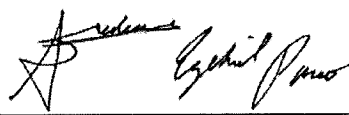
☐ Electronic service of the *Proposed Order (Cover Sheet)* with the attached proposed order in PDF format and service of the proposed order in an editable word-processing format on additional persons are described in an attachment.

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

Date: November 4, 2025

Frederick Ezekiel R. Pasco

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

GABRIEL M.B. ROSS (State Bar No. 224528)
TORI GIBBONS (State Bar No. 286112)
YEJI JUNG (State Bar No. 361825)
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Attorneys for Petitioners
NATIVE DIRECTIONS, INC. and HOMECA,
INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF EL DORADO

NATIVE DIRECTIONS INC., a California
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Petitioners,

v.

EL DORADO COUNTY; DONALD
KNIGHT, in his official capacity as El
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Dorado County Director of Planning and
Building; DOES 1-10, inclusive,

Respondents.

Case No. 25CV2617

**[PROPOSED] PEREMPTORY WRIT
OF MANDATE**

Code Civ. Proc. §§ 1085, 1087; Welf. &
Inst. Code §§ 5960.3(a), 18999.97(l).

Assigned for all purposes to Hon. Gary S.
Slossberg

Action Filed: September 30, 2025

Filed concurrently with [Proposed]
Judgment, Notice of Lodging of [Proposed]
Judgment and [Proposed] Peremptory Writ
of Mandate

TO: RESPONDENTS EL DORADO COUNTY; DONALD KNIGHT, in his official
capacity as El Dorado County Building Official; and KAREN GARNER, in her official capacity
as El Dorado County Director of Planning and Building.

The Court having entered judgment in this proceeding directing that a peremptory writ of
mandate issue from this Court,

YOU ARE HEREBY COMMANDED, on receipt of this writ, to:

1 1. Using “best efforts,” as that term is construed in *California Pines Property*
2 *Owners Assn. v. Pedotti* (2012) 206 Cal.App.4th 384, 394-395, to:

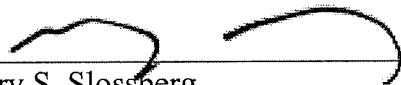
3 a. As to grading permits # 0379717 and # 0380586, and building permits #
4 0379718 and # 0380585 (the “CCE Permits”), promptly facilitate the completion of all internal
5 approvals associated with the CCE Permits and provide to Petitioners and/or third parties, as
6 needed, all information and documentation at the County’s disposal that may be required for
7 third-party approvals;

8 b. Following the completion of all internal approvals, and once all third-party
9 approvals required for County permit issuance are completed, promptly issue the CCE Permits;
10 and

11 c. Take any further actions required to effectuate the CCE Permits.

12 2. File and serve a return to the writ within five business days following the
13 completion of the duties above. The return shall specify the actions taken to comply with the
14 terms of this peremptory writ of mandate.

15
16 DATED: November 14, 2025

17
18 
19 _____
20 Hon. Gary S. Slossberg
21 Judge of the El Dorado County Superior Court
22
23
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27
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GABRIEL M.B. ROSS (State Bar No. 224528)
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NATIVE DIRECTIONS, INC. and HOMECA,
INC.

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Respondents.

Case No. 25CV2617

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Code Civ. Proc. §§ 1085, 1087; Welf. &
Inst. Code §§ 5960.3(a), 18999.97(l).

Assigned for all purposes to Hon. Gary S.
Slossberg

Action Filed: September 30, 2025

Filed concurrently with [Proposed]
Judgment, Notice of Lodging of [Proposed]
Judgment and [Proposed] Peremptory Writ
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9 approvals required for County permit issuance are completed, promptly issue the CCE Permits;
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13 completion of the duties above. The return shall specify the actions taken to comply with the
14 terms of this peremptory writ of mandate.

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16 DATED: November 14, 2025

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20 Hon. Gary S. Slossberg
21 Judge of the El Dorado County Superior Court
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Attorneys for Petitioners
NATIVE DIRECTIONS, INC. and HOMECA,
INC.

ELECTRONICALLY FILED

Superior Court of California,
County of El Dorado

09/30/2025 at 05:12:21 PM

By: Tara Young, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF EL DORADO

NATIVE DIRECTIONS INC., a California
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California nonprofit organization

Petitioners,

v.

EL DORADO COUNTY; DONALD
KNIGHT, in his official capacity as El
Dorado County Building Official; KAREN
GARNER, in her official capacity as El
Dorado County Director of Planning and
Building; DOES 1-10, inclusive,

Respondents.

Case No. **25CV2617**

**VERIFIED PETITION FOR
ALTERNATIVE AND PEREMPTORY
WRITS OF MANDATE**

Code Civ. Proc. §§ 1085, 1087; Welf. &
Inst. Code §§ 5960.3(a), 18999.97(l).

Filed concurrently with Application For
Alternative Writ Of Mandate; Petitioners'
Memorandum Of Points And Authorities
In Support Of Petition For Alternative And
Peremptory Writs Of Mandate; Request
For Judicial Notice In Support Of Petition
For Alternative And Peremptory Writs Of
Mandate; [Proposed] Alternative Writ Of
Mandate

HEARING DATE: 10-31-2025
TIME: 8:30 A.M.
DEPT. 9

Petitioners Native Directions, Inc. and HomeCA, Inc. ("Petitioners") allege as follows:

INTRODUCTION

1. This action against El Dorado County ("County") challenges the County's willful and unlawful withholding of ministerial permits for Petitioners' projects, which the County has no authority to withhold.

2. Petitioners are advancing four Native housing and services projects in El Dorado County. All four of these Projects, defined below, have received state funding that exempts them from local discretionary review and the California Environmental Quality Act (Pub. Res. Code § 21000 et seq., “CEQA”). *See* Welf. & Inst. Code §§ 5960.3(a), 18999.97(l). Petitioners have been waiting over a year for the County to issue permits that are by statute ministerial and exempt from CEQA. During this period, County staff and representatives have been willfully and unlawfully obstructing what the Legislature intended to be a streamlined process.

3. Petitioners submitted applications for building and grading permits for the Projects (together, the “Permits”) as early as February 21, 2024, with the most recent applications submitted on December 30, 2024.

4. The County's Building Division ("Building") approved all of the building and grading Permits for each of the four Projects (defined below), with the first approval in July 2024 and the last in June 2025.

5. Despite this approval, the County refused, and continues to refuse, to issue the Permits.

6. Under the plain language of the applicable statutes, the County has no authority to withhold any of the Permits for any of the four Projects. The County's refusal to issue them appears to be an attempt to run out the clock on Petitioners' state funding, which could be terminated for two projects if permits are not secured and ground broken by the end of 2025, and which expires altogether as early as the end of 2026. The County's actions clearly constitute unlawful obstruction of state law and a failure to perform a mandatory duty.

PARTIES

7. Petitioner Native Directions, Inc. (“Native Directions”) is California mutual benefit corporation that provides culturally relevant and client-centered treatment services for Native Americans and others experiencing chemical dependency. Native Directions is a tribal entity under Welfare and Institutions Code section 5960.35(b)(2), specifically an urban Indian organization as defined in section 1603 of title 25 of the United States Code. Native Directions has a clear, present, and beneficial right to the County’s compliance with the statutory

1 requirements of the state funding programs, as the County's failure to act jeopardizes Native
2 Directions' funding and puts the entirety of the four projects at risk. The maintenance and
3 prosecution of this action will confer a substantial benefit on the public by enabling the
4 legislative intent of the state programs to provide critical services to underserved Native
5 populations.

6 8. Petitioner HomeCA, Inc. ("HomeCA") is a California public benefit corporation
7 dedicated to ending the state-wide homelessness crisis and assisting individuals in securing
8 transitional and permanent housing in the least restrictive environment. As Native Directions'
9 partner on the four Projects, HomeCA has the same clear, present, and beneficial right to the
10 County's compliance with the statutory requirements of the state funding programs.

11 9. Respondent El Dorado County, a political subdivision of the State of California, is
12 responsible for issuing building and grading permits in El Dorado County in accordance with
13 applicable state and local laws, including the state funding programs' enabling legislation.

14 10. Respondent Donald Knight is the Acting Deputy Director of Building/Building
15 Official, responsible for issuing building permits under the El Dorado County Code. El Dorado
16 County Code §§ 2.18.050, § 110.16.010, Cal. Code Regs., tit. 24, § 1.8.4.1.

17 11. Respondent Karen Garner is the Director of the County Planning and Building
18 Department ("Planning"), responsible for issuing grading permits under the El Dorado County
19 Code. El Dorado County Code §§ 110.14.120-130.

20 12. Petitioner does not know the true names and capacities, whether individual,
21 corporate, associate, or otherwise, of Respondents Doe 1 through Doe 10, inclusive, and
22 therefore sues said Respondents under fictional names. Petitioner alleges, upon information and
23 belief, that each fictionally named Respondent is responsible in some manner for committing the
24 acts upon which this action is based. Petitioner will amend this Petition to show their true names
25 and capacities if and when they have been ascertained.

26 JURISDICTION AND VENUE

27 13. This Court has jurisdiction over the matters alleged in this Petition pursuant to
28 Code of Civil Procedure section 1085.

1 14. Venue is proper in this Court because the cause of action alleged in this Petition
2 arose in El Dorado County, and would be carried out in the County.

3 15. The County's refusal to issue the Permits rests upon an incorrect understanding of
4 the governing statutes, which cannot be resolved without judicial intervention. On September
5 19, 2025, the County stated that it would "act on the subject permit applications" only "[u]pon
6 resolution" of its concerns regarding zoning and CEQA. Petitioners' Request for Judicial Notice
7 ("RJN"), Ex. E at 2. These concerns, however, are legally irrelevant to the County's duty to
8 issue the Permits given the statutory exemptions. But because the County is misreading the plain
9 language of the funding statutes, the only way to resolve their concerns is through writ relief.
10 The County's refusal to issue the Permits pending the "resolution" of inapplicable matters is a
11 constructive denial of the Permits. *See Powell v. County of Humboldt* (2014) 222 Cal.App.4th
12 1424, 1434-35 (correspondence "sufficiently established a final, definitive decision" that no
13 building permit would be issued without easement, satisfying ripeness requirement). As a
14 "purely legal issue" of statutory interpretation, on which the facts have "little bearing," this
15 dispute is fit for judicial decision. *See Security National Guaranty, Inc. v. California Coastal*
16 *Com.* (2008) 159 Cal.App.4th 402, 418 (interpretation of scope of commission's authority under
17 Coastal Act was legal question fit for immediate review). If this Court withholds consideration
18 of this action, the continued delay would jeopardize funding for and the viability of the Projects,
19 resulting in significant hardship for Petitioners. Thus, this action is ripe for judicial review.

20 16. Petitioners have performed any and all conditions precedent to filing this Petition
21 and have exhausted any and all available administrative remedies to the extent required by law.
22 The County has unreasonably delayed issuance of the Permits for over a year in some cases, and
23 constructively denied the Permits as discussed above. Thus, the County's administrative
24 proceedings on this matter have come to a halt, and Petitioners have exhausted their
25 administrative remedies. *See Hollon v. Pierce* (1967) 257 Cal.App.2d 468, 476 (petitioner
26 exhausted remedies where agency proceedings had come to a halt).

27 17. Petitioners have no plain, speedy, or adequate remedy in the course of ordinary
28 law unless this Court grants the requested writ of mandate to require the County to issue the

1 requested permits. In the absence of such remedies, the County’s refusal to act will cause
2 Petitioners to miss construction milestones specified in their funding agreements, which will
3 jeopardize not only their funding but their ability to complete the Projects at all. *See* ¶ 41 below.

4 **STATEMENT OF FACTS**

5 18. In 2021, the state Legislature enacted two laws to support infrastructure projects
6 addressing the historic gaps and growing demand for services in the state’s behavioral health
7 and long-term care continuum. *See* Assem. Bill Nos. 133 & 172 (2021-2022 Reg. Sess.) (“AB
8 133” and “AB 172”). AB 133 authorized the California Department of Health Care Services
9 (“DHCS”) to establish the Behavioral Health Continuum Infrastructure Program (“BHCIP”) and
10 award state funding to construct, acquire, and expand properties and invest in mobile crisis
11 infrastructure related to behavioral health. AB 133 § 355; Welf. & Inst. Code §§ 5960-5960.05.
12 AB 172 authorized the California Department of Social Services (“CDSS”) to establish the
13 Community Care Expansion program (“CCE”) as a companion effort to award funds focused on
14 the acquisition, construction, and rehabilitation of adult and senior care facilities that serve
15 adults experiencing or at risk of homelessness. AB 172 § 27; Welf. & Inst. Code §§ 18999.97-
16 18999.98. These combined programs represent the largest provision of resources for such
17 infrastructure in the state’s history and an unprecedented opportunity to effect meaningful,
18 sustainable change in the behavioral health and long-term care continuums in California.

19 19. Aimed at addressing state priorities, BHCIP and CCE are both designed to: invest
20 in behavioral health and community care options that advance racial equity; address urgent gaps
21 in the care continuum for people with behavioral health conditions, including adults with
22 disabilities and children and youth; meet the needs of vulnerable populations with the greatest
23 barriers to access, including people experiencing homelessness; and ensure care can be provided
24 in the least restrictive settings to support community integration, choice, and autonomy.

25 20. The Legislature provided a streamlined process that should ensure timely
26 completion of these urgently needed projects. Under their enabling legislation, any projects
27 funded by BHCIP or CCE are exempt from local zoning requirements and CEQA review and
28

are subject to ministerial approval. Welf. & Inst. Code § 5960.3(a) (BHCIP projects); *id.* § 18999.97(l) (CCE projects).

21. In 2022, Petitioners jointly applied for and were awarded grants for four projects, two under CCE and two under BHCIP (together, the “Projects”).

22. The CCE projects (“CCE Projects”) are:

- a. an Adult Residential Facility for Native Women in Rescue, California: a 30-bed adult residential facility for Native women (“ARF Women”); and
- b. an Adult Residential Facility for Native Men in Shingle Springs, California: a 30-bed adult residential facility for Native men (“ARF Men”).

23. The BHCIP projects (“BHCIP Projects”) are:

- a. a Youth Perinatal Facility in Rescue, California: a 40-bed perinatal residential facility for Native pregnant youth, young mothers, and their infants (“Youth Perinatal Facility”); and
- b. a Wellness Center in Shingle Springs, California: a center promoting traditional healing practices (“Wellness Center”).

The CCE Projects

24. In 2024, Petitioners submitted applications for grading and building permits to the County for the CCE Projects, all of which have been approved by Building.

a. For ARF Men, Petitioners applied for a grading permit (# 0379717) and a building permit (# 0379718) on November 13, 2024. Building approved the permits on April 18, 2025. RJN, Ex. A at 40, 49.

b. For ARF Women, Petitioners applied for a grading permit (# 0380586) and a building permit (# 0380585) on December 30, 2024. Building approved these permits on June 2, 2025. RJN, Ex. A at 55, 62.

25. The County has refused to issue any of the approved permits for the CCE Projects (the “CCE Permits”).

26. Throughout their discussions with the County, Petitioners have consistently explained that the CCE Projects are exempt from zoning and CEQA review. For example, on

January 7, 2025, Petitioners communicated to the County that Welfare and Institutions Code section 18999.97(l) established zoning and CEQA exemptions for the CCE Projects.

The BHCIP Projects

27. In 2024, Petitioners submitted grading and building permit applications to the County for the BHCIP Projects, all of which have been approved by Building.

a. For the Youth Perinatal Facility, Petitioners applied for a grading permit (# 0372970) on February 21, 2024, and a building permit (# 0374255) on April 16, 2024. Building approved the permits on July 30, 2024, and August 30, 2024. RJN, Ex. A at 9, 17.

b. For the Wellness Center, Petitioners applied for both a grading permit (# 0376039) and a building permit (# 0376040) on June 26, 2024. Building approved the permits on November 25, 2024, and November 22, 2024, respectively. RJN, Ex. A at 26, 34.

28. The County has refused to issue any of the approved permits for the BHCIP Projects (the “BHCIP Permits”).

29. Throughout their discussions with the County, Petitioners have explained that the BHCIP Projects are exempt from zoning and CEQA review. For example, in letters to the County dated October 31, 2024, and November 6, 2024, Petitioners asserted the ministerial nature of the BHCIP Projects pursuant to Welfare and Institutions Code section 5960.3(a). As Petitioners stated, the statute exempts the BHCIP Projects from “any other discretionary reviews or approvals,” precluding zoning review as well as CEQA review. *See* CEQA Guidelines § 15268¹ (ministerial projects not subject to CEQA review).

30. On October 31, 2024, and November 6, 2024, Petitioners formally requested expedited review for the Youth Perinatal Facility and Wellness Center, respectively, and clarified the source of the CEQA exemptions as Welfare and Institutions Code section 5960.3(a) and CEQA Guidelines § 15268.

31. On November 11, 2024, Assemblymember James Ramos, the Chair of the California Native American Legislative Caucus and member of the Assembly Budget

¹ The “CEQA Guidelines” are found at Cal. Code Regs., tit. 14, § 15000 et seq.

1 Committee that introduced the relevant legislation, sent a letter to Board Chair Wendy Thomas
2 expressing his “strong support” for the Youth Perinatal Facility. Confirming Petitioners’
3 understanding, he explained that the BHCIP statute “clearly mandates that projects like [the
4 Youth Perinatal Facility] be prioritized to serve vulnerable populations and has designated this
5 residential facility as a ministerial project, *exempting it from local zoning and CEQA*
6 *requirements to expedite development*” (emphasis added). Assemblymember Ramos also
7 highlighted the urgent gap in care that these Projects fill: El Dorado County has “43 residential
8 facilities serving various vulnerable populations, yet none of them serve the specific needs of
9 Native American pregnant teens” as the Youth Perinatal Facility would.

10 ***Community opposition and County complicity***

11 32. Given the ministerial nature of the Permits, state law required the County to issue
12 them after Building approval. However, the County is unlawfully blocking the issuance of the
13 Permits, apparently due to residents’ complaints, which legally have no place in the statutory
14 ministerial approval process.

15 33. A group of local residents operating as “Rescue Deer Valley” organized
16 opposition to the Youth Perinatal Facility and ARF Women, located in Rescue, California. This
17 group has lobbied the Board, especially Supervisor Lori Parlin, to stop the two Rescue projects,
18 ostensibly on grounds such as wildfire and traffic risks and strain on infrastructure.

19 34. However, both Rescue Deer Valley’s materials and other public comments reveal
20 the underlying prejudice toward the population the Projects would serve. Rescue Deer Valley’s
21 website characterizes the projects in Rescue as “ruining communities” and lists “unfunded drain
22 on county services” and “potential spike in crime” among its concerns. One public comment
23 stated, “the reality about addiction is that it makes it’s [sic] victims inherently prone to crime”
24 and “certain drugs...directly cause violent behavior.” Another comment called the project a
25 “nightmare” that would cause “who knows even worse interactions with the local residents.”

26 35. Petitioners have repeatedly reached out to County officials to engage in dialogue,
27 clarify the County’s ministerial legal obligations, and offer good-faith responses to resident
28 concerns, which Petitioners had no legal obligation to address. In addition to thorough

1 correspondence, Petitioners met with multiple County officials throughout 2024, including
2 Supervisors Lori Parlin and Brooke Laine, late Supervisor John Hidahl, and Health and Human
3 Services Chief Assistant Director Jim Diel. Petitioners worked with Supervisor Hidahl to
4 develop measures that would address environmental and infrastructure concerns for the projects
5 in Rescue, especially fire safety—again, in good faith efforts at collaboration, as Petitioners had
6 no obligation to develop these measures due to the Projects’ statutory exemptions. Supervisor
7 Laine also provided guidance that Petitioners willingly incorporated into their plans.

8 36. Supervisor Parlin, however, has continually expressed hostility to the Projects,
9 which are located in her district, and leveraged the Board’s influence to improperly obstruct the
10 issuance of the Permits. For example, on January 30, 2024, Supervisor Parlin recommended the
11 Board lobby state representatives to oppose the Projects. On July 19, 2024, after several written
12 exchanges seeking to clarify misunderstandings, Petitioners met with Supervisor Parlin. When
13 they asked about the County’s concerns, Supervisor Parlin’s position was that “correspondence
14 is now between legal counsels.”

15 37. On October 18, 2024, after months of correspondence with Supervisor Parlin,
16 Director Garner, and other County staff, and multiple inquiries by Petitioners on the status of the
17 Permits, Director Garner wrote, “The County is not yet prepared to publicly concur that your
18 project is exempt from CEQA, but we are continuing to evaluate the matter in order to reach a
19 final determination.”

20 38. On December 11, 2024, Director Garner wrote that the County required
21 “additional time to consider how to proceed” due to the “new arguments” for CEQA exemption,
22 and the upcoming holiday season.

23 ***Continued delays into 2025***

24 39. Planning continued to delay issuance of the Permits throughout 2025. In March
25 2025, Director Garner requested an additional 30 days to determine whether the CEQA
26 exemptions applied. After 30 days, Planning still failed to act on the Permits.

27 40. County staff themselves have admitted that the cause of this unlawful delay is the
28 (improper) influence of the Board. On April 23, 2025, Planning staffer Aaron Mount stated that

1 “Planning is waiting for direction from County Counsel and the Board of Supervisors.” When
2 Petitioners asked for clarification, Mount confirmed that Planning was waiting on direction
3 before even beginning the decision process to consider issuing the Permits.

4 41. The unlawful interference from County leadership in what should be a streamlined
5 ministerial process is delaying critical care for the Native communities who need these Projects
6 the most. Not only has the County impeded Petitioners’ ability to address these community
7 needs, it has jeopardized the Projects’ very existence. The state may terminate funding for the
8 BHCIP Projects if construction has not commenced by December 31, 2025, and funding for the
9 Wellness Center will expire altogether as early as December 31, 2026. RJN, Ex. D at 1; Ex. B at
10 2. Funding for the Youth Perinatal Facility will expire on June 30, 2027, and funding for the
11 CCE Projects will expire on March 31, 2029. RJN, Ex. B at 10; Ex. C at 1. The County appears
12 eager to exploit these rapidly approaching deadlines through its strategic delay.

13 42. On September 5, 2025, Petitioners’ counsel sent the County a letter reiterating the
14 Projects’ zoning and CEQA exemptions and the ministerial nature of the Permits. The letter
15 demanded the County issue the Permits by September 19, 2025.

16 43. On September 19, 2025, the County sent Petitioners’ counsel a letter stating that it
17 “is not currently in a position to issue the subject permits or to publicly concur that the BHCIP
18 funded projects are exempt from CEQA” because the Projects “do not appear to meet the
19 County’s zoning requirements” and the County “do[es] not believe that Native Directions /
20 HomeCA’s BHCIP funded projects meet § 5960.3(b)’s requirements to be exempt from
21 CEQA.” RJN, Ex. E at 1, 2. The County did not challenge Petitioners’ assertion that the CCE
22 Projects are exempt from CEQA. *Id.*

23 44. The County has failed to issue ministerial permits it has no authority to withhold.
24 Thus, Petitioners file this action to compel the County’s compliance with its statutory duties and
25 to compel the issuance of all Permits for the Projects.

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1 **FIRST CAUSE OF ACTION**

2 **Writ of Mandate to Compel Issuance of Ministerial Permits for CCE Projects**
3 **Welf. & Inst. Code § 18999.97(l); Civ. Proc. Code § 1085**
4 **(Against All Respondents)**

5 45. Petitioners reallege and incorporate by reference the preceding paragraphs in their
6 entirety.

7 46. The County has a clear, present, and ministerial duty to issue the CCE Permits
8 under Welfare and Institutions Code section 18999.97(l).

9 47. Welfare and Institutions Code section 18999.97(l), codifying AB 172, states that
10 any funded project “shall be deemed consistent and in conformity with any applicable local
11 plan, standard, or requirement, and ... shall be allowed as a permitted use..., shall not be subject
12 to a conditional use permit, discretionary permit, or any other discretionary reviews or
13 approvals, and shall be deemed as a ministerial action under Section 15628 of Title 14 of the
14 California Code of Regulations.”

15 48. By the plain language of the statute, the County has no discretionary authority
16 over the CCE Projects; they are subject only to ministerial review and approval. The County has
17 completed its review of the CCE Permits and has approved them. Thus, the County has a present
18 ministerial duty to issue those permits.

19 49. The County violates its duty by continuing to delay issuing the CCE Permits.
20 Petitioners seek to compel the County to fulfill its ministerial duty and issue the CCE Permits.

21 **SECOND CAUSE OF ACTION**

22 **Writ of Mandate to Compel Issuance of Ministerial Permits for BHCIP Projects**
23 **Welf. & Inst. Code § 5960.3(a); Pub. Res. Code § 21080(b)(1); Civ. Proc. Code § 1085**
24 **(Against All Respondents)]**

25 50. Petitioners reallege and incorporate by reference the preceding paragraphs in their
26 entirety.

27 51. The County has a clear, present, and ministerial duty to issue the BHCIP Permits
28 under Welfare and Institutions Code section 5960.3(a).

52. Welfare and Institutions Code section 5960.3(a), codifying AB 133, states that any
funded project “shall be deemed consistent and in conformity with any applicable local plan,

1 standard, or requirement, and allowed as a permitted use...and shall not be subject to a
2 conditional use permit, discretionary permit, or any other discretionary reviews or approvals.”

3 53. By the plain language of the statute, the County has no discretionary authority
4 over the BHCIP Projects; they are subject only to ministerial review and approval. The County
5 has completed its review of the BHCIP Permits and has approved them. Thus, the County has a
6 present ministerial duty to issue the BHCIP Permits.

7 54. The County violates its duty by continuing to refuse to issue the BHCIP Permits. It
8 claims that it cannot issue the BHCIP Permits in part because the Projects are subject to CEQA.
9 *See* RJN, Ex. E at 2. CEQA, however, does not apply to ministerial projects. Pub. Resources
10 Code § 21080(b)(1) (CEQA “does not apply to...[m]inisterial projects proposed to be carried
11 out or approved by public agencies”); CEQA Guidelines § 15268(a) (“Ministerial projects are
12 exempt from the requirements of CEQA.”); *Mission Peak Conservancy v. State Water*
13 *Resources Control Bd.* (2021) 72 Cal.App.5th 873, 882 (“CEQA does not regulate ministerial
14 decisions—full stop.”)

15 55. Petitioners seek to compel the County to fulfill its ministerial duty and issue the
16 BHCIP Permits.

17 PRAYER FOR RELIEF

18 WHEREFORE, Petitioners pray for relief as follows:

19 1. For alternative and peremptory writs of mandate directing the County to issue all
20 permits for the CCE Projects;

21 2. For alternative and peremptory writs of mandate directing the County to issue all
22 permits for the BHCIP Projects;

23 3. For costs of suit;

24 4. For attorneys’ fees as authorized by Code of Civil Procedure section 1021.5 and
25 other provisions of law; and

26 5. For such other and further relief as the Court deems just and proper.
27
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1 DATED: September 30, 2025

SHUTE, MIHALY & WEINBERGER LLP

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4 By: _____

GABRIEL M.B. ROSS

TORI GIBBONS

YEJI JUNG

7 Attorneys for Native Directions, Inc. and
8 HomeCA, Inc.

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