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8 DISTRICT ADVOCACY GROUP (PPHDAG), and PEOPLE'S PARK COUNCIL (PPC)

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF ALAMEDA — GENERAL JURISDICTION

11 MAKE UC A GOOD  
12 NEIGHBOR, PEOPLE'S  
13 PARK HISTORIC DISTRICT  
14 ADVOCACY GROUP  
15 (PPHDAG), AND PEOPLE'S  
16 PARK COUNCIL (PPC),  
17 Petitioners and Plaintiffs,  
18 vs.

19 REGENTS OF THE UNIVERSITY  
20 OF CALIFORNIA, as such and  
21 D.B.A. UNIVERSITY OF  
22 CALIFORNIA AT BERKELEY,  
23 Respondent and Defendant.

Case No. RG21105966

FOURTH AMENDED PETITION FOR  
WRIT OF MANDAMUS, FOR  
INJUNCTIVE AND DECLARATORY  
RELIEF, AND COMPLAINT FOR  
BREACH OF CONTRACT AND  
BREACH OF ORDINANCES, FOR  
ENFORCEMENT OF LAW, AND  
FOR ATTORNEY FEES AND COSTS

CCP §§ 1084, et seq.,  
Civil Code §§ 3300, et seq.

24  
25 TO THE COURT, THE RESPONDENT, AND ITS ATTORNEY OF RECORD:

1       **FOURTH AMENDED PETITION FOR WRIT OF MANDAMUS AND COMPLAINT**

2           COME NOW THE PETITIONERS AND PLAINTIFFS, MAKE UC A  
3       GOOD NEIGHBOR (MUCGN), PEOPLE'S PARK HISTORIC DISTRICT  
4       ADVOCACY GROUP (PPHDAG), and PEOPLE'S PARK COUNCIL (PPC), and  
5       hereby respectfully submit to the Court their verified Fourth Amended Petition for  
6       peremptory or alternative Writ of Mandamus and for other appropriate equitable relief,  
7       and Complaint for Breach of Contract, for Breach of Ordinances, and related matters, as  
8       follows:

9  
10               **MEMORANDUM OF POINTS AND AUTHORITIES**

11           1. The Petitioners and Plaintiffs, MAKE UC A GOOD NEIGHBOR, PEOPLE'S PARK  
12       HISTORIC DISTRICT ADVOCACY GROUP (PPHDAG), and PEOPLE'S PARK COUNCIL  
13       (PPC) herein seek legal and equitable relief from a series of violations of public law,  
14       breaches of promise, and breaches of contract. The Respondent and Defendant REGENTS  
15       OF THE UNIVERSITY OF CALIFORNIA D.B.A. UNIVERSITY OF CALIFORNIA AT BERKELEY is  
16       herein named as a necessary and indispensable party in interest to this case, pursuant to  
17       Code of Civil Procedure §389 and the orders the above-entitled Court dated January 6,  
18       2022, and March 24, 2022, by Hon. FRANK ROESCH, Judge presiding, and as a Defendant  
19       in causes of action for Breach of Contract as to Plaintiff PEOPLE'S PARK COUNCIL.  
20  
21

22                       **I. INTRODUCTION**

23           2. The Respondent and Defendant REGENTS OF THE UNIVERSITY OF  
24       CALIFORNIA D.B.A. UNIVERSITY OF CALIFORNIA AT BERKELEY, collaborated with and  
25       induced the former Respondents and Defendants, BERKELEY CITY COUNCIL, MAYOR  
26

1 JESSE ARREGUIN, and THE CITY OF BERKELEY (hereinafter referred to collectively as the  
2 “City Respondents”), and each of them, to violate the Ralph M. Brown Act, California  
3 Government Code §§ 54950, et seq., by deciding to approve a settlement agreement in  
4 closed session, a decision that could only be lawfully adopted in open session, then  
5 failing to ratify or report the decision in open session, and failing to timely disclose the  
6 actual content of the purported settlement agreement.  
7

8 3. In so doing, the City entities, and each of them, exceeded their authority to  
9 act in closed session under the Ralph M. Brown Act, California Government Code  
10 §54956.9; took action in a then secret agreement and closed session that was required to  
11 have been considered and acted upon, if at all, in open session, per Trancas Property  
12 Owners Association v. City of Malibu (2006), 138 Cal.App.4th 172, 186-187; failed to  
13 report action taken in closed session, as required under Government Code §54957.1;  
14 incurred criminal and civil liability under Government Code §54959 and Government  
15 Code §54960, respectively; and incurred liability for Petitioners’ costs and fees incurred  
16 herein, under Government Code §54960.5. In so doing, the said City Respondents also  
17 abrogated the rights, responsibilities and powers of the CITY OF BERKELEY, with the  
18 complicity and at the behest of Respondent and Defendant REGENTS OF THE UNIVERSITY  
19 OF CALIFORNIA D.B.A. UNIVERSITY OF CALIFORNIA AT BERKELEY (“UC”).  
20  
21

22 3. The Respondent and Defendant REGENTS OF THE UNIVERSITY OF  
23 CALIFORNIA, acting by and through the Campus Administration of the UNIVERSITY OF  
24 CALIFORNIA AT BERKELEY, especially recently, have knowingly and willfully violated the  
25 essential and material terms and provisions of binding written and oral agreements  
26

1 negotiated and concluded with the Petitioner and Plaintiff PEOPLE’S PARK COUNCIL,  
2 acting on its own behalf and that of the PEOPLE'S PARK PROJECT/ NATIVE PLANT FORUM  
3 and other responsible student and community organizations.

4 I. JURISDICTION AND VENUE.

5  
6 4. The Petitioners, MAKE UC A GOOD NEIGHBOR, PEOPLE'S PARK HISTORIC  
7 DISTRICT ADVOCACY GROUP (PPHDAG), and PEOPLE’S PARK COUNCIL (PPC) are non-  
8 profit organizations, constituted in accordance with Internal Revenue Code, 26 U.S. Code  
9 §501(c) (3), and related provisions of the Federal Internal Revenue Code of 1986, based  
10 and active in Berkeley, Alameda County, California.

11 5. The Respondent REGENTS OF THE UNIVERSITY OF CALIFORNIA D.B.A.  
12 UNIVERSITY OF CALIFORNIA AT BERKELEY(herein referred to as “UC”) is a tax-supported  
13 public institution of higher learning, established in accordance with the Constitution of  
14 the State of California, controlled and administered by the Board of Regents of the  
15 University of California and by responsible system-wide and campus administrators,  
16 including the campus administration of the UC Berkeley campus, in Berkeley, California.

17  
18 6. The former Respondents BERKELEY CITY COUNCIL and MAYOR JESSE  
19 ARREGUIN are the current responsible elected officials of the City of Berkeley, California,  
20 presiding and doing business in Berkeley, Alameda County, California. The former  
21 Respondent CITY OF BERKELEY is an incorporated charter city and is located in Alameda  
22 County, California.

23  
24 7. All pertinent facts, circumstances, events, and issues described in this  
25 Petition are directly related to or designed to address matters arising in Berkeley,  
26

1 Alameda County, California, and involving the acts and omissions of the City  
2 Respondents, as well as those of Respondent and Defendant UC.

3 8. Accordingly, the above-entitled Court has jurisdiction over this matter, and  
4 venue is proper, because all parties reside and are headquartered principally within  
5 Alameda County, and the causes, events, facts and circumstances herein alleged have  
6 arisen entirely within said County.  
7

8 **II. REQUEST FOR JUDICIAL NOTICE.**

9  
10 9. The Petitioners, MAKE UC A GOOD NEIGHBOR, PEOPLE'S PARK HISTORIC  
11 DISTRICT ADVOCACY GROUP (PPHDAG), and PEOPLE'S PARK COUNCIL (PPC), now  
12 hereby respectfully request that Judicial Notice be taken of the "Order Granting Petitions  
13 for Writ of Mandate," signed and filed on July 9, 2021, by Hon. BRAD SELIGMAN, Judge  
14 of Alameda Superior Court, in Save Berkeley's Neighborhoods v. Regents of the  
15 University of California, and City of Berkeley v. Regents of the University of California,  
16 Alameda Superior Court Case No. RG1902887 and RG19023058, respectively, and the  
17 related record and rulings in said consolidated or coordinated proceedings.  
18

19 **III. REQUEST FOR EXPEDITED HEARING**

20  
21 10. Because the Respondent REGENTS OF THE UNIVERSITY OF CALIFORNIA  
22 D.B.A. UNIVERSITY OF CALIFORNIA AT BERKELEY (UC), has now executed, ratified, and  
23 commenced to implement an unlawfully considered and approved plan in direct violation  
24 of solemn written and verbal agreements, resulting in a *fait accomplis* to the legal and  
25 practical detriment of the Petitioners, as well as to UC students, faculty, and the people of  
26

1 Berkeley, resulting in foreseeably profound, irreparable and irreparable harm to the  
2 community, environment, and neighborhoods of Berkeley, California, the Petitioners,  
3 MAKE UC A GOOD NEIGHBOR, PEOPLE'S PARK HISTORIC DISTRICT ADVOCACY GROUP  
4 (PPHDAG), and PEOPLE'S PARK COUNCIL (PPC) now respectfully request that hearing of  
5 this Petition be set as soon as possible, and that Respondent UC be stayed and restrained  
6 from taking further action in furtherance of their plans, including UC's so-called "Long-  
7 Range Development Plan (LRDP)" to further harm the trees, grounds, environment,  
8 vegetation, wildlife, and human users of People's Park, in Berkeley, California, pending  
9 said hearing. All parties will ultimately benefit from resolution or adjudication of this  
10 Petition and Complaint upon its merits and on a reasonably expedited basis, before  
11 permanent harm occurs.  
12

13  
14 IV. INTRODUCTORY ALLEGATIONS AND FACTUAL BACKGROUND.

15 11. The Petitioners, MAKE UC A GOOD NEIGHBOR and PEOPLE'S PARK  
16 HISTORIC DISTRICT ADVOCACY GROUP (PPHDAG), are non-profit community and  
17 neighborhood organizations in Berkeley, California, presently involved in formulating and  
18 promoting favorable consideration of public policies generally designed to benefit and  
19 further environmental interests, social and human values, open space, historical  
20 preservation, and quality of life in the Berkeley, California area. Petitioners are especially  
21 concerned and involved in dealing with and opposing many aspects of the Long-Range  
22 Development Plan (LRDP) espoused by the University of California (UC Berkeley  
23 Campus) and formerly opposed by, in part or in whole, by voters and leaders of the City of  
24 Berkeley. As active and vocal participants in public advocacy and debate on the very  
25  
26

1 issues addressed in this Petition, the Petitioners have standing to bring this action.  
2

3 12. On or about the morning of July 12, 2021, said Petitioners, through their  
4 attorney of record in the above-entitled action, caused a demand letter dated July 9, 2021,  
5 to be conveyed both by email and U.S. Mail to the City Clerk, Mayor and City Council of  
6 the City of Berkeley, California. Said letter is attached hereto and incorporated herein as  
7 Petitioners' Exhibit A. Citing Government Code §54956.9, Trancas Property Owners  
8 Association v. City of Malibu (2006), 138 Cal.App.4th 172, and other relevant legal  
9 authorities, the demand letter warned of taking certain actions in closed session, and  
10 emphasized the need to take certain actions in a noticed and open session in accordance  
11 with the terms and provisions of the Ralph M. Brown Act, California Government Code §§  
12 54950, et seq. See Petitioner' Exhibit A. To date, the Petitioners have received no letter or  
13 other communication in response to the demand letter attached as Exhibit A, from the  
14 Respondents or anyone else on behalf of the City of Berkeley.  
15

16 13. The former Respondents, BERKELEY CITY COUNCIL, MAYOR JESSE  
17 ARREGUIN, and THE CITY OF BERKELEY, and each of them, noticed a closed session of the  
18 Berkeley City Council, set to be conducted on Tuesday, July 13, 2021, at 4:00 p.m. The  
19 "Revised Proclamation Calling for a Special Meeting of the Berkeley City Council,"  
20 including agenda for July 13, 2021, at 4:00 p.m., is attached hereto and incorporated herein  
21 as Petitioners' Exhibit B.  
22

23 14. Said former Respondents, and each of them, issued another "Annotated  
24 Agenda Berkeley City Council Special Meeting" for Tuesday, July 13, 2021, at 4:00 p.m.,  
25  
26

1 presumably following conclusion of the meeting(s). The “Annotated Agenda” for July 13,  
2 2021, at 4:00 p.m., is attached hereto and incorporated herein as Petitioners’ Exhibit C.  
3

4 15. The Berkeley City Council meeting agendas for July 13, 2021, at 4:00  
5 p.m., as set forth in both Petitioners’ Exhibits B and C, indicate that the “Closed Session”  
6 would address three (3) cases: 1. “(a) City of Berkeley v. Regents of the University of  
7 California, Alameda Superior Court Case No. RG19023058”; 1. “(b) Save Berkeley’s  
8 Neighborhoods v. Regents of the University of California, Alameda Superior Court Case  
9 No. RG19006256” [sic]; and 2) “The City Council will consider whether to initiate a  
10 lawsuit against the Regents of the University of California related to the Long Range  
11 Development Plan for the Berkeley Campus and related actions. See Petitioners’ Exhibit  
12 B, at page 2, and Exhibit C, at page 2. Note: The case number for Save Berkeley’s  
13 Neighborhoods v. Regents of the University of California appears to be Alameda Superior  
14 Court Case No. RG19022887 [not No. RG19006256, as reflected in the Berkeley City  
15 Council agendas attached as Petitioners’ Exhibits B and C].  
16  
17

18 16. For both the “Closed Session” and the “Open Session,” the Respondents’  
19 “Annotated Agenda Berkeley City Council Special Meeting” for Tuesday, July 13, 2021,  
20 at 4:00 p.m., indicated “**Action:** No action taken” in three (3) separate locations.  
21 Petitioners’ Exhibit C, at page 2 [bold emphasis in the original].

22 17. Despite the repeated disclaimers of “No action taken” noted above  
23 (Exhibit C, page 2), Respondents MAYOR JESSE ARREGUIN and THE CITY OF BERKELEY  
24 issued a Press Release, dated July 14, 2021, entitled “CITY COUNCIL APPROVES HISTORIC  
25



1 AGREEMENT WITH UNIVERSITY OF CALIFORNIA, BERKELEY.” The Press Release of July 14,  
2 2021, is attached hereto and incorporated herein as Petitioners’ Exhibit D.

3 18. The first sentence of the Press Release states as follows: “BERKELEY –  
4 Last night, the Berkeley City Council voted to authorize a historic agreement governing  
5 future growth, city services and more with the University of California at Berkeley.”  
6 Petitioners’ Exhibit D, at page 1. Thus, former Respondents MAYOR JESSE ARREGUIN, and  
7 the CITY OF BERKELEY admitted publicly that they had concluded a secret agreement in  
8 closed session, never acknowledged, approved or disclosed in public session. Text of the  
9 purported Agreement then remained secret and undisclosed.  
10

11 19. In their Press Release, the former Respondents MAYOR JESSE ARREGUIN,  
12 and THE CITY OF BERKELEY have also admitted that they have failed to disclose the  
13 Agreement about which they shamelessly boast in the Press Release, in violation of  
14 Government Code §54957.1. See Petitioners’ Exhibit D. The very last sentence of the  
15 Press Release states as follows: “The final language of the agreement will be available  
16 after final adoption and execution by the parties.” Petitioners’ Exhibit D, at page 2.  
17

18 20. As noted above, former Respondent MAYOR JESSE ARREGUIN, as an  
19 individual, as Mayor, and on behalf of former Respondent CITY OF BERKELEY, admitted  
20 both that they had concluded an agreement in closed session and that they have refrained  
21 from releasing or disclosing the content of said agreement. These are among the key  
22 allegations of this Petition. Although the Press Release attached as Petitioners’ Exhibit D  
23 is undoubtedly a hearsay document, the concessions in question constitute both admissions  
24 of “a party” litigant and “declarations against interest” as defined pursuant to California  
25  
26

1 Evidence Code §§ 1220, 1221, 1222, 1223 and 1230. Arguably, a secret agreement, never  
2 approved or even reported in open session, and failing to disclose the content of such  
3 agreement, would subject the Respondents to both civil and criminal liability.  
4

5 21. In addition to civil liability under various provisions of the Ralph M. Brown  
6 Act, California Government Code §§ 54950, et seq. (hereinafter referred to as the “Brown  
7 Act”), for example, Government Code §§ 54960, et seq., including attorney fees under  
8 Government Code §54960.5, the Respondents, each of them, and in particular MAYOR  
9 JESSE ARREGUIN, may also be subject to misdemeanor criminal liability pursuant to the  
10 Brown Act, Government Code §54959.  
11

12 22. For the foregoing reasons, certain assertions set forth in the Press Release  
13 (Exhibit) are admissions of liability and/or guilt under the applicable exceptions to the  
14 Hearsay Rule, per Evidence Code §§ 1220, et seq. Such admissions of civil, and even  
15 criminal, wrongdoing are thereby admissible as evidence within the instant proceedings.  
16

17 23. The voters of the City of Berkeley passed Measure L in the election of  
18 November 3, 1986, a ballot proposition confirmed by the Berkeley City Council and  
19 codified as Ordinance No. 5785-N.S., that took effect on December 19, 1986. The full text  
20 of Measure L (Ordinance No. 5785-N.S.) is attached hereto and incorporated herein as  
21 Petitioners’ Exhibit E. Among the provisions of Berkeley Measure L, is the mandate,  
22 “That wherever public parks and open space currently exist in Berkeley, such use shall  
23 continue and be funded at least to allow the maintenance of the present condition and  
24 services.” Petitioners’ Exhibit E, page 2. People’s Park now exists in Berkeley, California.  
25

1           24. The secret Agreement announced in the Press Release (Petitioners’  
2 Exhibit D) could not lawfully have been approved in closed session because said  
3 Agreement facially changes, reverses, or violates existing City policy and enactments,  
4 including Measure L (Petitioners’ Exhibit E). The Agreement described in the Press  
5 Release (Petitioners’ Exhibit D) also run afoul of the intent and aspirational policies set  
6 forth in Berkeley Measure N, approved by the voters of the City of Berkeley on November  
7 8, 1988. See Measure N, attached hereto and incorporated herein as Petitioners’ Exhibit F.

9           25. The actual text of the secret “settlement” Agreement was reportedly  
10 released by or through the office of Defendant MAYOR JESSE ARREGUIN within a few days  
11 of having been electronically executed (or “DocuSigned”) by officers and attorneys for all  
12 parties, with signatures all dated July 27, 2021. Said Agreement was reportedly released to  
13 the public after having been approved by the Respondent during the month of July, either at  
14 or soon after the Regents’ meeting of July 20-21, 2021. . As belatedly released to the  
15 public, and presently posted on the website of the City of Berkeley [at  
16 [www.cityofberkeley.info](http://www.cityofberkeley.info)], the full text of the “settlement” Agreement, entitled “UC  
17 Berkeley – City of Berkeley Settlement Agreement,” is attached hereto and incorporated  
18 herein as Petitioners’ Exhibit G.

19  
20           26. The former Respondents may have erroneously relied on California  
21 Government Code §54957.1 (a) (3) (B), or similar provisions of the Brown Act, to delay  
22 disclosure of the secret Agreement (Exhibit G) pending approval by some “other party,”  
23 namely the Respondent BOARD OF REGENTS OF THE UNIVERSITY OF CALIFORNIA (UC).  
24 Government Code §54957.1 (a) (3) (B), However, the exception to disclosure set forth  
25

1 under Government Code §54957.1 (a) (3) (B) does not apply where the secret Agreement  
2 could not lawfully have been concluded in closed session. A so-called “settlement”  
3 Agreement may not be concluded in closed session, if such approval involves a decision  
4 that would otherwise require an open meeting or public hearing. Trancas Property Owners  
5 Association v. City of Malibu (2006), 138 Cal.App.4th 172.  
6

7 27. Although the former Respondents had failed and refused to release or  
8 disclose their secret Agreement (Exhibit G) prior to July 27, 2021, the Press Release  
9 (Exhibit D) openly admitted, even boasted of, abrogating established and pre-existing laws  
10 and policies of the City of Berkeley. For example, Measure L (Exhibit E) requires  
11 continued use and even funding of “open space” currently existing within the City, such as  
12 People’s Park in Berkeley. The Berkeley City Council had also resolved on multiple  
13 occasions to support tenant rights, and specifically the interests of tenants at 1921 Oxford  
14 Street, Berkeley, who will be subject to eviction under UC’s “Anchor House” project. The  
15 former Respondents’ Press Release (Exhibit D) presents “an agreement to not challenge the  
16 upcoming 2021 LRDP and UC’s Anchor House and People’s Park housing projects.”  
17 Petitioners’ Exhibit D, page 2.  
18

19 28. For reasons already discussed at greater length (in Paragraphs 9 through  
20 11 above), the former Respondents’ admissions set forth in their Press Release (Exhibit D)  
21 constitute factual evidence admissible pursuant to established exceptions to the Hearsay  
22 Rule, per Evidence Code §§ 1220, et seq. Respondents’ complicity in the destruction of  
23 People’s Park violates both the letter and spirit of Measure L. See Petitioners’ Exhibit E.  
24 Respondents’ collusion in the destruction of low-income housing at 1921 Walnut Street,  
25  
26

1 Berkeley, California, in pursuit of UC’s Anchor House Project, breaches City policies as to  
2 tenants’ rights and preservation of low-income housing. Such changes, or even violations,  
3 of City law and policy can be undertaken, if at all, only in open public session. Trancas  
4 Property Owners Association v. City of Malibu (*supra*), 138 Cal.App.4th 172, 186-187.

5 29. The so-called “settlement” Agreement (Exhibit G) is not in fact a  
6 “settlement” at all, inasmuch as the underlying case it purportedly “settles” (City of  
7 Berkeley v. Regents of the University of California, Alameda Superior Court Case No.  
8 RG19023058) had already been decided in the City of Berkeley’s favor in an order by Hon.  
9 BRAD SELIGMAN filed on July 9, 2021, just four (4) days before the purported “settlement”  
10 Agreement was approved in closed session by the Respondent. Arguably, the “pending  
11 litigation” exception set forth under Government Code §54959.9 (a) is thus stood on its  
12 head, and cannot coherently be said to apply, insofar as the case had already been  
13 essentially adjudicated by the Court and was no longer “pending.” Accordingly,  
14 Petitioners now request that Judicial Notice be taken of the Order Granting Petitions for  
15 Writ of Mandate, signed and filed on July 9, 2021, by Hon. BRAD SELIGMAN, Judge of  
16 Alameda Superior Court, in Save Berkeley’s Neighborhoods v. Regents of the University  
17 of California, and City of Berkeley v. Regents of the University of California, Alameda  
18 Superior Court Case Nos. RG1902887 and RG19023058, respectively,  
19  
20  
21

## 22 ARGUMENT AND CAUSES

### 23 I. UC COLLUDED IN AN UNLAWFUL AGREEMENT.

24 30. As discussed above, the Respondent REGENTS OF THE UNIVERSITY OF  
25 CALIFORNIA, etc. (UC) collaborated with City of Berkeley entities to form a putative secret  
26

1 Agreement between the City and UC that breaches UC's contractual agreements with  
2 Petitioner People's Park Council, (see Petitioners' Exhibits H, I and J), while also violating  
3 the Ralph M. Brown Act, California Government Code §§ 54950, et seq. (hereinafter  
4 referred to as the "Brown Act"), and Berkeley Measure "L," as well as other applicable  
5 laws and public policies, and is thus null, void, and unenforceable.  
6

7 31. As discussed above, the so-called "settlement" Agreement approved by  
8 Respondent UC, together with UC's Long-Range Development Plan (LRDP), changed  
9 many policies, including those approved by both City Council and the City's voters at  
10 large, and abrogated City right and powers for years to come. Such significant policy  
11 changes and concessions, if lawful at all, would require discussion and approval in an open  
12 meeting, under applicable provisions of the Brown Act. Indeed, the "settlement"  
13 Agreement could not lawfully have been concluded in closed session in the first instance,  
14 pursuant to the gravamen of the decision in Trancas Property Owners Association v. City  
15 of Malibu (2006), 138 Cal.App.4th 172.  
16

17 32. The impact of the Agreement on many of the aforementioned City policies  
18 is made abundantly clear from the description of the Agreement set forth in the  
19 Respondents' Press Release. See Petitioners' Exhibit D. Acquiescence in the Respondent  
20 UC's Long Range Development Plan (LRDP), as promised in the Respondents' Press  
21 Release (Exhibit D), would involve City policy changes and concessions directly contrary  
22 to Measures L and N. See Petitioners' Exhibits E and F. In developing its LRDP, as well  
23 as by collaborating in a conflicting agreement with the third-party CITY OF BERKELEY,  
24  
25

1 Respondent UC directly violated assurances made in the relevant agreements with  
2 Petitioner PEOPLE’S PARK COUNCIL. See Petitioners’ Exhibits H, I and J.

3 33. As encouraged or required by Respondent UC’s Agreement with the CITY  
4 OF BERKELEY, changes or outright violations of existing law and policy include, without  
5 limitation, Respondents’ concessions and surrenders of principle designed to condone  
6 student overcrowding, to undermine neighborhood quality of life, to destroy the historic  
7 public open space and native community gardens in People’s Park, Berkeley, California,  
8 formerly protected by Measure L (Exhibit E), and to collude in the termination of historic  
9 housing and tenants’ rights in destruction, through the University’s Anchor House Project,  
10 of low-income housing at 1921 Walnut Street, Berkeley, California, formerly intended to  
11 be protected by Measure N (Exhibit F). Specifically, Respondent UC’s unlawful  
12 Agreement with the CITY OF BERKELEY to destroy the historic public open space and native  
13 community gardens in People’s Park, Berkeley, California, and UC’s destructive action  
14 pursuant thereto, have directly violated provisions of agreements with Petitioner People’s  
15 Park Council (Petitioners’ Exhibits H, I and J) requiring maintenance and security of  
16 community gardens, and free speech on the People’s Stage, as well as notification and  
17 discussion of any proposed changes to the Park’s open space landscape and usage.  
18  
19

20 34. Apart from the fact that Respondent UC’s Agreement with the City of  
21 Berkeley clearly breaches UC’s solemn undertakings with Petitioner People’s Park Council  
22 (Petitioners’ Exhibits H, I and J), said Agreement also unlawfully infringes upon City zoning  
23 authority, and limits City tax-collection powers, as upheld in City and County of San  
24 Francisco v. Regents of University of California, 7 Cal. 5th 536. For example, under §4.8  
25

1 and §4.9 of the Agreement, impermissible conditions and delays are placed on City taxing  
2 authority with respect to the University, in effect making the collection of such taxes at least  
3 somewhat negotiable. The Federal Ninth Circuit Court of Appeals held that a court “could  
4 not approve a settlement agreement that authorized the City to disregard its own zoning  
5 ordinances.” League of Residential Neighborhood Advocates v. City of Los Angeles (2007),  
6 Case No. 06-56211, filed 8/21/07, page 10181, 10194.

8 II. UC EXCEEDED ITS POWERS AND ABROGATED THOSE OF THE CITY.

9 35. The Agreement between the CITY OF BERKELEY (hereinafter referred to as  
10 the “CITY”) and the Respondent REGENTS OF THE UNIVERSITY OF CALIFORNIA, etc., (“UC”)  
11 impermissibly abrogated, waived, and bargained away the constitutional powers of the City,  
12 including with respect to policy, taxation, zoning, and police powers.

13 36. In this way, the Agreement improperly binds and hamstring the City,  
14 through its voters and elected representatives, with regard to the exercise of its Constitutional  
15 and Charter-based powers and responsibilities for years to come. The term of the Agreement  
16 is sixteen (16) full years, from July 1, 2021, through June 30, 2037. Agreement, §7.1.

17 37. Although as a State entity, UC may exercise its own designated right and  
18 responsibilities with great discretion, it is not absolutely immune from the proper municipal  
19 authority of the CITY in its actual or potential exercise of power on behalf of its people. See  
20 City and County of San Francisco v. Regents of University of California, 7 Cal. 5th 536, a  
21 unanimous California Supreme Court decision which concludes as follows:  
22

23 “For these reasons, we conclude that San Francisco’s parking tax  
24 collection requirement, as applied to the state universities, does not  
25



1 violate principles of state sovereignty embodied in the California  
2 Constitution. The universities maintain the autonomy to manage their  
3 property as they wish, and the universities have failed to demonstrate  
4 that the minimal burden associated with collecting and remitting the  
5 parking tax poses a risk of substantial interference with their ability to  
6 carry out their governmental functions. We must, in any event, recall  
7 that it is ultimately the People of the State of California who are  
8 its “highest sovereign power.” (Oakland Paving Co. v. Hilton (1886)  
9 69 Cal. 479, 514.) The universities exercise those powers granted to  
10 them by the People of this state, just as the charter cities exercise  
11 those powers granted to them by the People. If San Francisco’s  
12 tax collection requirement offends state sovereignty, it must be  
13 because the requirement in some way offends or disadvantages the  
14 People’s interests. For reasons already explained, that is not the case  
15 here.  
16  
17

18 V.

19 “We conclude charter cities may require state agencies to assist in  
20 the collection and remittance of municipal taxes. Levying taxes to  
21 raise revenue is an archetypal municipal affair, and a power secured by  
22 the home rule provision of the state Constitution. Requiring public  
23 parking lot operators to collect municipal taxes along with  
24 parking fees, and to remit the taxes owed, represents no more  
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1 than a de minimis administrative burden on the state agencies. San  
2 Francisco's collection requirement is a valid exercise of its power,  
3 from which the universities are not immune." City and County of San  
4 Francisco v. Regents of University of California, 7 Cal. 5th 536,  
5 Decision No. S242835, pages 31-32.

6  
7 38. More broadly, reviewing courts have generally recognized the "distinction  
8 between governmental and proprietary activity..." Board of Trustees v. City of Los  
9 Angeles (1975) 49 Cal.App.3d 45, 49, citing Pianka v. State of California, 46 Cal. 2d  
10 208, [293 P.2d 458]; Schwerdtfeger v. State of California, 148 Cal. App. 2d 335, [306 P.2d  
11 960]; and People v. Superior Court, 29 Cal. 2d 754 [178 P.2d 1, 40 A.L.R.2d 919].

12  
13 39. The Board of Trustees Court found that the State's claim to "sovereign  
14 immunity" is limited "to the situation where the state is operating in a governmental  
15 capacity." Board of Trustees v. City of Los Angeles (1975) 49 Cal.App.3d 45, 49.

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17 40. Similarly, in a cases specifically relevant to the CITY and UC, the Appellate  
18 Court, First District, upheld the CITY's right to collect taxes from the Oakland Raiders based  
19 upon gross receipts for football games played in UC's Stadium, in the dual cases of Oakland  
20 Raiders v. City of Berkeley (1976) 65 Cal. App. 3d 623 [137 Cal. Rptr. 648] (Raiders I),  
21 Oakland Raiders v. City of Berkeley (1983) 143 Cal. App. 3d 638 (Raiders II).

22  
23 41. Yet the Agreement purports to unlawfully restrict and limit the City's taxing  
24 and tax-collection powers and responsibilities, as upheld in City and County of San Francisco  
25 v. Regents of University of California, 7 Cal. 5th 536. In this connection, a number of strings  
26 are attached to tax collection as to UC parking revenues.

1           42. For example, under §4.8, UC does not undertake to pay such taxes as it is  
2 legally obligated to do, but merely promises “best efforts to collect the tax from users . . .”  
3 Agreement, §4.8.

4           43. Moreover, the Agreement purports to make UC’s compliance with its tax-  
5 collection obligation contingent upon the actions or inactions of others, expressly permitting  
6 UC to decline to collect taxes until “the City begins collecting the tax from City-owned lots  
7 and demands collection by BART [Bay Area Rapid Transit]. Agreement, §4.8.

8           44. The Agreement further permits delay of UC’s tax-payment obligation, for  
9 six (6) months or longer, by requiring the City to acknowledge “that the administrative  
10 processes between the City and the University related to collection of the tax must be  
11 established and that such establishment could preclude collection of the tax on behalf of the  
12 City prior to January 1, 2022.” Agreement, §4.8.

13           45. The net effect of the foregoing conditions and loopholes is to make UC’s  
14 collection and payment of lawful taxes at least somewhat negotiable, if not voluntary.

15           46. Similar, in §4.9 of the Agreement, the City improperly cedes and transfers to  
16 UC its lawful power and responsibility to assess permit and impact fees on UC’s rentals of  
17 off-campus properties “exclusively to generate income.” Agreement, §4.9. “The University  
18 shall determine” whether the criteria for payment are met. *Id.* Although nothing “prevents  
19 the City from disagreeing with the University’s determination,” the Agreement provides no  
20 specific recourse to the City. Petitioners’ Exhibit G, Agreement, §4.9.

21           47. The Agreement at §7.3 (Petitioners’ Exhibit G), unlawfully limits and  
22 penalizes the City’s right to challenge any future UC “Campus Capital Project or Off-  
23

1 Campus Housing Project,” whether on grounds of planning, zoning, revenue, overcrowding,  
2 public health and safety, environmental concerns, or for any other reason. Petitioners’  
3 Exhibit G, Agreement, §7.3. The City may only do so by terminating the Agreement, to its  
4 detriment. The City may only do so by terminating the Agreement and sacrificing all  
5 consideration gained thereby, with no such penalty to UC.  
6

7 48. Similarly, the City may terminate the Agreement under §7.4, “if the  
8 University decides to increase campus undergraduate enrollment by an amount that exceeds  
9 on percent annual enrollment growth, compounded annually . . .” Agreement, §7.4. The  
10 penalty against the City for terminating the Agreement, under both §7.3 and §7.4, is that UC  
11 shall no longer have any obligation to pay Annual Payments as provided in the Agreement,  
12 whereas the City would remain obligated “to not challenge project approvals under Sections  
13 6.1, 6.2 and 6.3” which “expressly survive such termination.” Petitioners’ Exhibit G,  
14 Agreement, §7.3  
15

16 49. Said projects under §§ 6.1, 6.2 and 6.3 specifically include approval of “the  
17 Upper Hearst Project [regarding which project the City had largely prevailed in City of  
18 Berkeley v. Regents of the University of California, Alameda Superior Court Case No.  
19 RG19023058], the Anchor Student Housing Project and the People’s Park Housing Project”  
20 which “expressly survives such termination.” Petitioners’ Exhibit G, Agreement, §7.4.  
21

22 50. Therefore, termination of the Agreement would, by its own plain terms,  
23 discharge UC from contractual obligation to pay any consideration to the City, while leaving  
24 in place much of the consideration, concessions and restrictions on rights and powers of the  
25 City for which UC had bargained. The Agreement is thus unfair if not illusory, inasmuch as  
26

1 it is one-sided, non-reciprocal, and leaves much to the discretion and “good faith” of UC.  
2 See Petitioners’ Exhibit G, Agreement, §§ 4.8, 4.9, and 4.10, *inter alia*.

3 51. Adherence to the terms of the Agreement would require the City to  
4 unlawfully, or even fraudulently, “arrive at a predetermined result” in considering and  
5 deliberating on many discretionary issues, including but not limited to those involving, land-  
6 use planning, zoning, health and safety environmental policy, taxation, and police powers.  
7 Maxwell v. City of Santa Rosa (1959), 53 Cal. 2d , 276, 281.

8 52. In Trancas Property Owners Association v. City of Malibu (2006), 138  
9 Cal.App.4th 172, the unanimous Trancas Court granted a Writ of Mandate invalidating and  
10 striking down a settlement agreement for both of two reasons: 1) The settlement agreement  
11 unlawfully abrogated or delegated that city’s powers; and 2) Adoption of the settlement  
12 agreement in closed session violated the Brown Act.  
13

14 “We hold that the agreement, however well-intended, was  
15 invalid, because it impermissibly attempted to abrogate the city’s  
16 zoning authority and provisions. Trancas Property Owners  
17 Association v. City of Malibu (2006), 138 Cal.App.4th 172, 173.  
18

19 53. The Agreement should be deemed unlawful and void. Where the public  
20 entity had “abdicated its police power in portions of the agreement, we conclude those  
21 provisions are void or subject to future modification.” County of Ventura v. City of  
22 Moorpark (2018), Civil Case No.B282866, 2<sup>nd</sup> Appellate District, 6/10/18, at page 3. See  
23 also League of Residential Neighborhood Advocates v. City of Los Angeles (2007), Case  
24 No. 06-56211, filed 8/21/07, page 10181, 10194.  
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54. A public entity, such as the City, “may not contract away the right to exercise discretion within its police power in the future.” County of Ventura v. City of Moorpark (2018), Civil Case No.B282866, 2<sup>nd</sup> Appellate District, 6/10/18, at page 13.

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“A government entity may not surrender, for a potentially indefinite period of time, its authority to exercise discretion on matters within its police power. (COMPAC, supra, 62 Cal.App.4th at pp. 739-741.) The terms are void.” County of Ventura v. City of Moorpark (2018), Civil Case No.B282866, 2<sup>nd</sup> Appellate District, 6/10/18, at pages 14-15.

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IV. THE AGREEMENT VIOLATES MEASURE L AND OTHER LAWS.

55. As a California State entity, UC is largely “exempt from local building codes and zoning regulations,” but “solely for educational purposes.” *Regents of UC v. City of Santa Monica* (1978), 77 Cal.App.3d 130, 136.

56. In this respect, UC’s plan, now aided and abetted by the City Respondents, to destroy People’s Park, in Berkeley, California, including its California native plant garden and experimental urban ecosystems, originally established by UC students, hardly serves anything approaching “solely educational purposes” (*Id.*), but rather, the contrary. Said native California garden, including many specimen trees, arranged to reflect some of California’s essential ecological habitats, is located and maintained on user-developed and community-controlled open space that is recognized as a local, State and National historical landmark. Such wanton disregard for education, botanical and historical values raises triable issues as to whether UC’s destructive intentions are truly exempt from local regulation.

1           57. Insofar as UC may not be universally exempt from such regulation, the  
2 Respondent City of Berkeley may not abrogate its regulatory powers nor obviate or violate  
3 laws designed to carry out such powers. One such substantive law, among others, is the  
4 ballot measure approved by the voters of Berkeley in 1986 as Measure L. See Measure L,  
5 attached to the original and amended Writ Petitions as Petitioners’ “Exhibit E.”  
6

7           58. Measure L applies not only to parks and open space “owned or controlled or  
8 leased by the City,” as stated in Measure L, Section 1, but also expressly applies to “public  
9 school playgrounds, and vacant public land, whether dedicated formally in park use or being  
10 used de facto as open space with recreational use or potential use on or after January 1,  
11 1985.” Measure L, Section 3 (b).  
12

13           59. Sections 2 and 3 of Measure L, Section 1, explicitly requires the City  
14 government to protect public parks and open space, wherever they exist in Berkeley and  
15 regardless of the present ownership thereof. These sections state as follows:

16                   “Section 2 (a): That wherever public parks and open space  
17 currently exist in Berkeley, such use shall continue and be funded at least to  
18 allow for the maintenance of the present condition and services.” Measure  
19 L, Section 2 (a).  
20

21                   “Section 3 (b) **Public open space** shall be defined as all City of  
22 Berkeley parks, public school playgrounds, and vacant public land, whether  
23 dedicated formally in park use or being used de facto as open space with  
24 recreational use or potential use on or after January 1, 1985.” Measure L,  
25 Section 3 (b) [bold type in the original].  
26

1  
2           60. People’s Park, on Dwight Way in Berkeley, California, is thus clearly  
3 encompassed within the definition of “public parks and open space [that] currently exist in  
4 Berkeley . . .” Measure L, Section 2 (a). Respondent UC is bound to respect City laws and  
5 policies, especially in pursuit of objectives that are not clearly in support of (or, as in this  
6 case, actually contrary to) an “educational” purpose.

7           61. Moreover, the language in “vacant public land, whether dedicated formally  
8 in park use or being used de facto as open space with recreational use or potential use . . .”  
9 perhaps uniquely describes the status of People’s Park, as of January 1, 1985, and to date.  
10 By the plain language of its definitions, “Public open space” includes all Berkeley City  
11 parks, all Berkeley Unified School District playgrounds, and all other vacant public land,  
12 including formal or de facto parks, such as People’s Park. Measure L, Section 3 (b).

13           62. It is instructive in this regard that the Berkeley City Attorney Analysis of  
14 Measure L, expressly refers to “school parks owned by the Berkeley Unified School District”  
15 and to Ohlone Park, then owned at least in part by the Bay Area Rapid Transit (BART)  
16 District, a park that had originally and initially been user-developed and popularly known as  
17 “People’s Park Annex.” See Berkeley City Attorney Analysis of Measure L, attached to the  
18 Writ Petition as Petitioners’ “Exhibit E.”  
19

20           63. Measure L (“Exhibit E”) is just one example of a substantive law that would  
21 prohibit an Agreement, whether in closed session or otherwise, not to oppose or interfere  
22 with UC’s plan to demolish and destroy People’s Park, in favor of a high-rise construction  
23 project. Departure from the requirements of Measure L would require at least, and no less  
24  
25



1 than an open public hearing, in compliance with the Brown Act, pursuant to the holding in  
2 Trancas Property Owners Assn. v. City of Malibu (2006), 138 Cal. App. 4th 172, 186.

3 64. As stated above, the Agreement (Petitioners’ “Exhibit G”) in §7.3,  
4 unlawfully limits and penalizes the City’s right to challenge any future UC ‘Campus Capital  
5 Project or Off-Campus Housing Project,’ whether on grounds of planning, zoning, revenue,  
6 overcrowding, public health and safety, environmental concerns, or for any other reason. See  
7 “Exhibit G,” Agreement, §7.3.  
8

9 65. Thus, upon its face, the Agreement (Petitioners’ Exhibit G) directly violates  
10 Measure L. Respondent would thus need at least a public hearing in order to change the  
11 policy established by Measure L, pursuant to the *Trancas* holding, if not also an additional  
12 ballot measure in order to persuade the voters of Berkeley to repeal Measure L. *Trancas*  
13 *Property Owners Assn. v. City of Malibu* (2006), 138 Cal. App. 4th 172, 186.  
14

15 66. The Agreement, at §6.3 (Petitioners’ “Exhibit G”), violates the pertinent  
16 written understandings with Petitioner PEOPLE’S PARK COUNCIL (Petitioners’ Exhibits H, I  
17 and J), and harshly restricts the City’s legal prerogatives in the potential enforcement of  
18 Measure L, stating, in pertinent part, as follows:

19 **6.3 2021 LRDP, People’s Park Housing Project, and Anchor**  
20 **House Student Housing Projects.** The City agrees not to file any  
21 lawsuits, pursue any legal challenges, or directly or indirectly support any  
22 litigation (including without limitation through funding or by encouraging  
23 any litigation by an organization) that opposes: (1) the 2021 LRDP and  
24 2021 LRDP EIR (2) the Anchor House Student Housing Project, (3) the  
25

1 People’s Park Housing Project, including without limitation the permanent  
2 supportive housing component . . .” Petitioners’ “Exhibit G,” Agreement,  
3 at §6.3.

4 67. “The University and City” also agree to additional housing construction on  
5 People’s Park, in the Agreement (Petitioners’ “Exhibit G”) at §4.14, in patent breach of  
6 Petitioners’ agreements with Respondent UC (see Petitioners’ Exhibits H, I and J), and in  
7 contravention of Measure L (Petitioners’ “Exhibit E”),. Provisions of the Agreement at  
8 §4.16 and §4.18 also tend to tie the City’s hands, curb its Constitutional powers, block its  
9 legal options, and force it to defend UC’s interests. See Petitioners’ “Exhibit G,” the  
10 Agreement, §§ 4.14, 4.16, 4.18, and 6.3, *inter alia*.

11 68. Similarly, the Agreement (Petitioners’ “Exhibit G”) further permits delay of  
12 UC’s tax-payment obligation, for six (6) months or longer, by requiring the City to  
13 acknowledge ‘that the administrative processes between the City and the University related  
14 to collection of the tax must be established and that such establishment could preclude  
15 collection of the tax on behalf of the City prior to January 1, 2022.’ Petitioners’ “Exhibit G,”  
16 Agreement, §4.8. As noted above, the net effect of the conditions and loopholes described  
17 above is to render UC’s collection and payment of lawful taxes at least somewhat negotiable,  
18 if not voluntary. These provisions thus directly violate substantive local law, to wit, Measure  
19 N, attached as Petitioner’s “Exhibit F.”

20 69. The Petitioners, MAKE UC A GOOD NEIGHBOR, PEOPLE'S PARK HISTORIC  
21 DISTRICT ADVOCACY GROUP (PPHDAG), and PEOPLE’S PARK COUNCIL (PPC) therefore  
22 respectfully urge the court to strike down the putative Agreement selectively touted in the  
23

1 Respondents' Press Release (Exhibit D), and subsequently released by the Respondents as  
2 "UC Berkeley – City of Berkeley Settlement Agreement" (Exhibit G), as procedurally and  
3 substantively unlawful, null, void, invalid, nugatory, and without force or effect. Further, the  
4 Agreement should be stricken as void and invalid insofar as it unlawfully abrogates the  
5 Constitutional rights and powers of the City and its citizens, and inasmuch as it baldly  
6 breaches the agreements between Respondent and Petitioner as attached in Petitioners'  
7 Exhibits H, I and J.  
8

9 V. RESPONDENT HAS PREMEDITATED ITS BREACHES OF CONTRACT.

10 70. By and through its secret negotiation of an agreement to, among other  
11 things, destroy People's Park as a student and community park and open space, Respondent  
12 UC has breached its mutual commitments, promises, and written contracts with responsible  
13 People's Park organizations, including the Petitioner, PEOPLE'S PARK COUNCIL.  
14

15 71. By and through its conduct of and participation the secret negotiation of said  
16 agreement in closed session, the Respondent UC has solicited City entities to aid and assist in  
17 UC's breach of promise and contract. See Petitioners' Exhibits H, I and J.

18 72. The ongoing agreements between responsible People's Park organizations  
19 and the UC campus administration include, without limitation, the following: a) "Exhibit H"  
20 -- the "Letter of Agreement" executed on May 8 and 9, 1978, between the UC Berkeley  
21 Chancellor's Office and the People's Park Project/ Native Plant Forum (PPP/NPF); b)  
22 "Exhibit I" -- the "Letter of Understanding" dated January 5, 1979, between the same parties;  
23 and c) "Exhibit J" -- the Letter dated August 31, 1979, "Re Coordinations for Use of the  
24 University Property Commonly Called 'People's Park,'" recognizing the role of Petitioner  
25  
26

1 PEOPLE'S PARK COUNCIL in planning, management and coordination of the People's Stage  
2 and People's Park activities generally.  
3

4 73. The "Letter of Agreement" of May 8, 1978, under Section C, "Appropriate  
5 Use," states as follows: "People's Park is primarily reserved for educational, research and  
6 recreational purposes." "Exhibit H," page 1. The Letter of Agreement also calls for  
7 communication before major changes, a provision now grievously breached by Respondent  
8 UC, with the collusion of the City Respondents. See "Exhibit H," page 1.  
9

10 74. The "Letter of Understanding" of January 5, 1979, also recognized the right  
11 of the PEOPLE'S PARK PROJECT/ NATIVE PLANT FORUM (PPP/NPF) to "maintain a  
12 horticultural project" and to pursue "the cultivation of native plants arranged in plant-  
13 community habitats" in People's Park. "Exhibit I," page 1. This Letter also calls for  
14 communication, dispute resolution, and notice between the parties. See "Exhibit I," page 2.  
15

16 75. The Letter of August 31, 1979, confirmed the "continuing agreement"  
17 between the PEOPLE'S PARK PROJECT/ NATIVE PLANT FORUM (PPP/NPF) and the Respondent  
18 UC's Berkeley Campus Chancellor's Office. "Exhibit J," page 1. In addition, this Letter  
19 acknowledged and established in writing the role of the Petitioner, PEOPLE'S PARK COUNCIL,  
20 in developing "a set of guidelines" for use of the People's Stage in the Park, coordinating the  
21 use of the Stage, and of the Park in general. See "Exhibit J," at pages 1 and 2.  
22

23 76. Respondent UC has recently planned and acted to breach many of the  
24 essential elements of the undertakings reflected in "Exhibits H, I and J." Petitioner PEOPLE'S  
25 PARK COUNCIL (PPC) has endeavored to assert its legitimate rights and interests, pursuant to  
26

1 the agreement and otherwise, by sending three (3) demand letters to the parties, copies of  
2 which are provided in “Exhibits A, K and L,” respectively.

3 77. Petitioner PPC’s letter to Chancellor CAROL T. CHRIST, dated February 1,  
4 2021, is attached as Petitioner’s “Exhibit K.” Petitioner PPC’s letter to DAVID M. ROBINSON,  
5 Chief Campus Counsel, dated February 22, 2021, is attached as Petitioner’s “Exhibit L.”  
6 Petitioner PPC’s letter to the Respondent MAYOR and CITY COUNCIL Members of the  
7 Respondent CITY OF BERKELEY, dated July 9, 2021, is attached as Petitioner’s “Exhibit A.”

8 78. Petitioners have received no satisfactory substantive responses to any of the  
9 aforementioned letters. Respondent UC’s failure to engage constitutes a further and ongoing  
10 breach of the commitments and undertakings reflected in Petitioners’ “Exhibits H, I and J.”

11 79. WHEREFORE, the Petitioners and Plaintiffs, MAKE UC A GOOD NEIGHBOR,  
12 PEOPLE'S PARK HISTORIC DISTRICT ADVOCACY GROUP (PPHDAG), and PEOPLE’S PARK  
13 COUNCIL (PPC) now respectfully allege the following several causes of action:  
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16 COMPLAINT FOR BREACH OF CONTRACT AND BREACH OF ORDINANCES

17 80. As to the Respondent and Defendant REGENTS OF THE UNIVERSITY OF  
18 CALIFORNIA D.B.A. UNIVERSITY OF CALIFORNIA AT BERKELEY, based upon the foregoing, the  
19 Petitioners and Plaintiffs now allege the following three (3) causes of action:  
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21 FIRST CAUSE OF ACTION – BREACH OF CONTRACT BY UC:

22 LETTER OF AGREEMENT

23 81. All foregoing paragraphs of this pleading are incorporated herein as though  
24 set forth in full.  
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82, People’s Park Project/ Native Plant Forum (PPP/NPF) is a non-profit association of volunteer gardeners, horticulturalists, artists, botanists, naturalists and park landscapers, composed largely of students, neighbors and other community members, dedicated to the establishment, maintenance and preservation of California native plants and organic community gardens in People’s Park a 2.8 acre parcel of public open space in Berkeley, California, bounded by Dwight Way, Bowditch Street and Haste Street, in the South Campus area just east of Telegraph Avenue.

83. In 1974, students at the University of California in Berkeley, together with other students and community volunteers, founded People’s Park Project/ Native Plant Forum (hereinafter referred to as “PPP/NPF”) and commenced to plant California native specimen plants in People’s Park, organized according to the ecological plant-community habitats in which they occur in nature. The PPP/NPF group, later affiliated with the Associated Students of the University of California (ASUC), also composted, amended the soil, created raised bed and organic community gardens, and over time, established most of the trees, shrubs, flower beds, and other landscape features that have existed in People’s Park, from that time in 1974 and continuously to the present.

84. In the spring of 1978, pursuant to discussions and negotiations directly between representatives of PPP/NPF and the Defendant University of California d.b.a. University of California at Berkeley (hereinafter referred to as “UC”), culminating in a written agreement entitled the “Letter of Agreement” of May 8, 1978. See “Exhibit H,” at page 037 of Plaintiffs’ Appendix of Exhibits.

1  
2 85. On or about May 8, 1978, the “Letter of Agreement” was approved by both  
3 parties and executed by T. H. (Ted) Chenoweth (Associate Vice Chancellor for Business  
4 Affairs, UCB), on behalf of Defendant UC, and by Mayo Torres (PPP/NPF Campus  
5 Coordinator), David L. Axelrod (PPP/NPF Field Coordinator), and Howard M. Cooper, on  
6 behalf of People’s Park Project/ Native Plant Forum (PPP/NPF), respectively.

7 86. In a mutual exchange of valuable consideration, the “Letter of Agreement”  
8 accorded to PPP/NPF certain rights, responsibilities, and assurances, as enumerated under  
9 sections B, C and D of said “Letter of Agreement.” See “Exhibit H,” sections B, C and D, at  
10 page 037 of Plaintiffs’ Appendix of Exhibits.  
11

12 87. Subsequent to formation and approval of the “Letter of Agreement” of May  
13 8, 1978, as a solemn and binding undertaking, PPP/NPF acted, along with other community  
14 groups and individuals, to organize the PEOPLE’S PARK COUNCIL, a Petitioner and Plaintiff  
15 herein, as a student community and neighborhood association to coordinate events and  
16 planning around People’s Park, including building and managing the People’s Stage there.  
17

18 88. As a constituent and founding entity of and within the Petitioner PEOPLE’S  
19 PARK COUNCIL, PPP/NPF transferred its rights, responsibilities, and powers to represent  
20 People’s Park in all matters transcending gardening and landscape issues to PEOPLE’S PARK  
21 COUNCIL, as a larger, more inclusive and broad-based democratic community organization,  
22 transferring communication and coordination functions, expressly including but not limited  
23 to those matters set forth under sections B, C and D of the “Letter of Agreement” of May 8,  
24 1978. See “Exhibit H,” sections B, C and D, at page 037 of Plaintiffs’ Appendix of Exhibits.  
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1           89. During a regular gathering of its membership, PEOPLE’S PARK COUNCIL  
2 unanimously accepted the transfer of PPP/NPF’s rights and responsibilities pursuant to  
3 agreements with UC, and has repeatedly reaffirmed the acceptance and assumption of said  
4 rights and responsibilities on behalf of People’s Park, as successor to PPP/NPF as to its role  
5 and function under the “Letter of Agreement” (“Exhibit H”}, sections B, C and D, as well as  
6 under the Letter of Understanding of January 5, 1979 (“Exhibit I”), and other agreements.  
7

8           90. Pursuant to the “Letter of Agreement” of May 8, 1978, at the third  
9 paragraph of section B, both parties agreed that the role of PPP?NPF under the “Letter of  
10 Agreement” could be transferred to a “broad-based People’s Park student community  
11 neighborhood association” such as PEOPLE’S PARK COUNCIL, a Plaintiff and Petitioner herein.  
12 Exhibit H, section B, at page 037 of Plaintiffs’ Appendix of Exhibits, which transfer UC  
13 Administration representatives subsequently have continuously recognized and approved.  
14

15           91. In his letter to Vice Chancellor R. F. Kerley dated August 31, 1979, T. H.  
16 (Ted) Chenoweth, Associate Vice Chancellor for Business Affairs at UC Berkeley,  
17 memorialize his recognition of Respondent PEOPLE’S PARK COUNCIL and its role in  
18 exercising the rights and responsibilities of PPP/NPF and in coordinating planning and uses  
19 of People’s Park, specifically including events at the Stage in People’s Park. See Exhibit J,  
20 Appendix of Exhibits, pages 041 to 043.  
21

22           92. Defendant UC agreed to “discuss with PPP/NPF [now Petitioner and  
23 Plaintiff PEOPLE’S PARK COUNCIL] all matters relating to the use, maintenance and  
24 development of the People’s Park site and any tentative proposals for construction, public  
25 works, or other significant changes affecting the Park before the Chancellor’s Office makes a  
26



1 decision on these matters.” “Letter of Agreement” of May 8, 1978, section B, Exhibit H, at  
2 page 037 of Plaintiffs’ Appendix of Exhibits. Defendant UC has breached this agreement.  
3

4 93. The “Letter of Agreement” of May 8, 1978, at section B, also states, the  
5 “Chancellor’s Office agrees that the PPP/NPF [now Plaintiff People’s Park Council] will  
6 serve as a clearinghouse for discussion and resolution of issues on matters relating to  
7 People’s Park” and that those discussing such issues will b referred to PPP/NPF [People’s  
8 Park Council]. “Letter of Agreement” of May 8, 1978, section B, Exhibit H, at page 037 of  
9 Plaintiffs’ Appendix of Exhibits. Defendant UC has breached this agreement.  
10

11 94. In the “Letter of Agreement” of May 8, 1978, at section C, the parties also  
12 agreed as follows: “People’s Park is primarily reserved for educational, research and  
13 recreational purposes. Disputes regarding use will be settled as defined under Section B,  
14 Communications.” See Exhibit H, section C, at page 037 of Plaintiffs’ Appendix of  
15 Exhibits. Defendant UC has breached this agreement.  
16

17 95. In the “Letter of Agreement” of May 8, 1978, at section D, the parties also  
18 agreed as follows: “Written notice of one year is required of the Chancellor’s Office of the  
19 PPP/NPF for cancellation of this Letter of Agreement. See “Letter of Agreement” section D,  
20 Exhibit H, at page 037 of Plaintiffs’ Appendix of Exhibits. Neither PPP/NPF nor PEOPLE’S  
21 PARK COUNCIL has ever received any notice of cancellation, written or otherwise.  
22

23 96. PEOPLE’S PARK COUNCIL, a Plaintiff and Petitioner herein, constitutes the  
24 successor and representative of PPP/NPF as to the provisions violated by Defendant and  
25 Respondent UC, as set forth above in Paragraph Noa. 127 to 129.  
26

1  
2 97. Defendant UC breached the “Letter of Agreement” of May 8, 1978,  
3 including but not limited to the provisions of sections B and C thereof as described above in  
4 Paragraph Noa. 127 to 129, by recently proposing, considering, approving and adopting a  
5 “Long Range Development Plan” (also referred to as “LRDP”) that would completely  
6 destroy People’s Park and utilize the razed property as a site for high-rise construction.

7 98. Defendant UC breached the “Letter of Agreement” of May 8, 1978,  
8 including but not limited to the provisions of sections B and C thereof as described above in  
9 Paragraph Noa. 127 to 129, by recently proposing, negotiating, approving and ultimately  
10 ratifying, on July 27, 2021, the secretly enacted “Settlement Agreement” between the City of  
11 Berkeley and the Regents of UC, both Respondents and Defendants herein. See Exhibit G,  
12 pages 023 through 036 of Plaintiffs’ Appendix of Exhibits.

13 99. The so-called “Settlement Agreement” attached as “Exhibit G” Plaintiffs’  
14 Appendix of Exhibits, would solidify and contractualize Defendant UC’s plan to completely  
15 destroy People’s Park, by requiring the Defendant City of Berkeley (hereinafter referred to as  
16 the “City”) to collude with Defendant UC in implementing its “Long Range Development  
17 Plan” (“LRDP”), by abrogating or severely limiting the City’s exercise of its constitutional  
18 rights and powers with regard to planning and zoning, by restricting the rights of the City to  
19 oppose detrimental development plan on behalf of its citizens, and by requiring the City, in  
20 effect, to violate Measure L, which protects all parks and open space within Berkeley city  
21 limits, including People’s Park See Measure L, attached as +Exhibit E” to Plaintiffs’  
22 Appendix of Exhibits.  
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1           100. Defendant UC has also breached the “Letter of Agreement” of May 8, 1978,  
2 including but not limited to the provisions of sections B and C thereof as described above in  
3 Paragraph Noa. 127 to 129, during the past three (3) years, by sawing down, clearing and  
4 otherwise damaging native California specimen trees, as well as other trees, shrubs,  
5 flowering plants, and landscape features of People’s Park, and by drilling and fencing  
6 operations conducted in People’s Park, during or about January 2021, operations and  
7 activities that, without due notice, damaged plants, polluted the grounds, and restricted access  
8 to and use of the Park. See Demand Letter, Exhibit K, pages 044 through 050, specifically  
9 including the last two paragraphs of page 3 and the top two paragraphs of page 4 of the  
10 Demand Letter, at pages 046 to 047 of the Appendix of Exhibits.  
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12           101. On February 1, 2021, on behalf of Plaintiff People’s Park Council, this  
13 attorney sent a demand letter addressed to Carol Christ, Chancellor of the UC Berkeley  
14 campus, reviewing the standing agreements and calling for compliance therewith and  
15 cessation of destructive violations of such agreements. See Demand Letter, attached as  
16 “Exhibit K” to the Appendix of Exhibits, at pages 044 through 050,  
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18           102. Petitioner and Plaintiff PEOPLE’S PARK COUNCIL never received any  
19 substantive response to the Demand Letter attached as “Exhibit K” from Chancellor Christ or  
20 any other UC administrator, but solely a brief email letter of inquiry from David M.  
21 Robinson, Chief Campus Counsel, dated February 10, 2021. True copies of the Demand  
22 Letter were also mailed to Gov. Gavin Newsom and UC President Michael V. Drake, M.D.  
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24           103. On February 22, 2021, on behalf of Plaintiff People’s Park Council, this  
25 attorney sent a responsive letter addressed to David M. Robinson, Chief Campus Counsel,  
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1 answering specific questions as requested, and again demanding communications in  
2 compliance with all agreements, and an end to destructive actions in violation of said  
3 agreements. See Responsive Letter, attached as “Exhibit L” to the Appendix of Exhibits, at  
4 pages 051 through 052. True copies of the Responsive Letter were again mailed to Gov.  
5 Gavin Newsom and UC President Michael V. Drake, M.D.  
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7 104. No substantive response was ever received either to the Demand Letter,  
8 Exhibit K, nor was any correction, mitigation, or remediation noted as to the relevant conduct  
9 of Defendant UC.

10 105. The Letter of Agreement states as follows: “Items of disagreement  
11 remaining after this process may be appealed to the Chancellor.” Letter of Agreement,  
12 Exhibit H, at page 037 of Plaintiffs’ Appendix of Exhibits.  
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14 106. Defendant UC’s failure or refusal to substantively address or respond to the  
15 Demand Letter (Exhibit K) or the Responsive Letter (Exhibit L) constitutes a further material  
16 breach of all the relevant provisions of the Letter of Agreement, specifically including the  
17 term providing for an appeal “to the Chancellor.” Letter of Agreement, Exhibit H, at page  
18 037 of Plaintiffs’ Appendix of Exhibits.  
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20 SECOND CAUSE OF ACTION – BREACH OF CONTRACT BY UC:

21 LETTER OF UNDERSTANDING

22 107. All foregoing paragraphs of this pleading are incorporated herein as though  
23 set forth in full.

24 108. On or about February 9, 1979, the “Letter of Understanding” (nominally  
25 dated “January 5, 1979”) was approved by both parties and executed by T. H. (Ted)  
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Chenoweth (Associate Vice Chancellor for Business Affairs), on behalf of Defendant UC,  
and by Howard M. Cooper, David L. Axelrod, and Peter Wood, on behalf of People’s Park  
Project/ Native Plant Forum (PPP/NPF), respectively.

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109. The terms and provisions of the “Letter of Understanding” are generally  
similar to, but more extensive than, the terms and provisions of the earlier “Letter of  
Agreement” between UC and People’s Park Project/ Native Plant Forum (hereinafter referred  
to as “PPP/NPF”), generally providing more notice, communications, dispute resolution, and  
preservation of People’s Park for “education, research and recreational purposes.” See  
section entitled “Appropriate Use” at page 2 of the “Letter of Understanding,” attached as  
Exhibit I to Plaintiff’s Appendix of Exhibits, page 039.

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110. The rights and responsibilities of PPP/NPF arising from the Letter of  
Understanding (Exhibit I), with respect to representing, managing, and representing People’s  
Park, were properly and generally transferred to and accepted by Plaintiff People’s Park  
Council, which transfer was recognized by Defendant UC, as alleged above in connection  
with the Letter of Agreement )Exhibit H).

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111. In a mutual exchange of valuable consideration, the Letter of Understanding  
(Exhibit I) accorded to PPP/NPF certain rights, responsibilities, and assurances, as  
enumerated under sections labeled “Appropriate Use,” “Routine Maintenance,”  
“Communications,” and “Resolution of Disagreements,” which provisions are qualitatively  
similar, to sections B, C and D of the “Letter of Agreement” (Exhibit H). See Exhibit I, at  
page 039 of Plaintiffs’ Appendix of Exhibits.

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112. Defendant UC breached the “Letter of Understanding” of February 9, 1979 (Exhibit I), including but not limited to the provisions of sections labeled “Appropriate Use,” “Communications,” and “Resolution of Disagreements” thereof, by recently proposing, considering, approving and adopting a “Long Range Development Plan” (also referred to as “LRDP”) that would completely destroy People’s Park and utilize the razed property as a site for high-rise construction.

113. Defendant UC breached the “Letter of Understanding” of February 9, 1979 (Exhibit I), by recently proposing, negotiating, approving and ultimately ratifying, on July 27, 2021, the secretly enacted “Settlement Agreement” between the City of Berkeley and the Regents of UC, both Respondents and Defendants herein. See Exhibit G, pages 023 through 036 of Plaintiffs’ Appendix of Exhibits.

114. The so-called “Settlement Agreement” attached as “Exhibit G” Plaintiffs’ Appendix of Exhibits, would solidify and contractualize Defendant UC’s plan to completely destroy People’s Park, by requiring the Defendant City of Berkeley (hereinafter referred to as the “City”) to collude with Defendant UC in implementing its “Long Range Development Plan” (“LRDP”), by abrogating or severely limiting the City’s exercise of its constitutional rights and powers with regard to planning and zoning, by restricting the rights of the City to oppose detrimental development plan on behalf of its citizens, and by requiring the City, in effect, to violate Measure L, which protects all parks and open space within Berkeley city limits, including People’s Park See Measure L, attached as +Exhibit E” to Plaintiffs’ Appendix of Exhibits.

1           115. Defendant UC has also breached the “Letter of Understanding” of February  
2 9, 1979, during the past three (3) years, by sawing down, clearing and otherwise damaging  
3 native California specimen trees, as well as other trees, shrubs, flowering plants, and  
4 landscape features of People’s Park, and by drilling and fencing operations conducted in  
5 People’s Park, during or about January 2021, operations that damaged plants, polluted the  
6 grounds, and restricted access to and use of the Park. See Demand Letter, Exhibit K, pages  
7 044 through 050, specifically including the last two paragraphs of page 3 and the top two  
8 paragraphs of page 4 of the Demand Letter, at pages 046 to 047 of the Appendix of Exhibits.

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10           116. Defendant UC’s failure or refusal to substantively address or respond to the  
11 Plaintiff People’s Park Council’s Demand Letter (Exhibit K) or to its Responsive Letter  
12 (Exhibit L) constitutes a further material breach of all the relevant provisions of the Letter of  
13 Agreement, specifically including the last sentence under “Resolution of Disagreements”  
14 providing for an appeal “to the Chancellor.” Letter of Understanding, Exhibit I, at page 039  
15 of Plaintiffs’ Appendix of Exhibits.  
16

17           THIRD CAUSE OF ACTION – BREACH OF CONTRACT BY UC:

18                           CHENOWETH LETTER

19           117. All foregoing paragraphs of this pleading are incorporated herein as though  
20 set forth in full.  
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22           118. On or about August 31 1979, T. H. (Ted) Chenoweth, Associate Vice  
23 Chancellor for Business Affairs for UC Berkeley, conveyed a letter to Vice Chancellor R. F.  
24 (Bob) Kerley, and with copies to eleven (11) other administrators, officers, and individuals,  
25 (hereinafter referred to as “Chenoweth Letter”), which letter served as a writing designed to  
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1 confirm, catalogue, itemize, and memorialize number of contractual agreements, both written  
2 and oral, both expressed and implied, between Defendant UC on the one hand and two (2)  
3 People’s Park entities on the other hand, namely PEOPLE’S PARK PROJECT/ NATIVE PLANT  
4 FORUM (PPP/NPF) and PEOPLE’S PARK COUNCIL, Petitioner and Plaintiff. See Chenoweth  
5 Letter dated August 31, 1979, attached as Exhibit J” to Plaintiffs’ Appendix of Exhibits.  
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7 119. Defendant UC breached the agreements described in the Chenoweth Letter  
8 of August 31, 1979, (Exhibit J), by recently proposing, considering, approving and adopting  
9 a “Long Range Development Plan” (“LRDP”) that would completely destroy People’s Park  
10 and utilize the razed property as a site for high-rise construction.

11 120. Defendant UC breached the Chenoweth Letter of August 31, 1979, (Exhibit  
12 J), by recently proposing, negotiating, approving and ultimately ratifying, on July 27, 2021,  
13 the secretly enacted “Settlement Agreement” between the City of Berkeley and the Regents  
14 of UC, both Respondents and Defendants herein. See Exhibit G, pages 023 through 036 of  
15 Plaintiffs’ Appendix of Exhibits.  
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17 121. The so-called “Settlement Agreement” attached as “Exhibit G” Plaintiffs’  
18 Appendix of Exhibits, both confirms and effectively contractualizes Defendant and  
19 Respondent UC’s plan to completely destroy People’s Park, by requiring the former  
20 Defendant City of Berkeley (hereinafter referred to as the “City”) to collude with Defendant  
21 UC in implementing its “Long Range Development Plan” (“LRDP”), by abrogating or  
22 severely limiting the City’s exercise of its constitutional rights and powers with regard to  
23 planning and zoning, by restricting the rights of the City to oppose detrimental development  
24 plan on behalf of its citizens, and by requiring the City, in effect, to violate Measure L, which  
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1 protects all parks and open space within Berkeley city limits, including People’s Park See  
2 Measure L, attached as +Exhibit E” to Plaintiffs’ Appendix of Exhibits.

3 122. Respondent and Defendant UC has also breached the agreements and  
4 undertakings set forth in the Chenoweth Letter of August 31, 1979, during the past three (3)  
5 years, by sawing down, clearing and otherwise damaging native California specimen trees, as  
6 well as other trees, shrubs, flowering plants, and landscape features of People’s Park, and by  
7 drilling and fencing operations conducted in People’s Park, during or about January 2021,  
8 operations that damaged plants, polluted the grounds, and restricted access to and use of the  
9 Park. See Demand Letter, Exhibit K, pages 044 through 050, specifically including the last  
10 two paragraphs of page 3 and the top two paragraphs of page 4 of the Demand Letter, at  
11 pages 046 to 047 of the Appendix of Exhibits.  
12

13 123. Respondent and Defendant UC’s failure or refusal to substantively address  
14 or respond to the Plaintiff People’s Park Council’s Demand Letter (Exhibit K) or to its  
15 Responsive Letter (Exhibit L) constitutes a further material breach of all the relevant  
16 provisions of the Chenoweth Letter of August 31, 1979. See Chenoweth Letter, attached as  
17 “Exhibit J,” at page 041 to 043 of Plaintiffs’ Appendix of Exhibits.  
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19 124. Following the inception of this lawsuit, during the summer of the following  
20 year, and particularly during late July and early August of 2022, in brazen contravention of  
21 the word and spirit of its numerous agreements and commitments (Petitioners’ Exhibit H, I,  
22 and J), and in defiance of the barest notions of basic civil respect and human decency,  
23 Respondent and Defendant UC acted wantonly to saw down full-grown redwoods and other  
24 specimen California trees, shredded shrubs, destroyed flowering plants, and damaged the  
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1 People's Stage and many other landscape features belonging to the Petitioners, by whom that  
2 had been developed and dedicated for the public use and enjoyment of the community .  
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4 PRAYER

5 WHEREFORE, THE PETITIONERS AND PLAINTIFFS, MAKE UC A  
6 GOOD NEIGHBOR, PEOPLE'S PARK HISTORIC DISTRICT ADVOCACY GROUP  
7 (PPHDAG), and PEOPLE'S PARK COUNCIL (PPC) respectfully pray the Court to:

8 1. Issue an immediate peremptory or alternative Writ of Mandamus;  
9  
10 2. Grant declaratory judgment recognizing and upholding the contractual rights  
11 of Petitioner PEOPLE'S PARK COUNCIL against the Respondent REGENTS OF THE UNIVERSITY OF  
12 CALIFORNIA D.B.A. UNIVERSITY OF CALIFORNIA AT BERKELEY (UC).

13 3. Impose a stay of further or continued administrative proceedings on the part  
14 of the Respondent, REGENTS OF THE UNIVERSITY OF CALIFORNIA D.B.A. UNIVERSITY OF CALIFORNIA AT  
15 BERKELEY (UC), and enjoining said Respondent from further damage and destruction of and  
16 within People's Park, Berkeley, California.

17 4. Provide appropriate equitable relief, including issuance of a temporary  
18 restraining order enjoining the Respondent, REGENTS OF THE UNIVERSITY OF CALIFORNIA D.B.A.  
19 UNIVERSITY OF CALIFORNIA AT BERKELEY (UC). from engaging in any further or continued actions,  
20 proceedings, or conduct in violation of the law, of contractual agreements (Petitioners'  
21 Exhibits H, I and J), and of the Petitioner's rights thereunder;  
22

23 5. Compensatory damages for the loss of the use, community control and user  
24 development of that parcel of open space and real property commonly known as People's  
25

1 Park, together with the improvements, trees, gardens, birds and wildlife thereon, in an  
2 amount of at least \$28 million, or such other amount, according to proof; and

3 6. Award reasonable attorney fees and costs of court pursuant to applicable  
4 statutory, contractual, and equitable authority.

5 DATED: November 16, 2022

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7  
8 **DAVID L. AXELROD,**  
9 **Attorney for the Petitioners,**  
10 **MAKE UC A GOOD NEIGHBOR, PEOPLE'S PARK**  
11 **HISTORIC DISTRICT ADVOCACY GROUP (PPHDAG),**  
12 **and PEOPLE'S PARK COUNCIL (PPC)**

13 **VERIFICATION**

14 I, DAVID L. AXELROD, hereby declare under penalty of perjury under  
15 the laws of the State of California, that I am the attorney of record for the Petitioner  
16 organizations herein, and that all facts set forth in the foregoing Petition are true and  
17 correct to the best of my knowledge, and that all exhibits to the Petition are authentic, of  
18 my own personal knowledge, and that I could and would competently testify thereto in a  
19 court of law if called upon to do so.

20 Executed this March 15, 2023, in Roseville, Placer County, California.

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23 **DAVID L. AXELROD,**  
24 **Declarant and Attorney for the Petitioners,**  
25 **MAKE UC A GOOD NEIGHBOR, PEOPLE'S PARK**  
26 **HISTORIC DISTRICT ADVOCACY GROUP (PPHDAG),**  
27 **and PEOPLE'S PARK COUNCIL (PPC)**

1 **APPENDIX OF EXHIBITS “A” TO “L”**

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3 **EXHIBIT A: Letter dated July 9, 2021, to the City Clerk, Mayor and City Council.**

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5 **EXHIBIT B: “Revised Proclamation Calling for a Special Meeting of the Berkeley**  
6 **City Council,” including agenda for July 13, 2021, at 4:00 p.m.**

7 **EXHIBIT C: “Annotated Agenda Berkeley City Council Special Meeting” for**  
8 **Tuesday, July 13, 2021, at 4:00 p.m.**

9 **EXHIBIT D: Petitioners’ Press Release of July 14, 2021.**

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11 **EXHIBIT E: City of Berkeley Measure L (Passed and effective as of 1986).**

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13 **EXHIBIT F: City of Berkeley Measure N (Passed and effective as of 1988).**

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15 **EXHIBIT G: UC Berkeley – City of Berkeley Settlement Agreement**  
16 **(Signatures Dated 7/27/2021).**

17 **EXHIBIT H: “Letter of Agreement” of May 8, 1978.**

18

19 **EXHIBIT I: “Letter of Understanding” of January 5, 1979.**

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21 **EXHIBIT J: Letter of August 31, 1979, to Vice Chancellor R. F. KERLEY.**

22 **EXHIBIT K: Letter of February 1, 2021, to Chancellor CAROL T. CHRIST.**

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24 **EXHIBIT L: Letter of February 22, 2021, to Counsel DAVID M. ROBINSON.**

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**PROOF OF SERVICE BY MAIL AND EMAIL – CCP §§1013A, 2015.5**

I declare as follows: I am employed in Sonoma, Tuolumne County, California. I am over the age of eighteen years and not a party to the within-entitled cause. My business address is 121 Duncan Way, Roseville, California 95678.

On March 15, 2023, I served the following document(s):


**4<sup>TH</sup> AMENDED PETITION FOR WRIT OF MANDAMUS, ETC., and APPENDIX OF EXHIBITS A TO L, RE: MAKE UC A GOOD NEIGHBOR, PEOPLE'S PARK HISTORIC DISTRICT ADVOCACY GROUP (PPHDAG), ET AL. v. REGENTS OF THE UNIVERSITY OF CALIFORNIA d.b.a. U.C. BERKELEY, Alameda Superior Court Case No. RG21105966,**

on the other party in said cause, by electronic transmission to the email address dmrobinson@berkeley.edu, to be transmitted that day in the ordinary course of business in the U.S. Mail at Roseville, California, to the opposing attorney at the following physical address:

**To: DAVID M. ROBINSON, Chief Campus Counsel,  
Office of Legal Affairs, U.C. Administration,  
200 California Hall, MC #1500,  
Berkeley, CA 94720-1500**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 15, 2023, in Roseville, Placer County, California.

DAVID L. AXELROD, Declarant  
(Type or print name)

  
\_\_\_\_\_  
(Signature of Declarant)