RYAN J. PATTERSON (SBN 277971)
BRIAN J. O'NEILL (SBN 298108)
EPHRAIM MARGOLIN (SBN 322799)
PATTERSON & O'NEILL, PC
235 Montgomery Street, Suite 950
San Francisco, CA 94104
Tel: (415) 907-9110
Fax: (415) 907-7704
ryan@pattersononeill.com
brian@pattersononeill.com
emargolin@pattersononeill.com

Attorneys for Petitioner and Plaintiff
YES IN MY BACK YARD

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN - UNLIMITED CIVIL JURISDICTION

YES IN MY BACK YARD, a California nonprofit corporation,

Petitioner and Plaintiff,

v.

CITY OF SAUSALITO; and DOES 1-20,

Respondents and Defendants.

Case Number: CIV2300652

PETITIONER'S NOTICE OF MOTION AND MOTION FOR ATTORNEYS' FEES; MEMORANDUM OF POINTS AND AUTHORITIES

Date:
Time:
Dept:

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, SUITE 950
SAN FRANCISCO, CALIFORNIA 94104

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TABLE OF CONTENTS

NOTICE OF MOTION FOR ATTORNEYS' FEES 5
MEMORANDUM OF POINTS AND AUTHORITIES 6
I. INTRODUCTION 6
II. BACKGROUND FACTS 6
A. The City Rushes to Adopt a Housing Element 6
B. Petitioner Files a Petition Seeking to Have the City Adopt an EIR and Amend its Housing Element 7
C. The City Certifies an EIR and Adopts an Amended Housing Element 8
D. The City Argues its Post-Litigation Actions Moot Petitioner's Claims 8
III. ARGUMENT 9
A. Petitioner Is a Successful Party Under CCP § 1021.5 9
B. Petitioner Is Entitled to a Fee Award Under CCP § 1021.5 11
1. *The Litigation Vindicates an Important Public Right* 12
2. *The Litigation Conferred a Significant Benefit on the General Public* 13
3. *The Litigation Imposed a Financial Burden that Was Out of Proportion to Petitioner's Individual Stake in the Matter* 15
4. *Petitioner is Entitled to Fees From Administrative Proceedings* 15
C. Petitioner's Fee Award Request is Reasonable 16
IV. CONCLUSION 18

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TABLE OF AUTHORITIES

CASES

Baggett v. Gates (1982) 32 Cal.3d 128 12
Bowman v. City of Berkeley (2005) 131 Cal.App.4th 173 12
Californians for Responsible Toxics Mgmt. v. Kizer (1989) 211 Cal.App.3d 961 16
City of Carmel-by-the-Sea v. Board of Supervisors (1986) 183 Cal.App.3d 229 12
Concepcion v. Amscan Holdings, Inc. (2014) 223 Cal.App.4th 1309 18
Ctr. for Biological Diversity v. Cnty. of San Bernardino (2010) 185 Cal.App.4th 866 13
Ctr. for Biological Diversity v. Cnty. of San Bernardino (2010) 188 Cal.App.4th 603 18
Graham v. DaimlerChrysler Corp. (2004) 34 Cal.4th 553 ..... 9, 11
Horsford v. Board of Trustees of California State University (2005) 132 Cal.App.4th 359 17
Los Angeles Cnty. Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 18
Los Angeles Police Protective League v. City of Los Angeles (1986) 188 Cal.App.3d 1 .... 13, 15
Lyons v. Chinese Hosp. Assn. (2006) 136 Cal.App.4th 1331 ..... 12, 15
Monterey/Santa Cruz County Building & Construction Trades Council v. Cypress Marina Heights LP (2011) 191 Cal.App.4th 1500 15
National Parks and Conservation Assn. v. County of Riverside (2000) 96 Cal.Rptr.2d 576 16
Perkins v. Mobile Housing Bd. (11th Cir. 1988) 847 F.2d 735 17
Rich v. City of Benicia (1979) 98 Cal.App.3d 428 12
RiverWatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 13
San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino (1984) 155 Cal.App.3d 738 12
Serrano v. Priest (1977) 20 Cal.3d 25 16
Serrano v. Unruh (1982) 32 Cal.3d 621 17
Tipton-Whittingham v. City of Los Angeles (2004) 34 Cal.4th 604 9
Vo v. Las Virgenes Mun. Water Dist. (2000) 79 Cal.App.4th 440 17
Wallace v. Consumers Co-op. of Berkeley, Inc. (1985) 216 Cal.Rptr. 649 16

Woodland Hills Residents Assn., Inc. v. City Council (1979) 23 Cal.3d 917 ..... 12, 13

STATUTES

Code of Civil Procedure § 1021.5 ..... passim
Gov. Code § 65580(e) 13
Gov. Code § 65580-81 13
Gov. Code § 65589.5 14
Pub. Res. Code § 21000 12
Pub. Res. Code § 21002.1 12

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NOTICE OF MOTION FOR ATTORNEYS' FEES

TO THE COURT AND ALL PARTIES HEREIN AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that in Department H of the above-entitled court located at 3501 Civic Center Drive, San Rafael, California 94903, on a date and time to be provided by the Court, Petitioner Yes In My Back Yard will move and does hereby move for an order to award Petitioner attorneys' fees in the amount of **$186,891**, to be supplemented with a further amount to be documented after the filing of Petitioner's reply brief and hearing on this motion. This is computed as follows:

Lodestar of work performed on tasks other than fee and cost recovery:	$172,851
Lodestar of work performed on fee and cost recovery ("fees on fees"):	$14,040
Total fees:	**$186,891**

The grounds for this application are that attorneys' fees are available to Petitioner due to the fact that Petitioner was the successful party because its lawsuit was the catalyst for the City of Sausalito's ("City") preparation of an Amended Housing Element and an Environmental Impact Report ("EIR") for the Amended Housing Element pursuant to Code of Civil Procedure § 1021.5, Petitioner's lodestar calculation is reasonable.

This motion is based on this notice and motion, the accompanying memorandum of points and authorities, the Declarations of Brian O'Neill and Sonja Trauss, the administrative record of proceedings on file and submitted into evidence in this action, all previously filed pleadings and papers on file, and such arguments of counsel as may be presented at the hearing.

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SAN FRANCISCO, CALIFORNIA 94104

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioner respectfully requests that this Court grant Petitioner's motion for an award of attorneys' fees. Petitioner meets the standard for an attorneys' fee award pursuant to Code of Civil Procedure ("CCP") § 1021.5, as this litigation was the catalyst for the City to adopt an amendment to its housing element and certify an environmental impact report ("EIR") to comply with CEQA, which was the primary relief sought by Petitioner. This outcome served to vindicate important public rights related to the provision of housing and protection of the environment, conferred significant benefits to the public, and imposed a significant financial burden on Petitioner that was out of proportion to its individual stake in the matter. Petitioner meets the criteria for a fee award under CCP § 1021.5 and is therefore entitled to an award of attorneys' fees.

II. BACKGROUND FACTS

A. The City Rushes to Adopt a Housing Element

The City initiated the EIR process for its housing element update by hiring a California Environmental Quality Act ("CEQA") consultant, issuing a Notice of Preparation, and holding a scoping meeting for the EIR. (AR 12339, 7455-57.) Assigned a Regional Housing Needs Allocation ("RHNA") of 724 units for the 6th Cycle Housing Element, the City formed a committee to consider which sites should be included in its housing element. (AR 4-6.) One of the express purposes of the EIR was to analyze the viability of properties for residential development. (AR 11267-9 ["as we go through the EIR process, [] we may have sites that we identify an alternative that removes sites that have significant and unavoidable impacts."].)

After being informed by the City's housing element consultant that the City would not be able to complete an EIR by its January 31, 2023 deadline and the City would be subject to the builder's remedy, Respondents "decoupled" certification of an EIR from adoption of its housing element so it could beat the deadline. (AR 11522.) Respondents officially "decoupled" the EIR a week before the statutory deadline to have a certified housing element by withdrawing the Notice of Preparation for the EIR. (AR 13793.)

After being informed that its draft housing element did not comply with the Housing Element Law because its Site Inventory was inadequate just five days before the deadline, the City rushed to make significant revisions to beat the clock. The City published a revised draft on a Sunday, just one day before the January 31 deadline. (AR 8525-64, 3121-3963.) The City held marathon joint back-to-back meetings of the Planning Commission and City Council the day before. (AR 11966, 12264.) After making significant changes to its Site Inventory on the fly with little public input, the City adopted a housing element and filed a Notice of Exemption, contending the adopted housing element was exempt from the CEQA. (AR 1-3, 458.) City staff administratively made additional changes to the housing element that were not publicly reviewed or approved by the City Council to gain HCD certification post-adoption. (AUGAR 24566-70.)

B. Petitioner Files a Petition Seeking to Have the City Adopt an EIR and Amend its Housing Element

Petitioner filed this suit on March 8, 2023. The lawsuit raised four main causes of action. The First Cause of Action claimed that the City adopted its housing element without proper CEQA review and requested the Court order Respondents to "comply with CEQA" by adopting an EIR for its housing element. (SAP, pp. 33-35; 43.) The Second Cause of Action claimed that the City failed to adequately support the capacity identified in its housing element Site Inventory based on the site criteria identified by statute and requested the Court direct the City to comply with the analysis required by state law. (SAP, pp. 35-37; 43.) The Third Cause of Action claimed that the City failed to carry out its housing element programs, including by failing to put an initiative on the ballot to remove density limitations. (SAP, pp. 37-39.) The Fourth Cause of Action claimed that the City failed to follow the procedural requirements for adequate public review before adopting the housing element. (SAP, pp. 39-41.) The Fifth Cause of Action requested Declaratory Relief for these violations.

After this lawsuit was filed, the City changed gears and began working on amending its housing element and completing environmental review. The City issued Notices of Preparation, released a Notice of Availability, published a draft EIR, and held a series of study

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sessions with both the Planning Commission and City Council. (AUGAR 24571-8, 25163-4, 25205-7, 17417-18080, 23633-23647.)

C. The City Certifies an EIR and Adopts an Amended Housing Element

On February 14, 2025, the City published a Final EIR, which found that the proposed housing element would have significant and unavoidable environmental impacts on aesthetic resources, agriculture and forestry resources, air quality, and transportation and traffic even with the proposed robust mitigation measures. (AUGAR 19605-6, 19608-14, 23231-23351, 23633.) The Final EIR stated that the amended housing element was the environmentally superior alternative to the housing element the City had originally adopted because "it would have fewer impacts on the environment than the proposed project," citing to the entirety of the EIR. (AUGAR 23349.)

On May 27, 2025, Respondents certified the Final EIR and approved the amendments. (AUGAR 16634-17158.) Due to intense public opposition, the City Council subsequently voted to remove several sites and reduce the density of other sites. For example, development of MLK Park was particularly contentious during the Amended Housing Element review process. The Council requested visual simulations of projects on the site at various densities before ultimately reducing the density of the site from 96 units down to 50 units. (AUGAR 17013.) The amendments made other significant changes to the Site Inventory, including the removal of Site 85, reduced density of Site 201 (605-613 Bridgeway), and the addition of two new sites at 2400 Bridgeway and 2680 Bridgeway to make up for the shortfall from removing and reducing other sites. (AUGAR 17013-15, 21035-16, 25368-69.) The amendments augmented the criteria the City used to evaluate the capacity of each site. (AUGAR 15772-79.) The City also extended the timelines to carry out its housing element programs, including the ballot measure. (AUGAR 22303-04.)

D. The City Argues its Post-Litigation Actions Moot Petitioner's Claims

In their Opposition Brief, Respondents argued that "the claims alleged in the Petition are moot because the City rescinded the Original Housing Element" and the City has "satisfied the Second Amended Petition's Prayer that the City comply with CEQA, as the City has

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prepared and, on May 27, 2025, certified, the Amended Housing Element EIR." (Oppo. pp. 23-4.) On February 18, 2026, the Court issued its Judgment, finding that the relief sought was now moot because the City had rescinded its housing element, adopted an amended housing element, and certified an EIR. (Judg. p. 12.)

III. ARGUMENT

A. Petitioner Is a Successful Party Under CCP § 1021.5

Petitioner is entitled to attorneys' fees pursuant to CCP § 1021.5, under which a "successful party" is awarded fees if the successful party meets the three criteria enumerated in the statute. Petitioner is a "successful party" in this litigation under the catalyst theory, where "attorney fees may be awarded even when litigation does not result in judicial resolution if the defendant changes its behavior substantially because of, and in the manner sought by, the litigation." (*Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 560.)

To obtain attorneys' fees under the catalyst theory, a plaintiff must establish that: (1) the lawsuit was a catalyst motivating the defendants to provide the primary relief sought; (2) the lawsuit had some merit and achieved its catalytic effect by threat of victory; and (3) the plaintiff reasonably attempted to settle the litigation. (*Ibid.* at 566; *Tipton-Whittingham v. City of Los Angeles* (2004) 34 Cal.4th 604, 609-610.) Petitioner meets all three of the catalyst theory criteria.

First, this lawsuit was undoubtedly a catalyst in motivating Respondents to adopt an EIR, conduct a robust public process, and amend its housing element as a result of that process. The City had no intention of completing an EIR for its housing element, originally releasing a Notice of Preparation for an EIR solely to review future actions to carry out its existing housing element programs. (AUGAR24571-78.) A year later, and as a result of this lawsuit, the City subsequently released a Notice of Preparation to complete an EIR to study the impacts of adopting the housing element itself, as well consider amendments to the housing element. (AUGAR 25157-62.) The City's amendments targeted the deadlines and programs that Petitioner specifically alleged that the City had failed to implement (AUGAR 15767-69), as

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well as the site suitability criteria analysis that Petitioner alleged the housing element lacked. (AUGAR 15772-79.)

The City has publicly admitted this lawsuit was a prime motivating factor to complete the EIR and adopt the amendments. During a public hearing, one councilmember questioned why the City was going through the amendment process at all when the City already had a certified housing element. The City attorney responded, "To be perfectly candid. The City's current adoption of its present housing element is the challenge of litigation. So that is a concern for the City, in terms of addressing some of the issues that have been raised in that litigation. So, to the extent that the City does adopt an amended housing element, it would likely moot much of the challenges that have been brought forth in that litigation . . . ."[1] There can be no question that there is a clear causal connection between the City's actions and the relief sought, as the City's Opposition Brief acknowledged "the City has also satisfied the Second Amended Petition's Prayer that the City comply with CEQA, as the City has prepared and, on May 27, 2025, certified, the Amended Housing Element EIR." (Oppo. p. 24; AUGAR16635-17158.) There can be no question this litigation was a catalyst for the City's actions.

Second, Petitioner's lawsuit had merit because it raised significant issues about the process by which Respondents adopted their housing element, the City's failure to conduct environmental review prior to adoption, and the flaws in the City's housing element. The City did not even attempt to argue that its failure to complete an EIR complied with CEQA or the procedural requirements of the Housing Element in its Opposition Brief, instead focusing solely on an argument that the claims were moot after the City acted to provide Petitioner the primary relief it sought. Moreover, the EIR the City eventually prepared confirmed that its approval of the housing element ***would*** cause significant and unavoidable environmental

[1] Video of this exchange occurs at the 1:19:06 mark of the February 4, 2024 City of Sausalito City Council meeting, available at https://sausalito.granicus.com/player/clip/1743?view_id=6&redirect=true.

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effects that were not disclosed or studied prior to adoption. (AUGAR 19605-6, 19608-14, 23231-23351, 23633.) Petitioner is not required to demonstrate that it would succeed on a final decision on the merits but rather must merely show that the claims are not "frivolous, unreasonable or groundless" in order to "screen out nuisance lawsuits." (*Graham, supra*, 34 Cal. 4th at 575.) That low bar is clearly met here, particularly considering that the City filed a demurrer that was overruled by this Court.

Third, Petitioner attempted to settle this dispute with Respondents before and immediately after initiating litigation. (Trauss Dec. ¶¶ 5-6; O'Neill Dec. ¶18, Ex. A, p. 1.) All that is required is that a plaintiff "must at least notify the defendant of its grievances and proposed remedies and give the defendant the opportunity to meet its demands within a reasonable time." (*Graham*, *supra*, 34 Cal. 4th at 577.) Petitioner urged the City multiple times to slow down through the approval process to fully consider its legal obligations. (AR 11708-09; 12156-27.) Petitioner sent a notice of intent to file a CEQA petition a week prior to filing the lawsuit unless the City rescinded its notice of exemption. (Trauss Dec. ¶ 5.) Petitioner also sent the City a settlement proposal early in the litigation process on April 11, 2023, urging the completion of an EIR. (Trauss Dec. ¶ 6.) However, the City refused these attempts to settle and maintained its position that an EIR was not required to be certified prior to the adoption of its housing element – before certifying an EIR prior to adoption of amendments to its housing element.

Petitioner meets the three criteria to qualify as a successful party under the catalyst theory, and therefore is eligible to recover attorneys' fees under CCP § 1021.5.

B. Petitioner Is Entitled to a Fee Award Under CCP § 1021.5

To recover attorneys' fees as a successful party under CCP § 1021.5, a petitioner must demonstrate the litigation "1) served to vindicate an important public right; 2) conferred a significant benefit on the general public or a large class of persons; and 3) imposed a financial burden on plaintiffs which was out of proportion to their individual stake in the matter." (*Baggett v. Gates* (1982) 32 Cal.3d 128, 142.) Although CCP § 1021.5 is phrased permissively, "the discretion to deny fees to a party that meets its terms is quite limited." (*Lyons v. Chinese*

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Hosp. Assn. (2006) 136 Cal.App.4th 1331, 1344.) In this case, Petitioner undoubtedly meets the three-part CCP § 1021.5 test and is entitled to a full fee award.

1. *The Litigation Vindicates an Important Public Right*

Part one of the CCP § 1021.5 test asks whether the litigation served to vindicate an important public right. The vindication of a statutory policy constitutes an "important public right" for purposes of CCP § 1021.5. (*See Woodland Hills Residents Assn., Inc. v. City Council* (1979) 23 Cal.3d 917, 939; *Bowman v. City of Berkeley* (2005) 131 Cal.App.4th 173, 180-181.) Here, Petitioner brought this litigation to vindicate statutory policies, including to ensure that Sausalito complied with CEQA by performing adequate environmental review prior to adoption of its housing element and complied with the Housing Element Law's procedural and substantive requirements.

The Legislature has recognized that "maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern." (Pub. Res. Code § 21000.) The preparation of an EIR is critical to achieving that goal, as the core purpose of an EIR is "to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided." (Pub. Res. Code § 21002.1.) Thus, "It is well settled that the private attorney general theory applies to an action to enforce provisions of CEQA." (*City of Carmel-by-the-Sea v. Board of Supervisors* (1986) 183 Cal.App.3d 229, 254.) Further, courts have recognized that "litigation brought to enforce the provisions of CEQA . . . has been held to involve important rights affecting the public interest, and the private attorney general theory as codified in . . . section 1021.5 applies to such suits." (*San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 754; *see also Rich v. City of Benicia* (1979) 98 Cal.App.3d 428, 435 ["Unquestionably environmental concerns in general and the statutory policy in favor of use of environment impact reports in particular involve preeminently important public rights."].)

Similarly, the Legislature has recognized that the "availability of housing is of vital statewide importance," and the Housing Element Law ensures "that counties and cities

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recognize their responsibilities in contributing to the attainment of the state housing goal." (Gov. Code § 65580-81.) The Housing Element Law recognizes that each local government has "the responsibility to consider economic, environmental, and fiscal factors and community goals" in its housing needs. (Gov. Code § 65580(e).) The City's amendment process helped ensure that these important statutory policies were met.

Petitioner's lawsuit, and the ensuing change that resulted in the completion of an EIR and housing element amendment, unquestionably vindicated an important public right of identifying, avoiding, and mitigating potential environmental impacts for a project that may have a significant effect on the environment. (AUGAR 19605-6, 19608-14, 23231-23351, 23633.)

2. *The Litigation Conferred a Significant Benefit on the General Public*

Part two of the CCP § 1021.5 test asks whether the litigation conferred a significant benefit on the general public, which is interrelated with part one because what makes "a right important . . . also meant it conferred a significant benefit on a large class of persons." (*Los Angeles Police Protective League v. City of Los Angeles* (1986) 188 Cal.App.3d 1, 13.) A significant benefit "may be recognized simply from the effectuation of a fundamental constitutional or statutory policy." (*Woodland Hills Residents Assn., Inc. v. City Council* (1979) 23 Cal.3d 917, 939.) Courts have thus recognized that "'successful CEQA actions often lead to fee awards under section 1021.5' on the ground they satisfy the substantial benefit criterion." (*Ctr. for Biological Diversity v. Cnty. of San Bernardino* (2010) 185 Cal.App.4th 866, 894 [quoting *RiverWatch v. County of San Diego Dept. of Environmental Health* (2009) 175 Cal.App.4th 768, 781].)

Here, the Petition provided significant benefits. First, this lawsuit conferred a significant benefit on the general public by spurring Respondents to publish an EIR that disclosed the environmental impacts of its housing element, resulted in the adoption of a mitigation and monitoring program to lessen those impacts, and resulted in the adoption of amendments to its housing element to avoid potential impacts. The EIR disclosed that the City's housing element would have significant and unavoidable environmental impacts on

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aesthetic resources, agriculture and forestry resources, air quality, and transportation and traffic – *even with* the adoption of a robust mitigation plan. (AUGAR 19605-6, 19608-14, 23231-23351, 23633.) The EIR evaluated alternatives to the housing element the City had originally adopted, finding that amendments to the housing element would be the environmentally superior alternative because the amendments "would have fewer impacts on the environment than the proposed project." (AUGAR 23349.) The City ultimately adopted the environmentally superior amendments, "rescinding" its original housing element. (AUGAR 16634-17158.) Thus, Petitioner's lawsuit not only resulted in certification of an EIR and the disclosure of information, but also permanent changes in legislation that will impact the entire City of Sausalito.

Second, the City conducted a robust public process prior to adopting the amendments, providing the public with the opportunity to weigh in that was denied during the City's initial rushed adoption. This time, the City meticulously followed the procedures required by law and specifically delayed adoption of the amendments to follow the procedures required by law. (AUGAR 23658.) The City acknowledged that this public process directly resulted in changes to the City's housing element, stating refinements were made as a result of "property owner and public input provided during the environmental review process." (AUGAR 15777; see also AUGAR 15772.)

Third, the proposed amendments attempted to address the specific allegations raised in the petition. The City's amendments targeted the deadlines and programs that Petitioner alleged the City failed to implement (AUGAR 15767-69), as well as the site suitability criteria that Petitioner alleged the housing element lacked (AUGAR 15772-79). Petitioner successfully enforced the Housing Element Law during a housing crisis that "threatens the economic, environmental, and social quality of life in California." (Gov. Code § 65589.5.)

This litigation enforced state environmental law and housing law, resulting in permanent legislative changes, which conferred significant benefits on not only Sausalito, but all Californians. Therefore, part two of the CCP § 1021.5 test is met.

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3. *The Litigation Imposed a Financial Burden that Was Out of Proportion to Petitioner's Individual Stake in the Matter*

Part three of the CCP § 1021.5 test asks whether the litigation imposed a financial burden that was out of proportion to a petitioner's individual stake in the matter. (*Monterey/Santa Cruz County Building & Construction Trades Council v. Cypress Marina Heights LP* (2011) 191 Cal.App.4th 1500, 1523.) A "pecuniary interest in the outcome of the litigation is not disqualifying," but rather a court must determine "whether the financial burden placed on the party is out of proportion to its personal stake in the lawsuit." (*Lyons*, *supra*, 136 Cal.App.4th at 1352-54; *see also Los Angeles Police Protective League*, *supra*, 188 Cal.App.3d at 9-10.)

Here, the financial burden on Petitioner was far out of proportion to its individual stake in the matter, as Petitioner had no pecuniary interest in the outcome of this litigation at all. YIMBY estimates that it spent nearly 14% of YIMBY's 2024 annual litigation budget and over 32% of its 2025 litigation budget on this case, and the investment of money in this case prevented YIMBY from being able to bring other state law cases. (Trauss Dec. ¶¶ 9-10.) Petitioner's interests were purely based upon ensuring Respondents' compliance with the Housing Element Law and CEQA for the benefit of the public. (Trauss Dec. ¶ 8.) Therefore, Petitioner bore a large financial burden that dwarfed its individual stake in the matter – which was financially nothing.

Petitioner is thus a successful party that meets the three-part CCP § 1021.5 test, and is therefore entitled to a full attorneys' fee award under CCP § 1021.5.

4. *Petitioner is Entitled to Fees From Administrative Proceedings*

Lastly, Petitioner is also entitled to attorneys' fees for work performed in the City's administrative proceedings process. Courts have determined that attorneys' fees for time spent in related administrative proceedings are recoverable when the administrative proceeding is useful, necessary, and directly contributes to the resolution of the action. (*National Parks and Conservation Assn. v. County of Riverside* (2000) 96 Cal.Rptr.2d 576, 581-2.) Courts have explained that in determining whether attorneys' fees for time spent in related administrative

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proceedings are recoverable under the private Attorney General statute, "The question is not whether parties to administrative action are same parties involved in lawsuit, but rather has the successful party made the requisite showing that time spent in a related administrative proceeding was reasonably expended on the litigation because it was both useful and necessary and directly contributed to the resolution of the action." (*Californians for Responsible Toxics Mgmt. v. Kizer* (1989) 211 Cal.App.3d 961, 971-2.)

Here, Petitioner is entitled to recover attorneys' fees for work performed during the City's administrative proceedings because it was necessary for Petitioner to participate in Planning Commission and City Council meetings as Respondents were considering adopting amendments to their housing element and an EIR, while litigation was still ongoing. In other words, the time spent on the administrative proceedings is recoverable here because the administrative proceedings were "inextricably intertwined" with this litigation and "necessary for the ultimate resolution" of this action. (*Wallace v. Consumers Co-op. of Berkeley, Inc.* (1985) 216 Cal.Rptr. 649, 658.) This work was directly related to this action and was useful in helping Petitioner understand the issues in this case and craft arguments for its briefing. (O'Neill Dec. ¶ 37.)

C. Petitioner's Fee Award Request is Reasonable

"The starting point of every fee award" is the lodestar figure, which is calculated by multiplying the number of hours reasonably spent by each attorney by the reasonable hourly rate for each attorney. (*Serrano v. Priest* (1977) 20 Cal.3d 25, 48.) In this case, the rates and hours are as follows (See O'Neill Dec. ¶¶ 3-6, Ex. A):

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TIME SPENT ON MATTERS OTHER THAN THIS FEE MOTION			
Attorneys	**Rate**	**Hours**	**Total**
Attorneys and Support Staff for YIMBY			
Ryan J. Patterson	$595-650/hour	53.80	$32,388
Brian O'Neill	$450-550/hour	221.80	$104,852.50
Laura F. Strazzo	$450/hour	3.20	$1,440
Ephraim Margolin	$385-395/hour	83.60	$32,999
Devon Bolla (Paralegal)	$165/hour	7.10	$1,171.50
YIMBY Total		**369.50**	**$172,851**

TIME SPENT ON THIS FEE MOTION AS OF MARCH 30, 2026			
Attorneys	**Rate**	**Hours**	**Total**
Attorneys for YIMBY			
Ryan Patterson	$700/hour	1.30	$910
Brian O'Neill	$550/hour	6.40	$3,520
Ephraim Margolin	$425/hour	22.40	$9,520
Devon Bolla (Paralegal)	$180/hour	0.50	$90
YIMBY Total		**30.60**	**$14,040**

A successful party is entitled to recover "***all*** hours reasonably spent" on the matter. (*Serrano v. Unruh* (1982) 32 Cal.3d 621, 639 [emph. added].) Reasonableness is assessed for "the entire course of the litigation, including pre-trial matters, settlement negotiations, discovery, litigation tactics, and the trial itself." (*Vo v. Las Virgenes Mun. Water Dist.* (2000) 79 Cal.App.4th 440, 447.) "[V]erified time statements of the attorneys, as officers of the court, are entitled to credence in the absence of a clear indication the records are erroneous." (*Horsford v. Board of Trustees of California State University* (2005) 132 Cal.App.4th 359, 396.) Further, counsel's "[s]worn testimony that, in fact, it took the time claimed is evidence of considerable weight on the issue of the time required[.]" (*Perkins v. Mobile Housing Bd.* (11th Cir. 1988) 847 F.2d 735, 738.)

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235 MONTGOMERY STREET, SUITE 950
SAN FRANCISCO, CALIFORNIA 94104

Here, Petitioner has carefully documented all hours spent on this litigation and provided sworn statements in support of the documented hours, which are entitled to great weight and credence. (O'Neill Dec. ¶ 17, Ex. A.) There is no indication that Petitioner's time records are erroneous, and in fact the hours spent on this litigation are below what would be expected in this type of case. Thus, Petitioner is entitled to recover an award for all hours spent on this matter as documented in counsel's sworn statements and billing records.[2]

Prevailing petitioners are entitled to an award based on billing rates in the relevant commercial market. (*Ctr. for Biological Diversity v. Cnty. of San Bernardino* (2010) 188 Cal.App.4th 603, 616-19.) The hourly rates in the accompanying declarations are at, or well below, the market rate charged in this legal market to litigate a case of this type. (O'Neill Dec. ¶¶ 3-6.) The rates of counsel for Petitioner, Patterson & O'Neill, PC, are below market rate. (O'Neill Dec. ¶¶ 3-12.) The hourly rates of partner Brian O'Neill ($450-550/hour), managing partner Ryan J. Patterson ($595-700/hour), partner Laura Strazzo ($450/hour), and associate Ephraim Margolin ($385-395/hour) are below market compared to others of similar experience. (*Id*.)

Petitioner's requested fee award is based on a lodestar figure supported by carefully documented hours that are below what would be expected, multiplied by hourly rates that are at or below the rates in the relevant legal market. Therefore, *at a minimum*, the baseline lodestar should be set at an amount that is at least equal to the hours and rates actually charged in this matter.

IV. CONCLUSION

Petitioner respectfully requests that the Court order recovery of (1) Petitioner's $172,851

[2] Petitioner has provided detailed invoices even though courts have long recognized that "[i]t is not necessary to provide detailed billing timesheets to support an award of attorney fees under the lodestar method." (*Concepcion v. Amscan Holdings, Inc*. (2014) 223 Cal.App.4th 1309, 1324.) Petitioner's billing records have been redacted to protect attorney-client privilege, as the Supreme Court of California has made clear that "any invoice that reflects work in active and ongoing litigation" is protected by attorney-client privilege. (*Los Angeles Cnty. Bd. of Supervisors v. Superior Court* (2016) 2 Cal.5th 282, 300.) Petitioner has submitted a notice of appeal in this case, and therefore the invoices reflect work in active litigation necessitating redactions.

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lodestar and (2) $14,040 in "fees on fees" as documented in this motion. The Court should therefore award a total of **$186,891** in attorneys' fees, plus an amount to be documented with Petitioner's reply brief for further work on this fee application.

Dated: March 30, 2026

PATTERSON & O'NEILL, PC

By: Brian J. O'Neill
Ephraim Margolin
Attorneys for Petitioner Yes In My Back Yard

PATTERSON & O'NEILL, PC
235 MONTGOMERY STREET, SUITE 950
SAN FRANCISCO, CALIFORNIA 94104