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10 Attorneys for Defendants
City of Novato, et al.

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 MARIN COUNTY HOMELESS
14 UNION, a local affiliate of the
CALIFORNIA HOMELESSNESS
15 UNION, on behalf of itself and those it
represents; CAMP COMPASSION, a
16 Homeless Union-affiliated encampment
in Lee Gerner Park; Individual Plaintiffs
17 JASON SARRIS; LEA DEANGELO;
ZACH BOULWARE; CARRIE
18 HEALON, LISA NICOLE JOHNSON;
DONALD HOBBS; DEBORAH ANN
19 MIROMONTES; LISA JOHNSON;
CHARLES TALBOT; BETHANY
20 ALLEN; MICHELANGELO MONTEZ;
DEBORAH ANN MIRAMONTES;
21 KALANI WELSCH, and other similarly
situated homeless persons including
22 current residents of Camp Compassion
homeless encampment,

23 Plaintiffs,

24 v.

25 CITY OF NOVATO; CITY MANAGER
26 ADAM MCGILL, MAYOR PAT
EKLUND, MAYOR PRO TEM ERIC
27 LUCAN, CHIEF OF POLICE
MATHEW MCCAFFREY, PUBLIC
28 WORKS DIRECTOR CHRIS BLUNK,

Defendants.

CASE NO.: 4:21-cv-05401-YGR

[Assigned to the Hon. Yvonne Gonzalez
Rogers]

**ORDER GRANTING
STIPULATION FOR ENTRY OF
PRELIMINARY INJUNCTION**

Hearing Date: October 20, 2021
Time: 9:00 a.m.
Ctm: 1

Colantuono, Highsmith & Whatley, PC
790 E. Colorado Blvd., Suite 850
Pasadena, CA 91101
SCN/CMA CA 05474

STIPULATION

This stipulation by and between Plaintiffs and Defendants (collectively referred to as the “Parties”), by and through their respective counsel, is based on the following facts:

1. On July 15, 2021, the Court issued an Order Granting Application for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction. Dkt. No. 8.

2. On July 26, 2021, the Court held a hearing on Defendants’ Motion to Modify the Temporary Restraining Order. At that hearing, the Court ordered an in-person evidentiary hearing on the Order to Show Cause on August 9, 2021 at 12:00 p.m. Dkt. No. 16.

3. On July 27, 2021, the Court issued an order referring this case to Magistrate Judge Robert Illman for settlement purposes. Dkt. No. 17.

4. On August 2, 2021, following the stipulation of the Parties, the Court continued the in-person evidentiary hearing on the Order to Show Cause to October 6, 2021, at 9:00 a.m. Dkt. No. 25.

5. On September 27, 2021, the Court continued the in-person evidentiary hearing on the Order to Show Cause to October 20, 2021, at 9:00 a.m. Dkt. No. 34.

6. The Parties have attended multiple settlement conferences before Judge Illman. In the course of these settlement discussions, the Parties have agreed to the terms of a stipulated preliminary injunction.

Therefore, the Parties stipulate as follows:

1. The Parties stipulate to the entry of a preliminary injunction, in the form attached hereto as Exhibit “A,” establishing a Temporary Camp within Lee Gerner Park.

2. This Stipulation resolves all of the issues the Parties would otherwise have presented to the Court for resolution at the October 20, 2021 hearing. The Parties agree that the October 20, 2021 hearing can be vacated.

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3. The Defendants will file an Administrative Motion to vacate the October 20, 2021 hearing and request that the Court adopt the attached stipulated preliminary injunction as the order of the Court.

4. This Stipulation does not constitute, and shall not be interpreted to constitute, an admission by the Defendants that they have engaged in violations of any law. The Plaintiffs' and Defendants' stipulation to entry of a preliminary injunction is not to be construed or deemed a waiver of any claims or defenses that may be raised in this action.

SO STIPULATED.

DATED: October 15, 2021

COLANTUONO, HIGHSMITH & WHATLEY, PC

/s/ Carmen A. Brock

JEFFREY A. WALTER
CARMEN A. BROCK
LILIANE M. WYCKOFF
Attorney for Defendants
City of Novato, City Manager Adam McGill, Mayor Pat Eklund, Mayor Pro Tem Eric Lucan, Chief of Police Mathew McCaffrey, Public Works Director Chris Blunk

DATED: October 15, 2021

LAW OFFICE OF ANTHONY D. PRINCE

/S/ Anthony D. Prince

ANTHONY D. PRINCE
General Counsel,
California Homeless Union
Attorney for Plaintiffs

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SCNOCMA CA 05474

SIGNATURE ATTESTATION

I hereby attest that I have on file all holographic signatures corresponding to any signatures indicated by a conformed signature (/S/) within this e-filed document.

DATED: October 18, 2021

COLANTUONO, HIGHSMITH & WHATLEY, PC

/s/ Carmen A. Brock

JEFFREY A. WALTER
CARMEN A. BROCK
LILIANE M. WYCKOFF
Attorney for Defendants
City of Novato, City Manager Adam McGill, Mayor Pat Eklund, Mayor Pro Tem Eric Lucan, Chief of Police Mathew McCaffrey, Public Works Director Chris Blunk

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EXHIBIT A

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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

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CALIFORNIA HOMELESSNESS
15 UNION, on behalf of itself and those it
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EKLUND, MAYOR PRO TEM ERIC
27 LUCAN, CHIEF OF POLICE
MATHEW MCCAFFREY, PUBLIC
28 WORKS DIRECTOR CHRIS BLUNK,

Defendants.

CASE NO.: 4:21-cv-05401-YGR

[Assigned to the Hon. Yvonne Gonzalez
Rogers]

**~~PROPOSED~~ ORDER RE:
PRELIMINARY INJUNCTION**

Hearing Date: October 20, 2021
Time: 9:00 a.m.
Ctrm: 1

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~~[PROPOSED]~~ ORDER

The Court hereby ORDERS as follows:

1. The City may establish a temporary camp within Lee Gerner Park and require all persons camping within Lee Gerner Park (as fully described and depicted in Exhibit A hereto as the property bounded by a thick, white line and covered with hash marks) who wish to remain in the Park to relocate to the temporary camp as set forth in greater detail below.

2. The City shall mark and establish sufficient temporary campsites in the City-owned portion of Lee Gerner Park (the “Temporary Camp”) to accommodate all persons “sheltered in place” due to the COVID-19 pandemic who are presently camping throughout Lee Gerner Park as of the date of this Order (“Sheltered Campers”). Attached to this Order as Exhibit B is a diagram (“Encampment Map”) showing the approximate location, size and layout of the Temporary Camp, including the locations of the tents, storage areas, benches, tables, handwashing stations, bathroom, appropriate bicycle racks, and other facilities to be provided by the City within the Temporary Camp. Notwithstanding the foregoing, the City may make reasonable modifications to this Encampment Map and the facilities shown thereon, so long as those modifications do not alter the number of campsites in the Temporary Camp provided for the Sheltered Campers presently residing in Lee Gerner Park.

3. The Temporary Camp will be enclosed by a fence which will be a total of six feet high — five feet of wood fencing and one foot of lattice work — to provide airflow while maintaining privacy. Attached to this Order as Exhibit C are computer-generated elevations showing a model of the location and general physical appearance of the fencing to be installed (“Fence”). The Fence is for the privacy of the occupants and to screen the Temporary Camp from the view of adjoining businesses.

4. All persons currently camping in Lee Gerner Park will be asked to:

- a. Accept a campsite assignment within the Temporary Camp appropriate for their needs, provided the Sheltered Camper’s tent and other

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personal property fit within the campsite assigned to him/her;

b. Consider placement at the New Beginnings Shelter operated by Homeward Bound. If no beds are available at the New Beginnings Shelter, the City may refer campers to the Homeward Bound Kerner Shelter or to any other housing opportunity as may then be available; or

c. Remove themselves and their property from Lee Gerner Park. Sheltered Campers who refuse to accept the campsite assignment and refuse to remove themselves and their property from Lee Gerner Park may be involuntarily removed from Lee Gerner Park by the City.

5. If a Sheltered Camper has vacated his/her space for 30 consecutive days without notifying the City (before or during that 30 day period) that she/he intends to return to his/her space immediately after the conclusion of said thirty-day period, then the Sheltered Camper shall be conclusively presumed to have permanently vacated his/her space. If the Sheltered Camper cannot be located after the 30 consecutive day period, and he/she has not notified the City of the intent to return as aforesaid, the City may then (i) remove that Sheltered Camper’s tent and other personal property located in the Temporary Camp, impound them, or discard them and (ii) remove the campsite or leave it unoccupied to ensure adherence to CDC COVID-19 guidelines. The City shall not be required to offer a vacant campsite to any person not already a Sheltered Camper residing in the Temporary Camp. Before discarding personal items, the City shall attempt to locate the Sheltered Camper who the City believes owns the items and who has vacated the Temporary Camp and provide a reasonable opportunity for him/her to reclaim the items, or be heard prior to discarding the personal items. If desired, the Sheltered Camper may be accompanied by a Marin County Homeless Union Representative at any such meeting with the City.

6. All areas within Lee Gerner Park which are not part of the Temporary Camp, must be kept clear from encampments, personal property, and other obstructions. The City shall be authorized to enforce this requirement.

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1 7. The City may implement a Code of Conduct for the Temporary Camp,
2 attached as Exhibit D. Persons who fail to abide by the Code of Conduct may be
3 required by the City to leave the Temporary Camp after being afforded advanced
4 notice and opportunity to dispute any allegation and, should they so desire, to be
5 accompanied by a Marin County Homeless Union Representative at any such meeting.

6 8. The City will provide every resident of the Temporary Camp an
7 appropriate designated living area as identified in the Encampment Map. The City will
8 offer the following:

9 a. A new tent that two people can sleep in that allows the occupants
10 to stand up inside, the color and style to be chosen by the City.

11 b. An appropriate designated personal storage area within the
12 Temporary Camp consistent with section 4(a) above. No storage of items shall
13 be allowed outside the perimeter of the Temporary Camp. Personal items left
14 outside the Temporary Camp in excess of 48 hours are subject to being
15 collected and discarded by the City, but only after an attempt to locate the
16 owner has been made, and if located, the owner has been given the opportunity
17 to reclaim or challenge the discarding of the objects. If desired, any such owner
18 may be accompanied by a Marin County Homeless Union representative when
19 meeting with the City. Notwithstanding the above, any item blocking ADA
20 access or an evacuation route is subject to immediate removal.

21 c. While the Temporary Camp is in existence, the City will provide
22 and pay for the following services at the Temporary Camp in accordance with
23 existing County and State health requirements and City resources:

24 i. Handwashing stations, portable bathrooms, and weekly
25 mobile showers;

26 ii. City and County existing “wrap around services” such as
27 housing outreach and healthcare coordination; and

28 iii. Trash collection and maintenance services.

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1 9. The City will provide security services to the Temporary Camp. This
2 security will replace the County’s existing security guards at the nearby County library
3 facility. The security services shall primarily be for external observation of areas
4 surrounding the Temporary Camp, including local businesses and other public
5 services, such as the County library. The security services will preclude entry into the
6 fenced Temporary Camp area, unless there is a threat to a Sheltered Camper, or others
7 nearby.

8 10. The City may conduct law enforcement actions under generally
9 applicable laws within Lee Gerner Park and the Temporary Camp. More specifically,
10 as previously clarified, the City is not prohibited from arresting or detaining and, if
11 appropriate, removing any person from the Temporary Camp who commits a crime.

12 11. The City may send outreach workers into the Temporary Camp to offer
13 (a) services to the occupants of the Temporary Camp and (b) placement at New
14 Beginnings Center or any other housing opportunity that may become available during
15 the duration of this preliminary injunction; police officers shall not provide such
16 outreach.

17 12. To maintain the health and safety of the Sheltered Campers within the
18 Temporary Camp, and to prevent the spread of COVID-19 or any other infectious
19 disease or health hazard, only donations of food, clothing or small essential personal
20 items may be accepted and brought into the Temporary Camp by Sheltered Campers;
21 however, the City shall not be responsible for, or liable for, the safety, quality, use or
22 disposal of any such items brought into the Temporary Camp. No large item donations
23 will be allowed, unless specifically permitted by the City, who will not unreasonably
24 withhold such permission.

25 13. This injunction will remain in effect until either (1) the CDC withdraws
26 or rescinds or otherwise modifies its Interim Guidance on People Experiencing
27 Unsheltered Homelessness to remove the recommendation against clearing
28 encampments; (2) the Parties agree to terms of settlement of this litigation; or (3) this

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1 preliminary injunction is dissolved or modified by this Court, whichever occurs first.

2 14. Should a dispute arise between the parties regarding interpretation of the
3 terms of this Order or its implementation, they shall first meet and confer regarding
4 the dispute. If the meet and confer proves unsuccessful, the parties are to contact
5 Magistrate Judge Illman and schedule a conference to seek his assistance before filing
6 any motion related to this Order with Judge Gonzalez Rogers.

7 15. The City may enforce Novato Municipal Code Section 14-20.5
8 throughout the City, as long as the same is not enforced selectively against persons
9 currently encamped at Lee Garner Park or in the Temporary Camp.

10 16. Except as provided herein above, the City of Novato is enjoined from
11 enforcing City of Novato Ordinance Nos. 1669 and 1670.

12 17. The Temporary Restraining Order dated July 15, 2021 (Dkt. No 8) as
13 modified July 27, 2021 (Dkt. No. 16) and the Court's order dated August 2, 2021
14 (Dkt. No. 25) are hereby dissolved.

15
16 IT IS SO ORDERED.

17
18 DATED: October 18, 2021

19
20 By: 
21 Hon. Yvonne Gonzalez Rogers

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790 E. Colorado Blvd., Suite 850
Pasadena, CA 91101
SCNOCMA CA 05474

EXHIBIT A



Monterey Ct

Marin County Flood Control District

Private (Kuhn Trust)

City of Novato

Private (Novato Center, LLC)

County of Marin (Library)

Private (Hoytt)

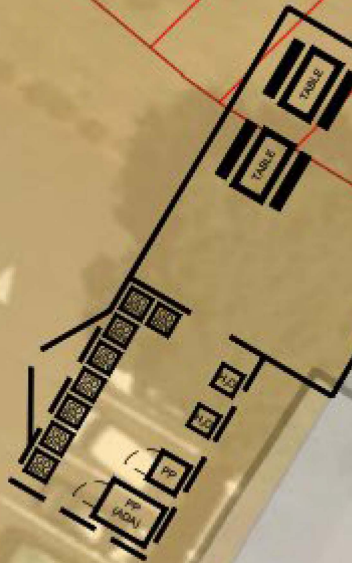
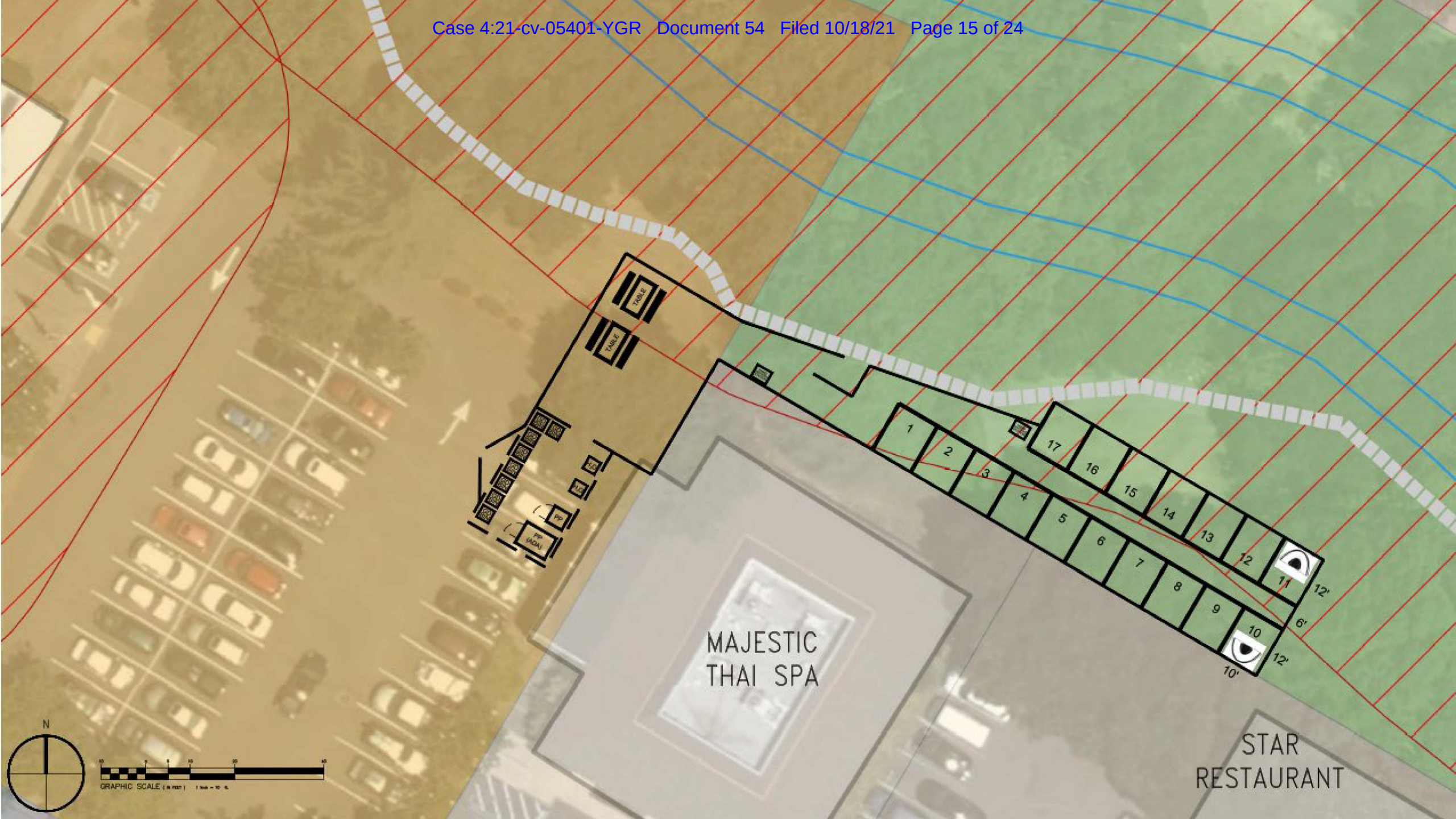
Private (Hoytt)

Novato Blvd

Seventh St

Approx. Centerline of Creek

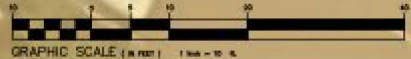
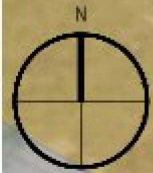
EXHIBIT B

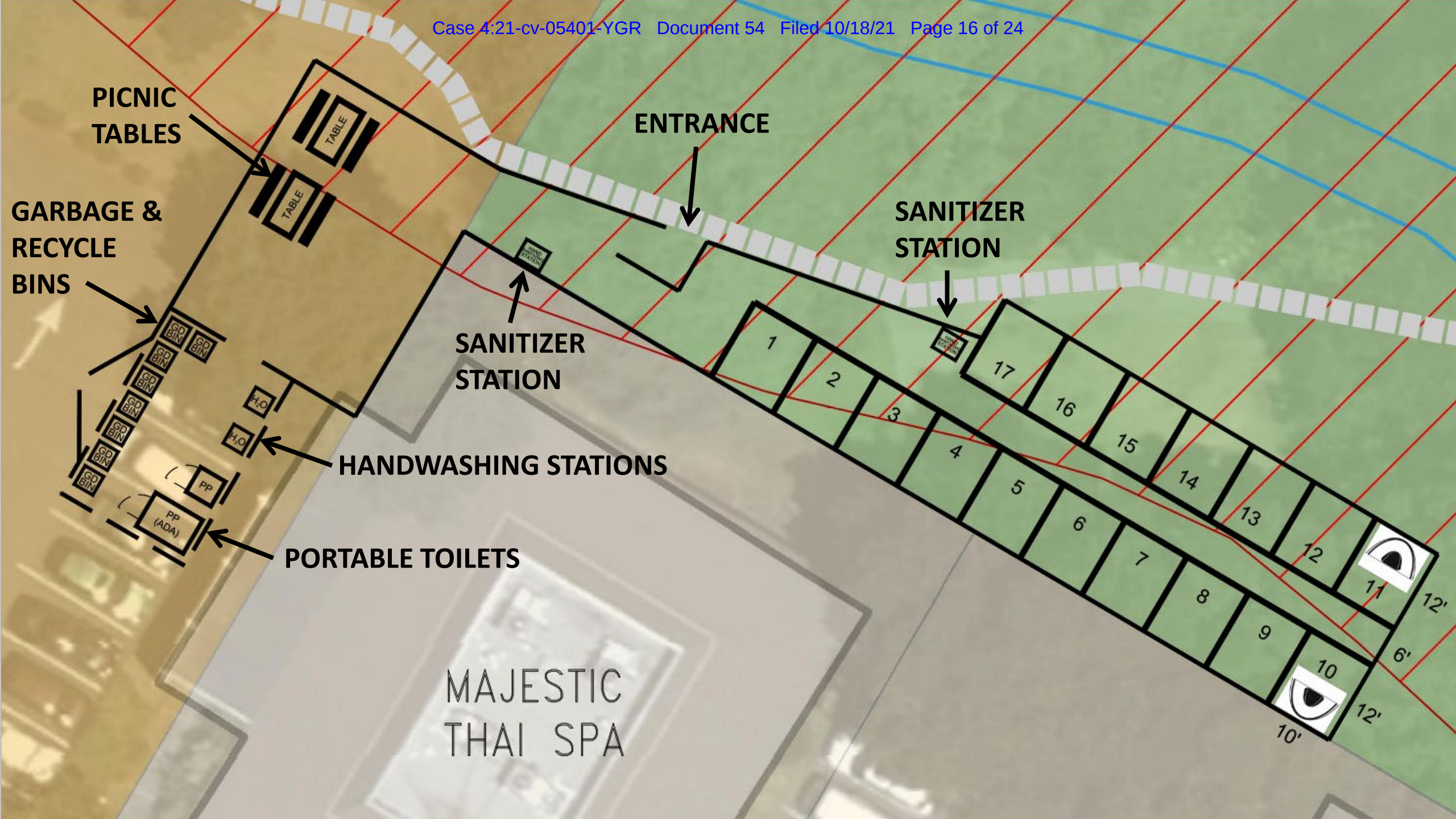


MAJESTIC
THAI SPA



STAR
RESTAURANT





PICNIC TABLES

ENTRANCE

SANITIZER STATION

GARBAGE & RECYCLE BINS

SANITIZER STATION

HANDWASHING STATIONS

PORTABLE TOILETS

MAJESTIC THAI SPA

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12'

10'

EXHIBIT C







NOVATO BLVD. RENDERING

EXHIBIT D

**Exhibit D
Code of Conduct**

1. COVID protocols must be followed:
 - a. Outside of tents, masks must be worn
 - b. Residents must maintain 6 feet physical distance from others who are not a part of their household
 - c. Residents must utilize provided hygiene units, and residents are strictly prohibited from urinating or defecating in the park
 - d. Social visits with non-residents will not be permitted within the Temporary Camp. All social visits between residents and non-residents must occur outside the boundaries of the Temporary Camp.
2. All residents must adhere to Park rules and regulations, including:
 - a. No use of alcohol and drugs or drug paraphernalia, pursuant to Novato Municipal Code § 14-10.2
 - b. No smoking, pursuant to Novato Municipal Code § 7-3.4.
 - c. No open fires, pursuant to Novato Municipal Code § 10-28.
 - d. No littering (all refuse must be put in provided receptacles, and portable toilets cannot be used as trash cans), pursuant to Novato Municipal Code § 14-6.9
 - e. No weapons, fireworks, or incendiary devices.
 - f. Residents must respect park quiet hours from 10 pm to 6 am pursuant to Novato Municipal Code § 14-13.1
 - g. Pathways within the Temporary Camp must be clear at all times
3. The following behaviors are not allowed:
 - a. Violence or threats of violence

- b. Aggressive behavior, including the racial slurs, inappropriate sexual comments, the offensive/aggressive use of profanity, or the use of any profanity around children
 - c. Stealing
 - d. Vandalism, misuse, or destruction of property (including fencing, lawn bowling pitch, electrical boxes, etc.)
 - e. Damaging the trees or any park plantings/landscaping
 - f. Jeopardizing the safety of any other camp residents or staff members
 - g. No disorderly conduct on park property.
4. Generally, residents' possessions must remain inside their assigned campsite, including:
- a. No belongings are allowed in pathways or common spaces
 - b. Only one (1) bicycle per resident is allowed
 - c. Encampments are at all times to be maintained in a reasonably tidy fashion, and the accumulation of needles, trash, debris, animal/human waste is strictly prohibited.

CERTIFICATE OF SERVICE

Marin County Homeless Union v. City of Novato, et al.
United States District Court, Northern District
Case No. 4:21-cv-05401-YGR

I, McCall L. Williams, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 790 East Colorado Boulevard, Suite 850, Pasadena, California 91101. My email address is: MWilliams@chwlaw.us. On October 18, 2021, I served the document(s) described as **STIPULATION FOR ENTRY OF PRELIMINARY INJUNCTION** on the interested parties in this action as follows:

BY ELECTRONIC TRANSMISSION: I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court, Northern District by using the CM/ECF system on October 15, 2021. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the USDC, Northern District CM/ECF system.

I declare that I am employed in the offices of a member of the State Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on October 18, 2021, at Pasadena, California.

/s/McCall Williams
McCall L. Williams

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