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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]

**[PROPOSED] ORDER RE:
PRELIMINARY INJUNCTION**

Hearing Date: October 6, 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

[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 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 camping within Lee Gerner Park as of the date of this order. Attached to this Order as Exhibit A is a map and diagram (“Encampment Map”) showing the location, size and approximate layout of the Temporary Camp, including the locations of the tents, storage areas, benches, tables, handwashing stations, bathrooms and other facilities which the City shall provide 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 cause the number of campsites in the Temporary Camp to fall below the total number of residents of the Temporary Camp.

3. The Temporary Camp will be enclosed by a six-foot high, wooden fence with two additional feet of lattice on top to provide for additional airflow and aesthetics. Attached to this Order as Exhibit B are computer-generated elevations showing a representative sampling of the location and physical appearance of the fencing allowed to be installed hereunder (“Fence”). The Fence is for the privacy of the occupants and to screen the Temporary Camp from the view of adjoining neighbors.

4. The City may require all persons camping in Lee Gerner Park to either:
a. Accept a campsite assignment within the Temporary Camp;
b. Accept a 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 Kerner Shelter; or

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1 c. Vacate Lee Gerner Park.

2 5. If a resident of the Temporary Camp chooses to leave the Temporary
3 Camp for any reason, the City may close that resident’s campsite and decline to assign
4 that campsite to any new person not already a resident of the Temporary Camp. This
5 restriction is necessary to prevent the spread of COVID-19 by limiting occupancy
6 within the Temporary Camp to only those persons who have been sheltering in place
7 together. Per the CDC’s Interim Guidance on People Experiencing Homelessness,
8 introduction of new residents to an encampment such as the Temporary Camp should
9 be avoided because it increases the risk of spreading infectious disease, including
10 COVID-19.

11 6. All areas within Lee Gerner Park that are not part of the Temporary
12 Camp must be kept clear from encampments, personal property, and other
13 obstructions not permitted by the City. The City may enforce Novato Municipal Code
14 section 14-20.3, which prohibits camping on public property without a park permit, in
15 all areas of Lee Gerner Park except the Temporary Camp.

16 7. The City may implement a Code of Conduct for the Temporary Camp,
17 attached as Exhibit C. Persons who unreasonably fail to abide by the Code of Conduct
18 may be required to leave the Temporary Camp.

19 8. The City will provide every resident of the Temporary Camp the
20 following:

- 21 a. A new “3 person” tent in size, intended for no more than one
22 occupant, all of the same color and style chosen by the City. These
23 tents will be of sufficient size to allow the occupant to stand up while
24 inside the tent.
- 25 b. A uniform designated living and storage area as shown on Exhibit A.
26 This area will be sufficiently sized to accommodate the City-provided
27 tent and a reasonable amount of storage as determined and regulated
28 by the City. Residents will not be permitted to exceed their designated

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living and storage area in the Temporary Camp.

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

- a. Handwashing stations, portable bathrooms, and weekly mobile showers;
- b. City and County existing “wrap around services” such as housing outreach and healthcare; and
- c. Trash collection and maintenance services.

10. The City will provide security services to the Temporary Camp. This security will replace the County’s existing security guards at the nearby County library facility.

11. The City may conduct law enforcement action under generally applicable laws within Lee Gerner Park and the Temporary Camp.

12. The City may send outreach workers into the Temporary Camp to offer (a) services to the occupants of the Temporary Camp and (b) placement at New Beginnings Center or any other shelter that becomes available during the duration of this preliminary injunction.

13. No community donations of food, goods or personal property will be allowed or may be accepted at the Temporary Camp. The City will refer persons wishing to donate food, property or other goods to the Temporary Camp (or to its occupants) to established non-profit support organizations.

14. This injunction will remain in effect until either (1) the CDC withdraws or rescinds or otherwise modifies its Interim Guidance on People Experiencing Unsheltered Homelessness to remove the recommendation against clearing encampments; (2) the Parties agree to terms of settlement of this litigation; or (3) this preliminary injunction is dissolved or modified by this Court, whichever occurs first.

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IT IS SO ORDERED.

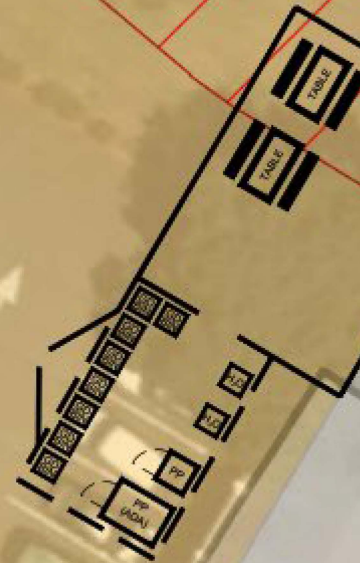
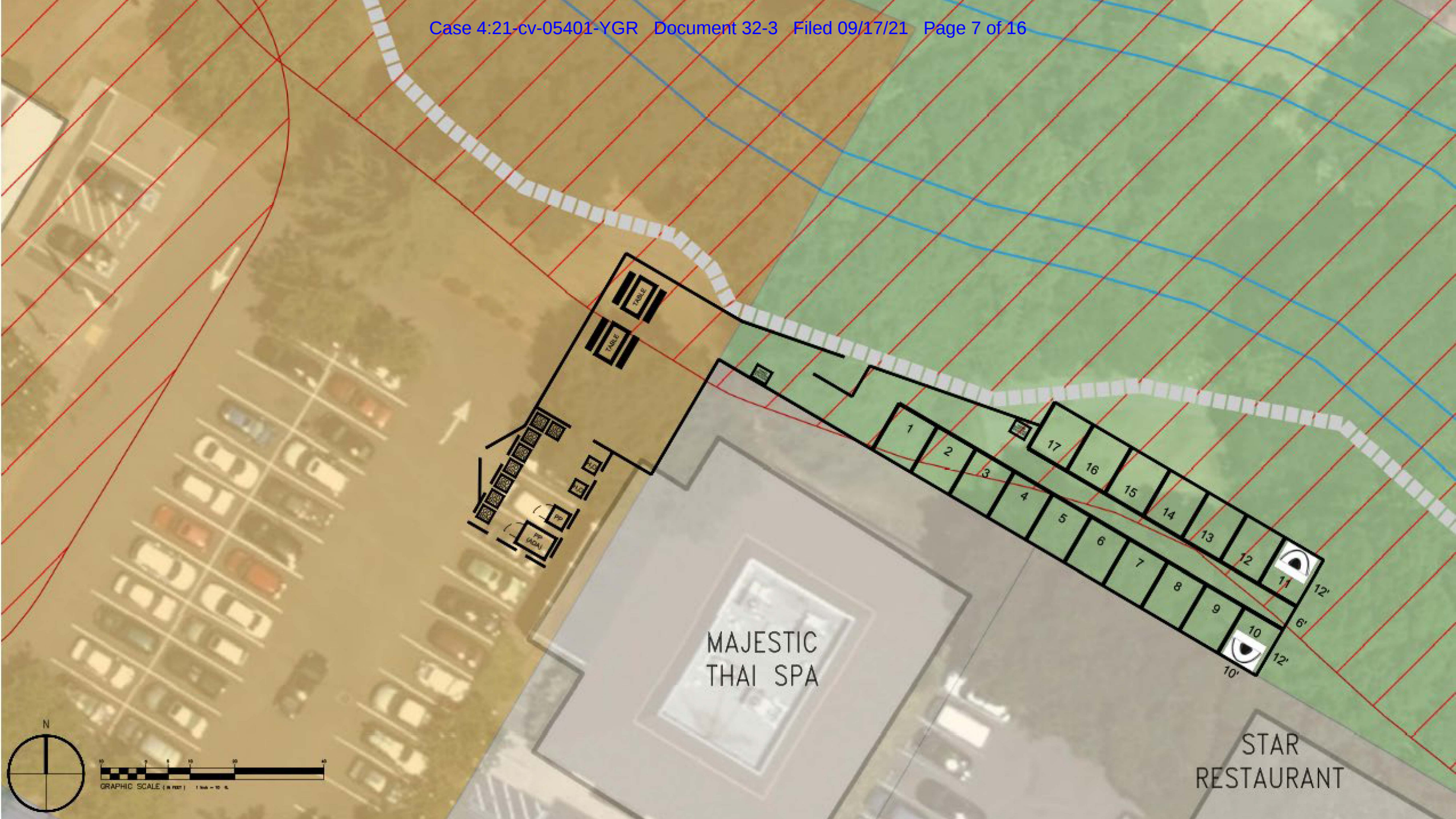
DATED: _____

By: _____

Hon. Yvonne Gonzalez Rogers

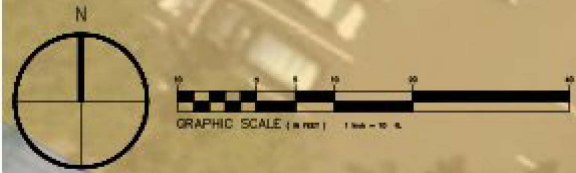
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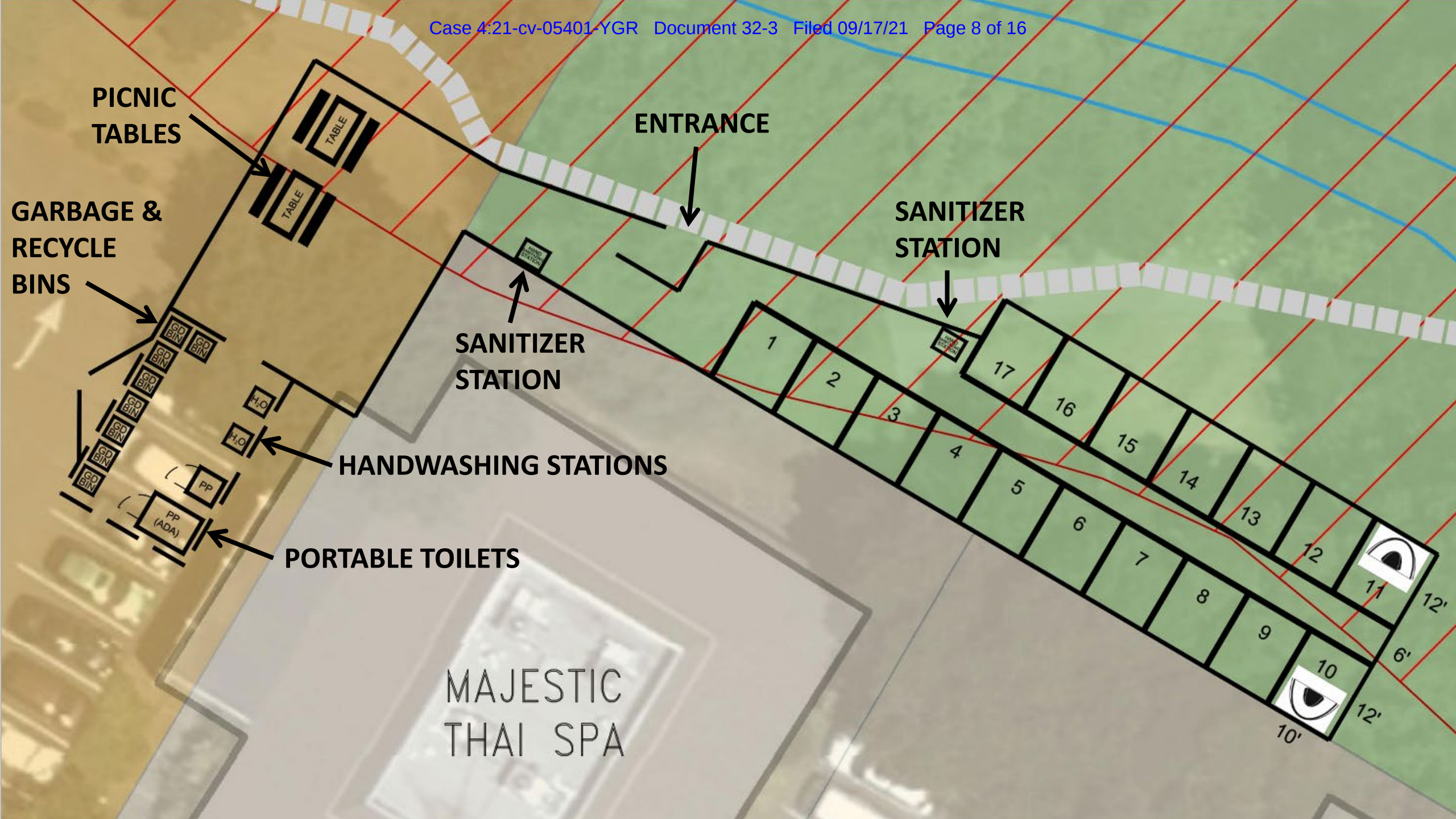
EXHIBIT A



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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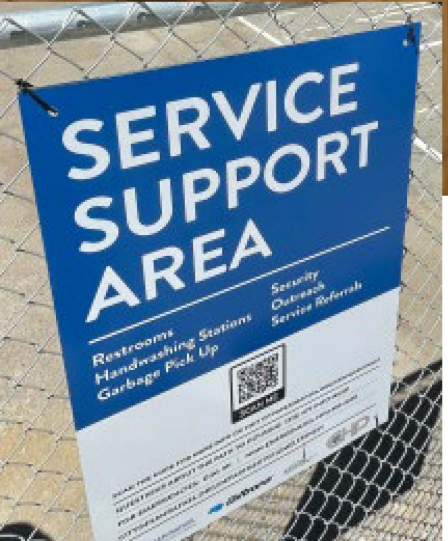
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SANITIZER STATION

SANITIZER STATION



EXHIBIT B







NOVATO BLVD. RENDERING

EXHIBIT C

Exhibit C
Code of Conduct

1. COVID protocols must be followed:
 - a. Tents must be at least 6 feet apart
 - b. Outside of tents, masks must be worn
 - c. Residents must maintain 6 feet physical distance from others who are not a part of their household
 - d. Residents must utilize provided hygiene units, and residents are strictly prohibited from urinating or defecating in the park
 - e. 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 September 17, 2021, I served the document(s) described as **[PROPOSED] ORDER RE: 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 September 17, 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 September 17, 2021, at Pasadena, California.

/s/McCall Williams
McCall L. Williams

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