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FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

STREET ADDRESS: 720 Ninth Street

MAILING ADDRESS:

CITY AND ZIP CODE: Sacramento, CA 95814

BRANCH NAME: Gordon D. Schaber Sacramento County Courthouse

CASE NAME:

Sacramento Investment Without Displacement v. Board of Regents of the University of California

CIVIL CASE COVER SHEET

☒ **Unlimited**
(Amount
demanded
exceeds \$25,000)

☐ **Limited**
(Amount
demanded is
\$25,000)

Complex Case Designation

☐ Counter ☐ Joinder

Filed with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

By Fax

JUDGE:

DEPT.:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort

- ☐ Auto (22)
- ☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- ☐ Asbestos (04)
- ☐ Product liability (24)
- ☐ Medical malpractice (45)

Non-PI/PD/WD (Other) Tort

- ☐ Business tort/unfair business practice (07)
- ☐ Civil rights (08)
- ☐ Defamation (13)
- ☐ Fraud (16)
- ☐ Intellectual property (19)
- ☐ Professional negligence (25)
- ☐ Other non-PI/PD/WD tort (35)

Employment

- ☐ Wrongful termination (36)
- ☐ Other employment (15)

Contract

- ☐ Breach of contract/warranty (06)
- ☐ Rule 3.740 collections (09)
- ☐ Other collections (09)
- ☐ Insurance coverage (18)
- ☐ Other contract (37)

Real Property

- ☐ Eminent domain/Inverse condemnation (14)
- ☐ Wrongful eviction (33)
- ☐ Other real property (26)

Unlawful Detainer

- ☐ Commercial (31)
- ☐ Residential (32)
- ☐ Drugs (38)

Judicial Review

- ☐ Asset forfeiture (05)
- ☐ Petition re: arbitration award (11)
- ☒ Writ of mandate (02)
- ☐ Other judicial review (39)

Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400–3.403)

- ☐ Antitrust/Trade regulation (03)
- ☐ Construction defect (10)
- ☐ Mass tort (40)
- ☐ Securities litigation (28)
- ☐ Environmental/Toxic tort (30)
- ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- ☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

- ☐ RICO (27)
- ☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- ☐ Partnership and corporate governance (21)
- ☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c. ☐ Substantial amount of documentary evidence
- d. ☐ Large number of witnesses
- e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): One (1) Violation of CEQA

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 18, 2020

Patrick M. Soluri

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

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**SACRAMENTO INVESTMENT WITHOUT
DISPLACEMENT, INC.**

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

FILE BY FAX

SACRAMENTO INVESTMENT WITHOUT
DISPLACEMENT, INC.,

Petitioner,

v.

BOARD OF REGENTS OF THE
UNIVERSITY OF CALIFORNIA; and DOES
1 through 20, inclusive,

Respondents.

CASE NO.

**VERIFIED PETITION FOR WRIT OF
MANDATE; ELECTION TO PREPARE
THE ADMINISTRATIVE RECORD OF
PROCEEDINGS**

(Code Civ. Proc., § 1085; Pub. Resources
Code, §§ 21168, 21168.5)

1 **INTRODUCTION**

2 Petitioner SACRAMENTO INVESTMENT WITHOUT DISPLACEMENT, INC.
3 (“SIWD” or “Petitioner”) petitions this Court for a writ of mandate directed to Respondent
4 BOARD OF REGENTS OF THE UNIVERSITY OF CALIFORNIA (“UC” or “Respondent”),
5 alleging as follows:

6 1. On November 19, 2020, the UC approved its UC Davis Sacramento Campus 2020
7 Long Range Development Plan Update (“2020 LRDP”) and Aggie Square Phase 1 (collectively
8 the “Project”). The UC also certified its UC Davis Sacramento Campus Long Range
9 Development Plan Update and Final Supplemental Environmental Impact Report (“SEIR”) as its
10 environmental review document for the Project pursuant to the California Environmental
11 Quality Act (“CEQA”).

12 2. The Project would increase the current UC Davis Sacramento Campus population
13 to 21,200 from an existing population of 13,500. This represents a population increase of 7,700
14 while providing only 324 housing units for 411 on-campus residents. Thus, the vast majority of
15 the Project’s population will need to find housing in the neighborhoods surrounding the Project
16 or elsewhere.

17 3. According to the City of Sacramento (“City”) Market Study of Planning Areas and
18 Community Plan area, the Broadway/Fruitridge community plan area’s population is over 87
19 percent non-white and have a median income of only \$44,501 compared to the County median
20 income of \$86,300. The types of potential impacts resulting from the Project will create a
21 foreseeable disproportionate impact on protected classes in the surrounding neighborhoods.

22 4. While the Project could be an opportunity to benefit UC Davis, the City, and
23 immediately surrounding neighborhoods alike, appropriate measures must be taken to ensure
24 that existing residents of these surrounding communities equitably benefit from the planned
25 improvements. Unless the deficiencies in the UC’s EIR are corrected, the UC’s actions will
26 exacerbate existing housing inequities and drive displacement in some of Sacramento’s most
27 historically underserved communities.

1 5. The Sacramento Housing Alliance (“SHA”) describes the Project’s significant
2 potential to displace nearby low-income residents, explaining in relevant part:

3 Much of the area around the UC Davis Sacramento Campus has been identified by
4 UC Berkeley’s Urban Displacement Project as either already experiencing
5 ongoing gentrification or at risk of doing so. According to [U.S. Census Bureau
6 estimate data], the neighborhoods surrounding the Sacramento Campus
7 experienced significant demographic change between 2008 and 2017: overall
8 median household income increased almost 12% . . . the percentage of the
9 population that is white and non-Hispanic/Latinx has increased . . . even as the
percentage of the population that is white and non-Hispanic/Latinx in the city as a
whole decreased. . . . rents have increased, and the rental vacancy rate decreased . .
. making it even more difficult for lower income households to find affordable
homes in the area. Without significant mitigation, the Aggie Square project stands
to accelerate these trends

10 6. The UC does not, however, mitigate the Project’s impact on displacement.
11 Instead, the UC adopts a strained legal position that somehow displacement is outside the scope
12 of issues that must be disclosed and mitigated under CEQA. Rather than take leadership by
13 mitigating the impacts of its own Project, the UC instead seeks to slough off that duty to other
14 entities such as the City.

15 7. The UC takes this same approach with respect to other issues. For example,
16 Caltrans requested that UC study the Project’s safety impacts at a U.S. 50 interchange, and the
17 UC responded by asserting this was somehow Caltrans’ responsibility. Also, The City requested
18 that the UC provide additional information to ensure safe linkages between City and UC
19 transportation facilities, and further ensure necessary mitigation was adequately funded, but the
20 UC refuses. Finally, the UC refuses to reduce, or even mitigate, its GHG emissions to the levels
21 set forth in statewide policy, and instead purports to comply with an arbitrary “net zero”
22 standard.

23 8. While the Project is laudable, the SEIR fails to adequately analyze potentially
24 significant environmental effects in several resource areas, fails to properly set forth and
25 evaluate all feasible mitigation measures and Project alternatives, and fails to support its
26 findings with substantial evidence. As such, the SEIR is fundamentally inadequate in its
27 preparation and must be set aside. The UC can and must do better to disclose and mitigate the
28 Project’s impacts.

1 **PARTIES**

2 9. Petitioner SACRAMENTO INVESTMENT WITHOUT DISPLACEMENT, INC.
3 (“SIWD” or “Petitioner”) is a California domestic nonprofit organization. SIWD is a coalition of
4 social justice advocates, equity-focused organizations, and community partners organized to
5 support the health and stability of neighborhoods impacted by development and to create a
6 united voice for local environmental concerns.

7 10. Respondent THE REGENTS OF THE UNIVERSITY OF CALIFORNIA (“UC”
8 or “Respondent”) is a public trust corporation and state agency established pursuant to the
9 California Constitution vested with administering the University of California. The UC acted as
10 the CEQA “lead agency” for the Project, its impacts, mitigation measures, and alternatives to
11 lessen or avoid any significant environmental impacts.

12 11. The true names and capacities, whether individual, corporate, associate,
13 governmental, co-conspirator, partner or alter-ego of those Respondents sued herein under the
14 fictitious names of DOES 1 through 20, inclusive, are not known to Petitioner, who therefore
15 sues those Respondents by such fictitious names. Petitioner will ask leave of Court to amend
16 this Petition and insert the true names and capacities of these Respondents when the same have
17 been ascertained. Petitioner is informed and believes and, on that basis, alleges, that
18 Respondents designated herein as DOE Respondents are legally responsible in some manner for
19 the events and happenings alleged in this Petition, and that Petitioner’s alleged injuries were
20 proximately caused by said Respondents’ conduct.

21 **FACTUAL BACKGROUND**

22 **The Proposed Project and UC Approval Process**

23 12. The UC Davis Sacramento campus is located approximately 2.5 miles southeast of
24 the State Capitol and 17 miles east of the UC Davis main campus in Davis, California. The UC
25 Davis Sacramento campus consists of approximately 150 acres and houses UC Davis Health.

26 13. The relevant underlying UC actions at issue include approval of the 2020 LRDP
27 and Aggie Square Phase I. UC long range development plans are like a city or county’s general
28

1 plans in that they establish the land use patterns and relevant policies that guide campus
2 development. The SEIR purports to provide programmatic review of the 2020 LRDP.

3 14. The Project would increase the current UC Davis Sacramento Campus population
4 to 21,200 from an existing population of 13,500 with only 324 housing units proposed for an
5 estimated 411 on campus residents. To accommodate the increased population and respond to
6 evolving higher education needs at UC Davis, the 2020 LRDP purports to provide additional
7 capacity for facility growth above the 2010 LRDP forecast of 6.57 million gsf to a new 2020
8 LRDP forecast of 7.07 million gsf.

9 15. The UC also certified the SEIR as a project-level CEQA document for Aggie
10 Square Phase I, which includes four new buildings, totaling more than 1.3 million square feet,
11 along with improvements to the roughly 9.55-acre site. The four buildings comprise
12 approximately 1,233,290 gross square feet (gsf) of building space and an additional 549,996 gsf
13 of parking structure space. One of the buildings would be a 329,530 gsf office, classroom, and
14 co-working space in a ten-story building called the Lifelong Learning Tower. An additional
15 620,260 gsf would be used for science, technology, and engineering in two buildings that would
16 be up to eight stories tall. The fourth building included in the Aggie Square Project is a 283,500
17 gsf apartment building that would contain 324 multi-family apartment units, and expected to
18 house 411 people.

19 16. A Notice of Preparation (“NOP”) for the SEIR was prepared and circulated on
20 February 7, 2020, for public comment period that ended on March 10, 2020. Several
21 organizations provided comments about the Project’s serious potential for displacement.

22 17. A Draft SEIR was subsequently prepared and circulated for public review and
23 comment from July 31, 2020 to September 17, 2020. A public hearing was held on September
24 3, 2020 to receive oral input from agencies and the public on the Draft SEIR. Approximately 20
25 comment letters were received including seven from State and local agencies, and 11 from
26 organizations or individuals. In addition, a public hearing on the Draft SEIR was held on
27 September 2, 2020, and 16 members of the public provided oral comments.

1 18. The UC approved the Project at its hearing on November 19, 2020, and filed its
2 Notice of Determination (“NOD”) with the State Clearinghouse on November 20, 2020.

3 **Population, Housing and Displacement Impacts**

4 19. The Project is located in direct proximity to Sacramento low-income
5 neighborhoods. Accordingly, several organizations and public agencies commented in response
6 to both the NOP and SEIR that the Project would likely result in displacement of local residents.

7 On this issue SACOG explained:

8 “[A]s a large-scale investment in a historically disadvantaged neighborhood, it is
9 important that we recognize the risk for existing businesses and residents. When
10 there is an influx of new money and people in an area that had one been under-
11 invested in, the incoming change can lead to major disruptions to people’s lives,
12 most often in the form of pushing them out. Ensuring that existing neighborhood
residents are engaged in a meaningful way and incorporating anti-displacement
strategies is one way to promote equitable development and prevent
displacement.”

13 20. Several commenters stated that the SEIR did not adequately analyze and disclose
14 displacement impacts, much less mitigate such impacts to the extent feasible as CEQA requires.

15 21. The UC acknowledged that the Project may result in displacement, stating in
16 relevant part, “[I]t is reasonably foreseeable that an indirect effect of the 2020 LRDP Update
17 could be some level of displacement of existing low-income residents as a result of new
18 investment to meet the demands of employees at the expanded project facilities.” This
19 important concession requires the UC to study the issue. (*Protect the Historic Amador*
20 *Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th 1099, 1109 (“[I]n preparing an
21 EIR, the agency must consider and resolve every fair argument that can be made about the
22 possible significant environmental effects of a project”).)

23 22. While conceding that the Project may reasonably result in displacement, the UC
24 refused to analyze the Project’s impact in the SEIR by claiming the Project’s displacement
25 effects were “indirect” and therefore purely “social and economic effects” that are outside the
26 scope of CEQA. The UC’s legal arguments are incorrect, and do not excuse the SEIR’s failure
27 to analyze and disclose displacement impacts.

23. The issue of displacement is squarely within the scope of CEQA. Appendix G to the CEQA Guidelines asks whether a project would “[d]isplace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?”

24. CEQA Guidelines Appendix G does not distinguish between “direct” and “indirect” displacement. Indeed, CEQA provides that both “direct” and “indirect” impacts must be analyzed. (CEQA Guidelines, § 15358.)

25. To the extent displacement is somehow considered a “social or economic effect” despite it being expressly included in CEQA Guidelines Appendix G, such issues must nevertheless be analyzed to the extent they cause physical changes in the environment. (CEQA Guidelines, § 15131.) Further, social and economic effects are relevant to determine the significance of a project’s physical changes to the environment. (*Ibid.*)

26. Displacement is a population and housing impact that is within the scope of CEQA. It also leads to growth inducement as well as increases in VMT and GHG emissions, which are also within the scope of CEQA. Finally, growth inducement is relevant to determine the significance of impacts to growth inducement, VMT and GHG. Accordingly, the SEIR must analyze and disclose the Project’s displacement impacts.

Other Project Impacts

27. The SEIR’s defects are not limited to its failure to analyze and mitigate for displacement or impacts resulting from and related to displacement.

28. Effective July 1, 2020, degradation in level of service (“LOS”) is no longer considered a significant impact under CEQA. Instead, vehicle miles traveled (“VMT”) is one measure to assess transportation impacts along with other considerations such as safety and impacts to transit, pedestrian and bicycle facilities.

29. In order to provide guidance to public agencies on the recent change from LOS-based analysis to VMT-based analysis, the Governor’s Office of Planning and Research (“OPR”) released a Technical Advisory on Evaluating Transportation Impacts under CEQA (“Technical Advisory”), which “contains technical recommendations regarding assessment of

1 VMT, thresholds of significance, and mitigation measures.” The Technical Advisory is neither a
2 regulation nor a part of the CEQA Guidelines.

3 30. The Technical Advisory directly links VMT and GHG, stating in relevant part:

4 VMT and Greenhouse Gas Emissions Reduction. Senate Bill 32 (Pavley, 2016)
5 requires California to reduce greenhouse gas (GHG) emissions 40 percent below
6 1990 levels by 2030, and Executive Order B-16-12 provides a target of 80 percent
7 below 1990 emissions levels for the transportation sector by 2050. . . The
8 California Air Resources Board (CARB) has provided a path forward for
achieving these emissions reductions from the transportation sector in its 2016
Mobile Source Strategy. CARB determined that it will not be possible to achieve
the State’s 2030 and post-2030 emissions goals without reducing VMT growth.

9 31. Consistent with the need to reduce VMT in order to achieve state policy to reduce
10 GHG emissions, the Technical Advisory recommends a numeric significance threshold of 15
11 percent reduction in VMT from baseline conditions: “In summary, achieving 15 percent lower
12 per capita (residential) or per employee (office) VMT than existing development is both
13 generally achievable and is supported by evidence that connects this level of reduction to the
14 State’s emissions goals.”

15 32. The SEIR purports to analyze the Project’s impacts based on VMT. The SEIR
16 found, “The overall growth in VMT under the 2020 LRDP Update is projected to outpace
17 campus population, leading to an increase in daily per capita VMT,” and further, “The 2020
18 LRDP Update would generate additional VMT compared to existing conditions.”

19 33. Despite acknowledging that the Project would increase VMT, the SEIR
20 nevertheless finds the impact is less than significant – and thereby proposes no mitigation for
21 VMT impacts – because the Project would be located in an area designated as “low VMT” as
22 mapped by SACOG.

23 34. Even if the Technical Advisory’s screening threshold for “residential and office
24 projects” constitutes a CEQA significance standard that is relevant to the Project, compliance
25 with that standard would not excuse the UC’s attempt to end the analysis since “[c]ompliance
26 with the threshold does not relieve a lead agency of the obligation to consider substantial
27 evidence indicating that the project’s environmental effects may still be significant.” (CEQA
28 Guidelines, § 15064, subd. (b)(2); see also *East Sacramento Partnership for a Livable City v.*

1 *City of Sacramento* (2016) 5 Cal.App.5th 281, 300.) The SEIR’s own analysis constitutes
2 substantial evidence that the Project’s impact on VMT is significant despite purported
3 compliance with the Technical Advisory’s screening threshold for “residential and office
4 projects.”

5 35. The SEIR engaged in similar sleight of hand with respect to GHG emissions.
6 With respect to one of the two significance standards for GHG emissions, the SEIR explains,
7 “Given the seriousness of climate change and the regional significance of the Sacramento
8 Campus, UC Davis has determined that for purposes of this analysis, any increase in GHG
9 emissions above existing conditions (net zero) would result in a significant impact on the
10 environment.” (Emphasis added.)

11 36. The SEIR’s seemingly-laudable “net zero” significance standard stands in stark
12 contrast with, and is arbitrary in relation to, California statewide policy of reducing state-wide
13 greenhouse gas emissions to 1990 levels by the year 2020 (Health and Safety Code § 38550), 40
14 percent below 1990 levels by the 2030 (Health and Safety Code § 38566), 80 percent below
15 1990 levels by 2050 (Executive Order S-3-05). (*Cleveland National Forest Foundation v. San*
16 *Diego Assn. of Governments* (2017) 3 Cal.5th 497 [“These targets were based on a scientific
17 consensus that climate change was largely caused by human activity resulting in elevated levels
18 of carbon dioxide and other heat-trapping gases in the atmosphere and that drastic reductions in
19 greenhouse gas emissions were required to stabilize the climate”].)

20 37. The need to significantly reduce GHG emissions against baseline conditions is
21 well understood by the UC. The Draft SEIR acknowledges that “attainment of the state’s long-
22 term climate change goal of carbon neutrality (EO B-55-10) will require deep emissions
23 reductions across all sectors.”

24 38. While recognizing the need for “deep emissions reductions across all sectors,” the
25 UC is arbitrarily assigning for itself a significantly less ambitious standard than required “across
26 all sectors.” This arbitrary significance standard further results in considerably less mitigation
27 for GHG emissions.

1 39. The prejudice to informed decision-making resulting from the SEIR’s arbitrary
2 significance standard is exacerbated by its unsupported assumption of GHG reductions through
3 compliance with the “University’s Carbon Neutrality Initiative” as well as reliance on vague,
4 unenforceable and impermissibly-deferred GHG mitigation measures.

5 40. The SEIR does not represent a good faith effort by the UC to analyze and disclose
6 the Project’s GHG impacts, much less mitigate those impacts consistent with state GHG policy
7 to the extent feasible.

8 41. Closely related to GHG emissions is CEQA’s requirement to analyze a project’s
9 use of energy. The CEQA Guidelines require:

10 If analysis of the project's energy use reveals that the project may result in significant
11 environmental effects due to wasteful, inefficient, or unnecessary use of energy, or
12 wasteful use of energy resources, the EIR shall mitigate that energy use. This analysis
13 should include the project's energy use for all project phases and components, including
14 transportation-related energy, during construction and operation. In addition to building
code compliance, other relevant considerations may include, among others, the project's
size, location, orientation, equipment use and any renewable energy features that could be
incorporated into the project.

15 (CEQA Guidelines, § 15126.2, subd. (b).)

16 42. Contrary to state policy, the SEIR reveals that the Project would result in increased
17 electricity consumption by nearly four-fold, increased onsite gasoline consumption by more than
18 20 percent, and increased natural gas and diesel consumption by more than 10 percent each
19 against baseline conditions. The SEIR proposes no significant infrastructure to increase onsite
20 generation of renewable energy to offset these significant demand increases. Instead, the SEIR
21 doubles-down on its reliance on vague and unsubstantiated mitigation measures – once again,
22 measured against an arbitrary standard that is inconsistent with state policy – to conclude that
23 the impact less than significant.

24 43. With respect to energy use associated with increased VMT emissions in particular,
25 the SEIR repeats its position that the Project would be located in “a low VMT-generating area of
26 the Sacramento region.” That a Project is located in a low-VMT area is not mitigation for a
27 Project’s incremental energy use associated with its VMT – particularly when the Project will
28

1 admittedly increase its per-capita VMT in relation to existing conditions. The UC's legal
2 position is contrary to state policy: locating a project in a "low-VMT area" is not a license to
3 increase VMT with impunity and further avoid the consequence associated with that increase in
4 energy consumption. Further, the UC's attempt to rely on internal trip capture to "reduce
5 transportation energy" is devoid of any quantification or meaningful analysis.

6 44. With respect to transportation impacts, Caltrans commented that the Project could
7 negatively impact safety at the U.S. 50 interchange ramps at Stockton Boulevard, and requested
8 that the UC analyze this impact. The UC refused, and even stated that "Caltrans is responsible
9 for performing this safety analysis" for the Project.

10 45. The City of Sacramento raised similar concerns about the need to ensure safe
11 connections between the Project and City transportation facilities. The City asked the UC to
12 "identify funding for required improvements, including potentially contributing to any
13 improvements assumed to be constructed by the City, that were the basis for determining project
14 automobile/bicycle conflicts are Less Than Significant." The UC refused.

15 46. The City also identified with specificity the "proposed extension of 3rd Avenue
16 easterly from Stockton Boulevard onto the Stockton Campus," commenting that, "[A]t
17 minimum, peak hour traffic volume forecasts and signal warrant information needs to be
18 provided to determine the appropriate traffic control device required to address the operations
19 and safety at this intersection." The UC refused to disclose this information to the public in the
20 SEIR, stating, "The comment does not allege that the projects will result in unsafe conditions
21 during peak hour but alleges that it must be studied. CEQA does not require a Lead Agency to
22 conduct every recommended test and perform all recommended research to evaluate the impacts
23 of a project."

24 47. Similar deflection and obfuscation occurred in other resource areas. For example,
25 the Sacramento Metropolitan Air Quality Management District ("SMAQMD") commented that
26 the Draft SEIR did not adequately follow SMAQMD guidance for assessing impacts to criteria
27 pollutants, did not adequately quantify the Project's GHG emissions for purposes of assessing
28

1 GHG impacts, and did not ensure that its GHG mitigation measures were sufficiently
2 enforceable.

3 48. The SMAQMD also shared other commenters' concerns regarding the SEIR's
4 reliance on SACOG screening maps to conclude in cursory fashion that the Project's impact on
5 VMT would be less than significant despite actually increasing VMT, observing, "To fully
6 justify use of these maps to call the project VMT impact less than significant, the SEIR should
7 provide specific and enforceable mitigation measures to ensure its consistency with this low-
8 VMT area. We recommend using Sac Metro Air District's Recommended Guidance for Land
9 Use Emission Reductions v.4.2 (Guidance v4.2) to accomplish this." The UC disregarded this
10 request.

11 49. The UC's refusal to fully comply with Guidance v4.2 is understood in the context
12 of the SMAQMD's later comment, which states "Please note that 'Integrate Below Market Rate
13 Housing' is a quantified mitigation measure in Sac Metro Air District's Guidance v4.2" Once
14 again, and consistent with the UC's steadfast refusal to meaningfully address displacement and
15 housing impacts, the UC summarily disregarded this suggested VMT mitigation strategy by
16 asserting, "Below market housing is not currently included in the 2020 LRDP Update."

17 **JURISDICTION AND VENUE**

18 50. This Court has jurisdiction over the matters alleged in this Petition pursuant to
19 Code of Civil Procedure section 1085 and Public Resources Code sections 21168 and 21168.5.

20 51. Venue is proper in Sacramento Superior Court because the UC is a public officer
21 within the meaning of Code of Civil Procedure sections 393, subdivision (b), and the cause of
22 action arose entirely in Sacramento. (*Regents of University of California v. Superior Court*
23 (1970) 3 Cal.3d 529, 534-543.)

24 52. This Petition is timely filed in accordance with Public Resources Code section
25 21167, subdivision (b) as the UC filed its notice of determination for the Project on November
26 20, 2020.

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54. The UC has taken final agency actions with respect to certifying the SEIR and approving the Project. The UC has a mandatory duty to comply with all state and federal laws, including but not limited to CEQA, prior to undertaking the discretionary actions at issue in this lawsuit.

55. Petitioner has standing to assert the claims alleged in this Petition because it is beneficially interested in this matter, as required by Code of Civil Procedure section 1086. Petitioner is a non-profit organization comprised of social justice advocates, equity-focused organizations and community partners and dedicated to support the health and stability of neighborhoods impacted by of large development projects in Sacramento and to create a united voice for local environmental concerns. Also, many of Petitioner's coalition members reside in Sacramento. The growth of the UC Davis Sacramento campus pursuant to the 2020 LRDP will have direct impacts on Petitioner and its members. Petitioner's interests have been, are being, and will continue to be adversely affected by the UC's failure to comply with applicable laws, and by the Project's negative impacts to resources including but not limited to available housing, transportation and public services. Unless the relief requested herein is granted, Petitioner, its members and the environment will be adversely affected and injured by the UC's failure to comply with CEQA in approving the project and certifying the SEIR.

1 **IRREPARABLE HARM**

2 57. The UC's failures, set forth in this Petition, constitute a prejudicial abuse of
3 discretion within the meaning of the Code of Civil Procedure and CEQA. (See Code Civ. Proc.,
4 § 1085; Pub. Resources Code, §§ 21168, 21168.5.)

5 58. Petitioner possesses no other remedy than to challenge the UC's abuse of
6 discretion other than by means of this lawsuit. If the UC's actions concerning the project are
7 effectuated, Petitioner and the environment will be irreparably harmed. No money damages
8 could adequately compensate for that harm.

9 **PRIVATE ATTORNEY GENERAL DOCTRINE**

10 59. Petitioner brings this action as a private attorney general pursuant to Code of Civil
11 Procedure section 1021.5, and any other applicable legal theory, to enforce important rights
12 affecting the public interest.

13 60. Issuance of the relief requested in this Petition will confer a significant benefit on
14 the general public by requiring the UC to carry out its duties under CEQA before approving the
15 project.

16 61. Issuance of the relief requested in this Petition will also result in the enforcement
17 of important rights affecting the public interest by compelling the UC to engage in a fair,
18 objective, and legally adequate analysis of the project's environmental impacts, and to ensure
19 that the public has a meaningful opportunity to review and comment on these impacts and
20 mitigation measures for that project.

21 62. The necessity and financial burden of enforcement are such as to make an award
22 of attorney's fees appropriate in this case. Absent enforcement by the Petitioner, the UC will
23 proceed with a project that will cause significant, unmitigated environmental impacts that might
24 otherwise have been reduced or avoided through legally adequate environmental review and the
25 adoption of feasible mitigation measures.

1 **NOTICE OF CEQA SUIT**

2 63. On December 18, 2020, the Petitioner served a notice of Petitioner's intent to file
3 this lawsuit, pursuant to Public Resources Code section 21167.5. (See Exhibit A, Notice of
4 Commencement of Action against the Board of Regents of the University of California.)

5 **ELECTION TO PREPARE ADMINISTRATIVE RECORD**

6 64. Pursuant to Public Resources Code, section 21167.6, subdivision (b)(2), the
7 Petitioner elects to prepare the record of proceedings in this action.

8 **FIRST CAUSE OF ACTION**

9 **Violations of CEQA
(Pub. Resources Code, § 21000 et seq.)**

10 65. Petitioner incorporates by reference each and every allegation contained in
11 Paragraphs 1 through 65 as though fully set forth herein.

12 66. The UC prejudicially abused its discretion in certifying the SEIR. The UC did not
13 proceed in the manner required by law and its decisions in approving the project and certifying
14 the SEIR are not supported by substantial evidence. (Pub. Resources Code, § 21168.5; *Vineyard*
15 *Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 426.)
16 These legal deficiencies include, without limitation, the following:

17 **Failure to Adequately Analyze Significant Environmental Impacts**

18 67. CEQA requires that an EIR describe the proposed project's significant
19 environmental effects. Each must be revealed and fully analyzed in the EIR. (Pub. Resources
20 Code, § 21100, subd. (b), CEQA Guidelines, § 15126.2, subd. (a).) "[T]he adequacy of an EIR's
21 discussion of environmental impacts is an issue distinct from the extent to which the agency is
22 correct in its determination whether the impacts are significant." (*Sierra Club v. County of*
23 *Fresno* (2018) 6 Cal.5th 502, 514; *Cleveland National Forest Foundation v. San Diego Assn. of*
24 *Governments* (2017) 3 Cal.5th 497, 514–515; *see also Berkeley Keep Jets Over the Bay Com. v.*
25 *Board of Port Cmrs.* (2001) 91 Cal.App.4th 1344, 1371.) "[W]hether a description of an
26 environmental impact is insufficient because it lacks analysis or omits the magnitude of the
27 impact is not a substantial evidence question. A conclusory discussion of an environmental
28 impact that an EIR deems significant can be determined by a court to be inadequate as an

informational document without reference to substantial evidence.” (*Sierra Club, supra*, 6 Cal.5th at 514.) To “comport with its intended function” an EIR must include “detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.” (*Ibid.* [internal quotations omitted].) “Whether or not the alleged inadequacy is the complete omission of a required discussion or a patently inadequate one-paragraph discussion devoid of analysis, the reviewing court must decide whether the EIR serves its purpose as an informational document.” (*Ibid.*)

68. Here the SEIR fails to adequately disclose, analyze, mitigate, and avoid potentially significant impacts, including, but not limited to:

- a. Population and housing, including displacement;
- b. Growth inducement;
- c. Greenhouse gas (“GHG”) emissions;
- d. Energy consumption;
- e. Air emissions;
- f. Transportation;
- g. and land use.

Failure to Adequately Analyze the Project’s Cumulative Impacts

69. An EIR must discuss a cumulative impact if the project’s incremental effect combined with the effects of other projects is cumulatively considerable. (CEQA Guidelines, § 15130, subdivision (a).) In performing cumulative impact analysis, the lead agency must analyze the project’s incremental effects in connection with the effects of past projects, other current projects, and probable future projects. (CEQA Guidelines, § 15065, subd. (a)(3).) An EIR must make a reasonable, good faith effort to disclose cumulative impacts. (*Citizens for Open Gov’t v. City of Lodi* (212) 205 Cal.App.4th 296, 320.)

70. Here, the EIR fails to adequately disclose, analyze, mitigate and avoid potentially significant cumulative impacts including, but not limited to:

- a. Population and housing, including displacement;
- b. Growth inducement;

- c. GHG emissions;
- d. Energy consumption;
- e. Air emissions;
- f. Transportation;
- g. and land use.

Mitigation Measures are Unenforceable, Vague, and Inadequate

71. “An EIR shall describe feasible measures which could minimize significant adverse impacts.” (CEQA Guidelines § 15126.4(a)(1).) An agency may not approve a project that will have significant environmental impacts if there are feasible mitigation measures that would substantially lessen those effects. (Pub. Resources Code, §§ 21002; Cal. Code Regs., tit. 14, §§ 15002, subd. (a)(3), 15021, subd. (a)(2).)

72. An agency must provide that mitigation measures are fully enforceable through permit conditions, agreements, or other measures. (Pub. Resources Code, § 21081.6, subd. (b).)

73. The efficacy of a mitigation measure in remedying the identified environmental problem must be apparent in the EIR. (*Sierra Club v. County of San Diego* (2014) 231 Cal.App.4th 1152, 1168; *Communities for a Better Env't v. City of Richmond* (2010) 184 Cal.App.4th 70, 95; *Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1116; *Cleveland Nat'l Forest Found. v. San Diego Ass'n of Gov'ts* (2017) 17 Cal.App.5th 413, 433.) An EIR must contain facts and analysis disclosing the analytical route the agency traveled from evidence to action, not just the agency's bare conclusions and opinions. (*Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 118.) An EIR must then describe mitigation measures and explain why they will work. (*California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 203.)

74. Here, the SEIR fails to include adequate facts and analysis for mitigation measure relied upon to reduce the Project's significant impacts.

75. Mitigation measures are also incorporated into the Project description. An EIR cannot incorporate proposed mitigation measures into its project description as a means to then conclude that potential impacts would be less than significant. (*Lotus v. Department of*

1 *Transportation* (2014) 223 Cal.App.4th 645,655-656.) Doing so prevents an accurate
2 determination of a measure's effectiveness. (*Ibid.*)

3 76. Mitigation measures in the EIR are unenforceable, impermissibly vague,
4 inadequate and impermissibly deferred. This includes, but is not limited to, mitigation measures
5 for:

- 6 a. Population and housing, including displacement;
- 7 b. Transportation;
- 8 c. Air emissions;
- 9 d. GHG emissions;
- 10 e. Energy usage;
- 11 f. and cumulative impacts.

12 **Findings Not Supported by Substantial Evidence**

13 77. The UC's statement of overriding considerations is not supported by substantial
14 evidence because air quality and transportation impacts that are identified as significant and
15 unavoidable may, in fact, be reduced to less than significant through adoption of mitigation
16 measures proposed by public commenters.

17 78. Accordingly, Petitioner prays for the relief requested below.

18 **PRAYER**

19 WHEREFORE, Petitioner prays for judgment and relief as hereinafter set forth:

- 20 1. That the Court issue a peremptory writ of mandate directing the UC to:
 - 21 a. Vacate and set aside all approvals associated with the 2020 LRDP and
22 Aggie Square Phase I;
 - 23 b. Comply with CEQA by preparing legally adequate environmental
24 documentation under CEQA for the 2020 LRDP and Aggie Square Phase I; and
 - 25 c. Suspend all necessary steps and all activity in furtherance of the 2020
26 LRDP and Aggie Square Phase I Project until the UC takes all necessary steps to bring its
27 actions into compliance with CEQA;

1 2. That the Court issue a stay, temporary restraining order, a preliminary and/or
2 permanent injunction barring the UC, and all persons working on its behalf, from proceeding
3 with any activity that may result in any physical change in the environment pending completion
4 of this litigation and full compliance with CEQA;


5 3. That Petitioner be awarded costs of this proceeding;

6 4. That Petitioner be awarded reasonable attorney's fees for this action pursuant to
7 Code of Civil Procedure section 1021.5, and any other applicable provisions of law; and

8 5. That Petitioner be awarded such other and further relief as the Court deems just
9 and proper.

10 Dated: December 21, 2020

SOLURI MESERVE
A LAW CORPORATION

11
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13 By: 
14 Patrick M. Soluri
15 Attorneys for Petitioner
16 Sacramento Investment Without Displacement,
17 Inc.
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VERIFICATION

I, Matthew Baker, am a board member of Petitioner Sacramento Investment Without Displacement, Inc. I have read the foregoing Verified Petition for Writ of Mandate and know the contents thereof. The same is true of my own knowledge, except as to those matters that are alleged on information and belief, and as to those matters, I believe them to be true.

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

Executed this 21st day of December, 2020, in Sacramento, California.

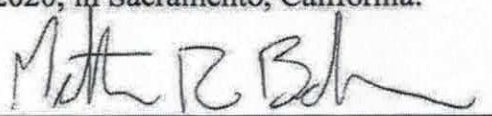

Matthew Baker

EXHIBIT A



tel: 916.455.7300 • fax: 916.244.7300
510 8th Street • Sacramento, CA 95814

December 18, 2020

Office of the Secretary and Chief of Staff to the Regents
1111 Franklin Street, 12th Floor
Oakland, CA 94607
Email: regentsoffice@ucop.edu

**RE: Notice of Commencement of Action Against the Board of
Regents of the University of California**

To The Board of Regents of the University of California:

Please take notice, under Public Resources Code section 21167.5, that Petitioner Sacramento Investment Without Displacement intends to file a Verified Petition for Writ of Mandate (the “Petition”) under the provisions of the California Environmental Quality Act, Public Resources Code section 21000 et seq. (“CEQA”), against the Board of Regents of the University of California (“UC”). The Petition challenges the UC Davis Final Supplemental Environmental Impact Report (“SEIR”) for the UC Davis Sacramento Campus 2020 Long Range Development Plan Update (“2020 LRDP”) and Aggie Square Phase 1 (collectively the “Project”). The lawsuit will be based on violations of CEQA and other claims, as discussed more fully in the Project’s administrative and environmental review proceedings. The exact nature of the allegations and relief sought is described in the Petition that Petitioner plans to file as early as December 21, 2020.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 
Patrick M. Soluri

PS/wra

cc: Anagha Clifford (Anagha.clifford@ucop.edu) (via email only):

Attachment: Proof of Service

PROOF OF SERVICE

I hereby declare that I am employed in the City of Sacramento, County of Sacramento, California. I am over the age of 18 years and not a party to the action. My business address is 510 8th Street, Sacramento, California 95814.

On December 18, 2021, I served the attached document:

NOTICE TO BOARD OF REGENTS OF THE UNIVERSITY OF CALIFORNIA RE COMMENCEMENT OF ACTION

on the following parties or attorneys for parties, as shown below:

Office of the Secretary and Chief of Staff to the Regents
1111 Franklin Street, 12th Floor
Oakland, CA 94607
Email: regentsoffice@ucop.edu

Service was caused as follows:

✓ **BY FIRST-CLASS MAIL:** I am readily familiar with this business's practice for collecting and processing correspondence for mailing with the U.S. Postal Service. In the ordinary course of business, correspondence would be deposited with the U.S. Postal Service on the day on which it is collected. On the date written above, following ordinary business practices, I placed for collection and mailing at my place of business the attached document in a sealed envelope, with postage fully prepaid, addressed as shown above.

✓ **VIA ELECTRONIC MAIL:** I caused such document to be sent by electronic mail to the addressee at the email addresse listed above. The document was served electronically from my place of business at 510 8th Street, California 95814 from my electronic service address at wona@semlawyers.com.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Sacramento, California on December 18, 2020.

s/ Wona Rosier-Arauz
Wona Rosier-Arauz