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9 FRIENDS OF HOPKINS STREET,
10 PAUL JOHNSON, DIANE "KUMI" FUKAWA,
11 HARUKO FUKAWA, and RON JOENS

12 SUPERIOR COURT OF CALIFORNIA
13 COUNTY OF ALAMEDA, UNLIMITED JURISDICTION

14 FRIENDS OF HOPKINS STREET, a
15 California nonprofit corporation, PAUL
16 JOHNSON, DIANE "KUMI" FUKAWA,
17 HARUKO FUKAWA, and RON JOENS,

18 Petitioners and Plaintiffs.

19 vs.

20 CITY OF BERKELEY, a municipal
21 corporation, ADENA ISHII, in her capacity
22 as Mayor and as the representative of the
23 CITY COUNCIL FOR THE CITY OF
24 BERKELEY, a municipal legislative body,
25 PAUL BUDDENHAGEN, in his capacity as
26 the CITY MANAGER OF THE CITY OF
27 BERKELEY and DOES 1 through 50,
28 inclusive

Respondents.

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

08/28/2026 at 03:57:52 PM

By: Andrei Gospel,
Deputy Clerk

No. **26CV207586**

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

Petitioners and Plaintiffs FRIENDS OF HOPKINS STREET (“FRIENDS OF HOPKINS”), a California nonprofit corporation, PAUL JOHNSON, DIANE “KUMI” FUKAWA, and HARUKO FUKAWA, and RON JOENS, an individual (collectively referred to as “PETITIONERS”) allege as follows:

INTRODUCTION

1. Petitioners bring this action to challenge the July 28, 2026 decision of the Berkeley City Council’s (“COUNCIL”) approval of a Referral to Schedule Hopkins Street for Paving with Enhanced Safety Improvements for all Users (“PROJECT”), on the following basis:

a. The PROJECT is in direct conflict with and violates the City of Berkeley's 2026 Bicycle Plan.

b. The approval of the PROJECT was consummated in violation of the California Environmental Quality Act ("CEQA") as set forth in Public Resources Code section 21000, et seq.

c. The PROJECT is contrary to the intent of the Berkeley voters who in November of 2024 passed parcel tax Measure FF to fund street, sidewalk and pedestrian path repairs along with traffic safety and environmental upgrades. However, no funds were to be used in connection with building cycle tracks on Hopkins Street between McGee Avenue and Gilman Street.

d. The PROJECT was not subject to any type of study to determine whether it would constitute a dangerous condition of public property, violate the accessibility rights of the disabled, adversely impact residents and businesses in the area, interfere with disaster evacuations, and constitute a taking of private property, among other matters which would have been addressed had the Respondents complied with a proper review process.

e. The PROJECT will deny accessibility to and adversely affect the mobility of the many seniors and disabled individuals who live on or near Hopkins Street and/or actually or intend to shop or utilize public or private facilities on Hopkins

1 Street, in violation of the Americans with Disability Act ("ADA") and California
2 Government Code section 11135, *et seq.*

3 Petitioners ask the Court to declare the City of Berkeley's actions to be unlawful and to set aside
4 the approval of the PROJECT.

5 THE PARTIES

6 2. Petitioner and Plaintiff FRIENDS OF HOPKINS are a recently incorporated and
7 actively functioning neighborhood association. FRIENDS OF HOPKINS was formed by
8 Berkeley residents as a neighborhood association in 2022, and currently has over 770 members.
9 The primary goal of FRIENDS OF HOPKINS is to make Hopkins Street and its commercial and
10 residential portions a safe and desirable place to live, to keep residents and businesses informed
11 about important issues in the City and the neighborhood, to insure that bicycle, pedestrian,
12 automobile, public utility vehicles, emergency vehicles, and micromodel travel along Hopkins
13 Street and its neighboring streets will be safe and accessible for all, and to educate and promote
14 on behalf of its members at all governmental levels safe designs for public streets. FRIENDS
15 OF HOPKINS has been engaged in review of the various proposals for Hopkins Street over
16 many years and urged the Respondents to conduct an environmental review of the impacts of the
17 PROJECT and to prepare a Complete Streets Corridor Study as mandated by the Bike Plan for
18 the PROJECT before approval.

19 3. Petitioner and Plaintiff PAUL JOHNSON lives and works in the vicinity of the
20 PROJECT and he along with his wife are the owners of Monterey Fish Company, Inc. which
21 has been located at 1582 Hopkins Street since 1979. He is deeply concerned about the impacts
22 of the PROJECT on himself and the business, and will be directly and adversely affected if the
23 PROJECT is implemented in its present form.

24 4. Petitioners and Plaintiffs HARUKO FUKAWA and DIANE "KUMI"
25 FUKAWA are mother and daughter who live and work in the vicinity of the PROJECT. They
26 own and operate Hopkins Launderette which has been located at 1541 Hopkins Street since
27 1977. Both are deeply concerned about the impacts of the PROJECT on themselves and their
28

1 business, and will be directly and adversely affected if the PROJECT is implemented in its
2 present form.

3 5. Petitioner and Plaintiff Ron Joens, a concerned citizen who is legally blind
4 impaired senior who has resided in the vicinity of the PROJECT for several decades. JOENS is
5 deeply concerned about the impacts of the PROJECT on himself and those similarly situated
6 who will be directly and adversely affected if the PROJECT is implemented in its present form.

7 6. Respondent City of Berkeley ("CITY") is a municipal corporation in whose
8 jurisdiction the proposed PROJECT will be located. CITY has principal responsibility for
9 determining whether projects within its jurisdiction are consistent with the CITY's ordinances,
10 General Plan, and all other applicable laws.

11 7. Respondent ADENA ISHII ("MAYOR"), in her official capacity as Mayor and
12 as the representative of the City Council for the City of Berkeley ("COUNCIL") which is the
13 legislative body of the City of Berkeley. The COUNCIL is responsible for, among other things,
14 approving or rejecting projects, adoption of ordinances, resolutions and motions that comply
15 with applicable laws, including CEQA, the Berkeley Municipal Code, and the CITY's General
16 Plan.

17 8. Respondent PAUL BUDDENHAGEN ("CITY MANAGER"), in his official
18 capacity as City Manager of the City of Berkeley is responsible for executing and implementing
19 actions approved by the City Council, including the PROJECT.

20 9. Petitioners do not know the true names and capacities, whether individual,
21 corporate, associate, or otherwise, of Respondents and Defendants DOES 1 through 50,
22 inclusive, and therefore sue said Respondents and Defendants under fictitious names. Petitioners
23 and Plaintiffs will amend this Petition to show their true names and capacities when the same
24 have been ascertained.

25 10 Each of the Respondents is the agent and/or employee of Respondent CITY, and
26 each performed acts on which this action is based within the course and scope of CITY's agency
27 and/or employment.
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JURISDICTION AND VENUE

11. This Court has jurisdiction over this action pursuant to Code of Civil Procedure sections 526 (injunctive relief), 1060 (declaratory relief), 1085 (traditional mandate), and 1094.5 (administrative mandate) and Public Resources Code sections 21168 and 21168.5 (judicial review under CEQA).

12. The Court has jurisdiction to issue declaratory relief pursuant to Code of Civil Procedure section 1060 and injunctive relief pursuant to sections 525 et seq.

13. Venue is proper pursuant to Code of Civil Procedure sections 393 (actions against public officers), 394 (actions against a city, county or local agency), and 395 (actions generally) because the Respondents include a local agency of the State of California, and public officers of a local agency of the State of California.

14. Venue is proper in this Court because the causes of action alleged in this Petition arose in the County of Alameda and the Project will occur within the County of Alameda and the environmental impacts of the PROJECT will be acutely felt within the County. (See Code of Civ. Proc. §§ 393, 394, 395; *Cal. State Parks Foundation v. Super. Ct.* (2007) 150 Cal.App.4th 826.)

STANDING

15. Petitioners, and with respect to FRIENDS OF HOPKINS, its members, are beneficially interested in Respondents' full compliance with CEQA and the CITY's General Plan and adversely affected by Respondents' failure to comply with applicable law. Petitioners each has a right to enforce the mandatory duties that CEQA and other applicable laws impose on Respondents as well as the right to demand that CITY's and COUNCIL's actions are consistent with its General Plan.

NOTICE REQUIREMENTS

16. Petitioners have performed all conditions precedent to filing this action by complying with the requirements of Public Resource Code section 21167.5 by serving prior notice of their intent to file this action. A copy of the written notice and proof of service is attached as Exhibit A to this Petition.

1 17. To the extent there is an administrative record, pursuant to Public Resource Code
2 section 21167.6(b), Petitioners will prepare the record of proceedings in this matter, and are
3 simultaneously filing their notice of intent to prepare said record of proceedings with this
4 complaint. A true and correct copy of Petitioners' Notice of Intent to Prepare Record is attached
5 to this Petition as Exhibit B.

6 18. Petitioners will provide notice of this action to the Attorney General of the State
7 of California, by serving a copy of this Petition and Complaint along with a notice of its filing, as
8 required by Public Resource Code section 21167.7 and Code of Civil Procedure section 388.

9 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

10 19. Respondents' approval of the PROJECT is final and not subject to administrative
11 appeal. In fact, no administrative hearings were conducted prior to approval.

12 20. Petitioners have no plain, speedy or adequate remedy in the course of ordinary
13 law unless this Court grants the requested relief to require Respondents to set aside their
14 approval of the PROJECT. In the absence of such remedies, Respondents' decision will remain
15 in effect in violation of law.

16 **PRIVATE ATTORNEY GENERAL DOCTRINE**

17 21. Petitioners bring this action as a private attorney general pursuant to Code of Civil
18 Procedure section 1021.5, and any other applicable legal theory, to enforce important rights
19 affecting the public interest.

20 22. Issuance of the relief requested herein will confer a significant benefit on a large
21 class of persons by ensuring that Respondents comply with applicable law and perform a legally
22 required environmental review of the PROJECT's environmental effects.

23 23. Issuance of the relief requested herein will result in the enforcement of important
24 rights affecting the public interest. By compelling Respondents to comply with applicable law
25 and complete a legally required environmental review of the PROJECT's environmental effects,
26 Petitioners will vindicate the public's important CEQA and other rights to require governmental
27 agencies to follow applicable law and to require public disclosure regarding and public
28 participation in government decisions that affect the environment. The necessity and financial

1 burden of enforcement are such as to make an award of attorney's fees appropriate in this
2 proceeding because the transgressor is the agency whose duty it is to enforce the laws at issue in
3 this proceeding.

4 **FACTUAL ALLEGATIONS**

5 24. Hopkins Street is a street in the CITY which is approximately 1.2 miles long and
6 runs east/west from Sutter Street to San Pablo Avenue. The street is primarily residential with
7 numerous driveways along its path. The portion from The Alameda to McGee Avenue contains
8 a City Library, an athletic field, park, a Church, and two pre-school centers. It is the 2nd widest
9 portion of the street. Starting at McGee Avenue and going west the street narrows to 41 feet and
10 at Monterey and California it is only 36 feet wide. The 2-block portion from McGee Street to
11 Sacramento Street contains a two-block commercial area. The historic commercial district dates
12 back more than 100 years, with the 1922 founding of Berkeley Horticulture Nursery on adjacent
13 McGee Avenue and thereafter the 1961 founding of Monterey Market, and the 1978 founding of
14 Monterey Fish, among other popular small businesses. The thriving neighborhood attracts
15 residents from throughout Berkeley, as well as visitors from around the Bay Area. The 2-block
16 portion from Sacramento to Gilman Streets contains an egress street designed by the CITY to
17 feed into Gilman Street. The .3-mile portion from Gilman Street to Peralta Avenue is residential
18 except for the Church located at the corner of Ordway Street. Residents and users of Hopkins
19 Street walk, drive, and ride their bicycles and scooters. both manual and electric, along these
20 residential and commercial areas and public spaces. Portions of the street are considered by the
21 State of California and the CITY to be an Emergency Access and Evacuation Route.

22 25. Beginning in January of 2018, the CITY began the process of undertaking a
23 traffic and placemaking study for portions of Hopkins Street to identify improvements to be
24 integrated into the paving and bicycle infrastructure work scheduled for the area. On April 3,
25 2023, the CITY's then City Manager, Dee Williams-Ridley requested that COUNCIL postpone
26 its meeting on the project based CITY's Public Works Department's lack of readiness. She also
27 noted in a letter to the then Mayor and City Council that "new proposals, external reports and
28 deeper analysis of this project require a continued review of the work product to date along with

1 a new project timeline” and “additional time and review are necessary to convey confidence and
2 integrity in the work product to date, as well as, an assurance the City Council’s direction
3 adopted in October of 2022 is fully met and properly reviewed by all stakeholders’ party to the
4 project.” Additionally, a study of the pending design needed to be undertaken by the CITY’s fire
5 department regarding the impact of various proposals on fire safety and related matters on
6 Hopkins Street. Petitioners are informed and believe that such design and follow-up studies
7 were never prepared specific to Hopkins Street.

8 26. Thereafter, the CITY updated its Bicycle Plan in 2026 which currently shows the
9 possibility of a Class IV cycle track for Hopkins Street and approximately 14 miles of other
10 streets in the City, subject to the completion of Complete Street Corridor Studies, which includes
11 public input with affected CITY agencies.

12 27. In November of 2024, the CITY’s voters were asked to increase property taxes by
13 passing Measure FF which specifically funds street, sidewalk, and pedestrian path repairs along
14 with traffic safety and environmental upgrades including bicycle paths but specifically excluded
15 funding cycle tracks on Hopkins Street between McGee Avenue and Gilman Street such as those
16 in the PROJECT. Measure FF passed with 60.85% of the vote. Without such funding the Project
17 would have to rely on general funds for which the CITY has a structural deficit and would
18 require moneys to be taken from other needs of the residents of the CITY.

19 28. On July 13, 2026, the COUNCIL Agenda and Rules Committee placed a proposal
20 on the COUNCIL's July 28, 2026 agenda for two one-way cycle tracks to be installed on
21 Hopkins Street in conjunction with street repaving and other pedestrian and safely
22 enhancements. There was no notice of exemption from CEQA filed nor was any environmental
23 review undertaken pursuant to CEQA nor any other administrative action to consider public
24 input on the project.

25 29. Prior to the scheduled COUNCIL meeting, on or about July 24, 2026, the
26 COUNCIL posted notice for the first time of the PROJECT, now a proposed one-way cycle
27 tracks on the north and south sides of Hopkins Street separated by either a 30 inch wide, 6 inch
28 high concrete curb or parked cars. The notice included a report prepared by Council Member

1 Kesarwani, which, upon information and belief, included factually incorrect statements giving
2 the false impressions that there were significant injuries on Hopkins Street during a 15-year
3 period that could only be cured by creating class IV protected bike paths from McGee Street to
4 Peralta Avenue. Upon information and belief, Petitioners allege that all of the alleged injury
5 accidents on Hopkins Street would have occurred at intersections, which protected bike lanes
6 would not prevent. Additionally, upon information and belief, two of the three fatalities did not
7 even occur on Hopkins Street. Only one pedestrian injury occurred between Gilman Street and
8 Peralta Avenue at an intersection, and none would have been prevented by protected bike lanes.
9 There was no notice of exemption from CEQA filed nor was any environmental review
10 undertaken pursuant to CEQA or any other administrative action.

11 30. The public hearing was held on July 28, 2026 at 6 p.m. and continued until after
12 12:45 a.m. the next morning. Over 200 citizens attended the hearing in person and many more
13 by Zoom. The hearing room was filled to capacity and people had to stand outside on the
14 sidewalk as they were not allowed into the courtyard and were let in one at a time as people left
15 the building through the courtyard gate which caused many people to leave. Additionally,
16 speakers on Zoom were capped to a short time limit causing some speakers to be turned away.

17 31. Initially, each COUNCIL member gave a statement and was allowed to ask
18 questions of the CITY staff. The COUNCIL member who sponsored the initial 2026 referral for
19 paving and safety enhancements stated that it was "unprecedented" in removing over 145
20 parking spaces from Hopkins Street. Another COUNCIL member, who is a member of the State
21 Bar, asked CITY Staff if the PROJECT was inconsistent with the 2026 Bike Plan. CITY staff
22 was unable to answer that question so the COUNCIL member answered his own question,
23 stating that it complied. As will be shown, that answer was wrong and may have influenced
24 other COUNCIL members in their vote. The Fire Chief was asked if he approved the PROJECT
25 as required and he stated that he had not because he had not been presented with drawings or
26 details and that there was concern that a large fire truck might have difficulty traveling down the
27 street if it encountered another large vehicle coming from the opposite direction.
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1 32. After the COUNCIL members spoke, there were more than 100 citizens who
2 spoke in person and more than 50 citizens by Zoom. Prior to, during and after the meeting
3 hundreds of letters/ emails were sent to COUNCIL in opposition to the PROJECT. The vast
4 majority of the speakers opposed the PROJECT, asked that a more detailed study be undertaken,
5 proposed compromises including the "Ada Street Bypass" and Rose Street with a Bike
6 Boulevard that could have satisfied the majority of those in favor of the PROJECT and those
7 opposed and would have arguable produced a safer and more enjoyable bike path, at a much
8 lower cost to the CITY and with minimal negative impact on the residents and small businesses
9 on Hopkins Street. The compromise proposal that would have allowed for further study of these
10 issues was voted down in a 5 to 4 vote as were other concerns of the speakers.

11 33. The postman who delivers mail to Hopkins Street spoke in opposition (there
12 would be no place to park his mail truck); business owner spoke in opposition (their customers
13 would lose many parking spaces); churches spoke in opposition (they would lose parking and
14 drop off locations for parishioners particularly the elderly and disabled), schools spoke against
15 the PROJECT (they would lose drop off and pick up locations), residents from other parts of the
16 City spoke in opposition for many reasons, and finally residents of Hopkins Street as well as the
17 COUNCIL member for the upper part of Hopkins Street spoke in opposition. The speakers in
18 opposition far outnumbered those in favor and those in favor were mostly seeking a safe route
19 for bicycle travel, which would have been afforded by the Ada Street Alternative which was
20 summarily dismissed. The PROJECT was approved at approximately 12:45 a.m. on July 29,
21 2026 by a 7 to 2 vote.

22 34. Numerous seniors and residents spoke and wrote about how the PROJECT would
23 adversely affect their ability to access their homes, places of worship, public spaces, and shops
24 on Hopkins Street.

VIOLATIONS OF LAW

City of Berkeley Bicycle Plan Requires a Complete Street Corridor Study

35. The CITY adopted the “City of Berkeley Bicycle Plan January 2026” (“Bike Plan”) in early 2026. It is a component of the Transportation Plan which is part of the City’s General Plan.

36. In the Bike Plan’s introduction, it is stated that “The Berkeley Bicycle Plan is a citywide planning document that recommends improvements to bicycle safety, comfort, and connectivity at a network level. These recommendations may require further project-specific budgeting, planning, data collection, analysis, and engineering before implementation.” (Bike Plan, p.1.)

37. Throughout the Bike Plan, Hopkins Street is designated for a Complete Street Corridor Study. (Bike Plan, pps 14, 15, 78, 89, 93, 100.) At each place Hopkins Street is shown or discussed there is an asterisk (*) stating “Complete Street Corridor Studies are proposed multimodal transportation studies, not planned projects.”

38. Page 16 of the Bike Plan states “As defined by the Berkeley Complete Streets Policy, “Complete Streets” describes a comprehensive, integrated transportation network with infrastructure and design that allows safe and convenient travel along and across streets for all users, including: Pedestrians, Bicycles (standard, cargo, electric), Scooters and skateboards, Wheelchairs/powerchairs, Private vehicles, Transit, Delivery trucks, Postal trucks, Fire trucks and ambulances, Police cars, Zero waste vehicles. Providing a complete network does not require dedicated facilities for all transportation modes on every street. Instead, it means creating convenient, safe, and connected routes for all modes throughout the city. For bikeway planning, Berkeley considers both arterial and collector roads and parallel streets as part of a Complete Streets Corridor. Arterial roads are designed primarily for private vehicle and bus transit movement and carry higher volumes of traffic, while collector roads are designed to gather traffic from local streets and direct it to arterials or highways. Potential bikeways on either type should be evaluated within a Complete Streets Corridor Study, along with consideration of alternate parallel routes, to serve all modes. Major and collector streets with recommendations

1 for separated bikeways (Class IV) require further study to evaluate their suitability and impacts.
2 These streets are labeled “Complete Streets Corridor Studies” within this plan update. For further
3 information, see Section 5.2 Project Delivery Process and Section 5.6 Complete Street Corridor
4 Study Recommendations.”

5 39. At section 5.56 of the Bike Plan, on page 125, it sets forth the current early 2026
6 status of the Hopkins Street Corridor Study stating: “Study completed for Sutter to Gilman.
7 Community concerns put project on hold and additional studies and community outreach
8 needed.”

9 40. Hopkins Street is designated a “secondary [or collector] street in the Bike Plan.
10 (Bike Plan, appendix H, p.14-2.)

11 41. A Complete Street Corridor Study has never been undertaken or completed for the
12 PROJECT. A Placemaking Study was started for part of Hopkins Street but it was never
13 completed. The portion of Hopkins Street below Gilman has not been studied. Cycle Tracks on
14 both sides of Hopkins Street as shown in the referral have never been studied or allowed public
15 review and comment.

16 42. In summary, a Complete Street Corridor Study was never undertaken for the
17 PROJECT. For a project of this magnitude and with multiple impacts, the requirement for such a
18 study as dictated by the Bike Plan is both reasonable and necessary.

19 **City has Ignored its Prioritization Schedule**

20 43. The 2026 Bike Plan further states that: “This plan update rescored all old and new
21 projects for prioritization against new criteria, ensuring that the workplan prioritizes projects that
22 advance cyclist safety, equity, and access to the bikeway network, and contribute to climate
23 goals.”

24 44. Prioritization was based on the following: “Project Prioritization Methodology
25 The project team scored each project using a rubric based on six key criteria. These criteria
26 evaluate: 1. whether the project addresses locations with a history of collisions, 2. how much the
27 project would improve safety and comfort for people walking and biking, 3. how well the project
28 addresses locations that were identified through public input in 2022 and 2025, 4. whether the

1 project serves equity priority communities, 5. how close the project is to schools, and 6. how
2 feasible the project is to implement.” (Bike Plan, p. 30). Page 18 of the Bike Plan designates
3 Hopkins in Priority Tier 2.

4 45. Appendix D of the Bike Plan (which is the Updated Network) at page D-10 shows
5 Hopkins above Sacramento as “Low Priority” and Hopkins below Sacramento as of no priority.

6 46. The Referral ignores the prioritization schedule in violation of applicable law.

7 **City has Ignored Countywide Plans**

8 47. Appendix H of the Bike Plan titled “Complete Street Corridor Study Planning
9 Maps” provides maps “critical in the planning context for the Complete Street Corridor Studies
10 identified in the Berkeley Bike Plan.” Figure 3.4.1 of Appendix H “illustrates an unconstrained
11 vision for potential countywide bicycle improvements and is consistent with the recommended
12 studies and projects in the Berkeley Bicycle Plan, these improvements will be studied as part of a
13 Complete Street Corridor Study Process guided by the modal priorities established in the modal
14 emphasis maps in the Countywide Multimodal Arterial Plan.” Figure 3.4.1 shows Hopkins
15 below Sacramento as Class 3 enhanced and Hopkins above Sacramento as Class 2. Nowhere is a
16 cycle track shown.

17 48. The PROJECT is in violation of Countywide Plans which were required to be
18 consistent with actions taken in implementing the Bike Plan.

19 49. By failing to perform a Complete Street Corridor Study before approving the
20 PROJECT, Respondents failed to proceed in a manner required by law. Accordingly, Petitioners
21 ask the Court to set aside the City’s approval of the Project due to its inconsistency with the
22 City’s General Plan.

23 **THE PROJECT WAS APPROVED IN VIOLATION OF CEQA**

24 50. Respondents abused their discretion and violated both the City’s General Plan and
25 CEQA by approving the PROJECT in violation of the environmental review process dictated by
26 CEQA.

1 51. The PROJECT involves repaving Hopkins Street from Sutter Street to San Pablo
2 Avenue and the installation of a bike track and many other related bicycle improvements in a
3 residential neighborhood and small commercial district of Berkeley.

4 52. The PROJECT entails, among other things, the construction of 2 five-foot wide
5 cycle tracks plus buffer zones on both sides of Hopkins Street eliminating over 145 parking
6 spaces used for commercial and residential purposes, impeding accessibility for the disabled and
7 aged contrary to the ADA and supporting state and federal law.

8 53. The City failed to prepare an environmental impact report or even a negative
9 declaration or Notice of Exemption for the PROJECT.

10 54. If the City is relying on a Notice of Exemption dated June 6, 2022, it should be
11 noted that this applied to a vastly different project and is dated over 4 years before the PROJECT
12 was approved. That Notice or Exemption was based on statutory and categorical exemptions
13 that would arguably not apply to the PROJECT. In addition, one exception to the exemption is
14 when a project at issue involves cumulative impacts. CEQA provides that "All exemptions for
15 these classes are inapplicable when the cumulative impact of successive projects of the same
16 type in the same place, over time is significant." (14 CCR § 15300.2(b).) In addition, even if a
17 categorical exemption that exemption may not apply if there are, as here, unusual circumstances.

18 55. The PROJECT is just the beginning of bike tracks in the CITY. The Bike Plan
19 shows more than 15 miles of bike tracks as its ultimate goal. The PROJECT would open the
20 flood gates for similar installations and "the cumulative impact of successive projects of the
21 same type in the same place, over time is significant.

22 56. The CITY abused its discretion by failing to proceed in a manner required by
23 law, and the findings relied on by the CITY in making these determinations were not supported
24 by substantial evidence.

25 57. The CITY's possible reliance on a categorical exemption to approve the
26 PROJECT was improper.

27 58. Substantial evidence in the record demonstrates that the PROJECT will result in
28 significant environmental impacts adversely impacting the residents along Hopkins Street.

1 59. The CITY was required to, at a minimum, prepare a mitigated negative
2 declaration for the PROJECT, which it failed to do.

3 60. In view of the above, CEQA review was required to determine the environmental
4 impacts of the PROJECT, to identify ways to mitigate those impacts, to assure all feasible
5 mitigation is required and is enforceable, and to analyze alternatives that would minimize the
6 PROJECT's environmental impacts.

7 61. Accordingly, Petitioners ask the Court to set aside the CITY's approval of the
8 PROJECT due to its failure to comply with the requirements of CEQA.

9 **CLAIMS FOR RELIEF**

10 **FIRST CAUSE OF ACTION**

11 **(Approval of PROJECT Not Consistent with Law)**

12 62. Petitioners hereby reallege and incorporate all of the above paragraphs as if fully
13 set forth herein.

14 63. Respondents approved the PROJECT in violation of the City's General Plan in
15 that a Complete Street Corridor Study was required by the Bicycle Plan but was never
16 undertaken as well as other applicable laws as set forth above.

17 64. Respondents approved the PROJECT in violation of the City's General Plan in
18 that bicycle improvements on Hopkins Street were designated a Level 2 Priority in the General
19 Plan and many of the Level 1 improvement projects have not yet been implemented.

20 65. Respondents approved the PROJECT in violation of the City's General Plan in
21 that it did not conduct a Complete Streets Study in violation of the County of Alameda's
22 requirements which were to be given consideration in the Bike Plan.

23 **SECOND CAUSE OF ACTION**

24 **(Violation of CEQA)**

25 66. Petitioners hereby reallege and incorporate all of the above paragraphs as if fully
26 set forth herein.

67. Respondents abused their discretion and failed to act in the manner required by law by not complying with CEQA's review and notice requirements in connection with the PROJECT.

68. Because the PROJECT may have significant environmental impacts the City was required to prepare either a mitigated negative declaration or an EIR.

69. In addition, an exemption from the CEQA process cannot apply because the PROJECT has significant cumulative impacts. There are currently no similar installations in residential areas of Berkeley. The PROJECT would open the flood gates for similar installations and “the cumulative impact of successive projects of the same type in the same place, over time [would be] significant.” (14 CCR § 15300.2(b).)

70. As a result of the foregoing defects, Respondents prejudicially abused their discretion and failed to act in a manner required by law.

71. Accordingly, Respondents' approval of the PROJECT and the associated exemption must be set aside.

THIRD CAUSE OF ACTION

(Disability Violations)

72. Petitioners hereby reallege and incorporate all of the above paragraphs as if fully set forth herein.

73. There were alternate routes or other alternatives for the addition of bicycle paths to eliminate or minimize the impact on seniors and the disabled yet Respondents failed to even explore these as reasonable accommodations

74. Respondents' refusal to prepare a study prior to approving the PROJECT on how the project would affect mobility and accessibility to senior and disabled residents and visitors and how to address or mitigate any such problems was an abuse of discretion in violation of Title 2 of the American Disabilities Act (ADA,) 28 CFR section 35.151, 42 U.S.C § 12132, CA Gov Code §11135, et seq.

75. As a result of the foregoing defects, Respondents prejudicially abused their discretion and failed to act in a manner required by law 28 CFR § 35.151, the ADA and the Unruh Civil Rights Act (Cal. Civ. Code §51, *et seq.*)

76. Accordingly, Respondents' approval of the PROJECT must be set aside

FOURTH CAUSE OF ACTION

(Arbitrary and Capricious)

77. Petitioners hereby reallege and incorporate all of the above paragraphs as if fully set forth herein.

78. Respondents' actions in connection with the approval of the PROJECT as alleged above were arbitrary and capricious both substantively and procedurally.

79. By failing to undergo proper review the safety of residents has been compromised and subjects the CITY to future liability as having created a dangerous condition for bicyclists, pedestrians, motor vehicles and their operators, the disabled among others and will negatively impact not only Berkeley residents but the businesses they support.

80. The approval of the PROJECT violated the voter's intent in enacting Measure FF and places the CITY in a precarious financial situation.

81. Had the Respondents undergone a proper review of the circumstances the PROJECT would or could have been designed to better accommodate the various interests that will be adversely impacted by the PROJECT.

82. Accordingly, Respondents' approval of the PROJECT and the associated exemption must be set aside.

PRAYER

WHEREFORE, Petitioners pray for the following relief:

1. For a peremptory writ of mandate directing Respondents to: (a) Vacate and set aside the approvals of the PROJECT *ab initio*; (b) Set aside the Notice of Exemption for the PROJECT *ab initio*; and, (c) Set aside any and all other actions approving or granting any permits, entitlements, financing, or other approvals referring or related to the PROJECT unless

1 and until Respondents have prepared, circulated, and considered a legally adequate CEQA
2 document prior to any subsequent action taken to approve the PROJECT.

3 2. For a preliminary and permanent injunction staying the effect of Respondents'
4 actions, including issuing a Notice of Exemption for the PROJECT and approving any permits or
5 other entitlements for the PROJECT.

6 3. For a writ of mandate directing Respondents to suspend any and all activity in
7 furtherance of the PROJECT unless and until Respondents take all necessary steps to bring their
8 actions into compliance with CEQA, ADA, and the City's General Plan.

9 4. For declaratory relief finding that the approval of the PROJECT was illegal.

10 5. For costs of suit, including an award of attorneys' fees pursuant to Code of Civil
11 Procedure §1021.5 and any other applicable provisions of law.

12 6. For any and all other legal and equitable relief as this Court deems just and
13 proper.

14
15 Dated: August 28 , 2026

LAW OFFICES OF ROBERT F. KANE



By Robert F. Kane

Attorney for Petitioners

FRIENDS OF HOPKINS STREET,
PAUL JOHNSON, DIANE "KUMI" FUKAWA,
HARUKO FUKAWA, and RON JOENS

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VERIFICATION

I, Donna DeDiemar, am the treasurer of the Friends of Hopkins Street, a California nonprofit corporation, one of the Petitioners in this action. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and know its contents. The facts alleged in the above Petition and Complaint are within my own knowledge and I know these facts to be true, except as to matters alleged therein on information and belief.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration is executed on August 28, 2026 at Berkeley, California.


DONNA DEDIEMAR, on behalf of Petitioner and
Plaintiff FRIENDS OF HOPKINS STREET

EXHIBIT A

Law Offices of

ROBERT F. KANE

870 Market Street, Suite 1128
San Francisco, California 94102
Telephone (415) 982-1510
Facsimile (415) 982-5821
Email RKane1089@aol.com

August 25, 2026

City of Berkeley
Mayor Adena Ishii
Members of the City Council
City Manager Paul Buddenhagen
2180 Milvia Street
Berkeley, CA 94704

RE: Notice of Intent to File Suit Under the California Environmental Quality Act

Dear Mayor Ishii, Members of the City Council, and City Manager:

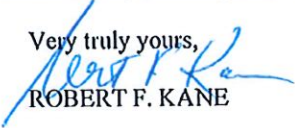
I am writing on behalf of the Friends of Hopkins Street, ("Petitioner") regarding the Referral to Schedule Hopkins Street for Paving with Enhanced Safety Improvements for All Users ("Project"). Please take notice, pursuant to Public Resources Code § 21167.5, that Petitioner and other intend to file a Verified Petition for Peremptory Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition") against Respondent and Defendant the City of Berkeley ("City") to challenge their July 28, 2026 decision of the City Council of the City of Berkeley, approving the Project. Among the claims that will be raised is that the City failed to proceed in a manner consistent with its General Plan as required by law and failing to perform environmental review for that the Project and apparently contending that it was exempt from the California Environmental Quality Act ("CEQA") but failing to prepare a negative declaration or environmental impact report.

The petition will seek the following relief:

1. A peremptory writ of mandate directing Respondent to:
 - a. Set aside the approvals of the Project *ab initio*;
 - b. Set aside the Notice of Exemption for the Project *ab initio*; and
 - c. Set aside any and all other actions approving or granting any permits, entitlements, financing, or other approvals referring or related to the Project unless and until Respondent has prepared and circulated a Complete Street Corridor Study and prepared, circulated, and considered a legally adequate CEQA document prior to any subsequent action taken to approve the Project;
2. For a preliminary and permanent injunction staying the effect of Respondents' actions, including any alleged issuance of a Notice of Exemption for the Project and approving any permits or other entitlements for the Project.

Petitioner urges the City to rescind its approval of the Project, to conduct the appropriate environmental review, and to prepare the appropriate CEQA document for the Project as required by law.

Very truly yours,


ROBERT F. KANE

PROOF OF SERVICE

I, Jeanne Schuman, declare as follows:

I am a citizen of the United States, and a resident of the City of Berkeley, County of Alameda, California. I am over the age of 18 years and not a party to the above-entitled action.

On August 26, 2026, I personally served a copy of the attached document entitled
Notice of Intent to File Suit Under the California Environmental Quality Act on

1. Mark Numainville, Clerk of the City of Berkeley at 2180 Milvia Street, Berkeley, California 94704
2. Paul Buddenhagen, City Manager of the City of Berkeley, service was accepted on his behalf by
Ramonda Clarke, 2180 Milvia Street, Berkeley, CA 94704
3. Adena Ishii, Mayor of the City of Berkeley, service was accepted on her behalf by Ramonda
Clarke, 2180 Milvia Street, Berkeley, CA 94704

That same day I also emailed copies of said Notice as follows:

Mayor Adena Ishii at mayor@berkeleyca.gov

City Clerk for the City of Berkeley at clerk@berkeleyca.gov

Paul Buddenhagen, City Manager for the City of Berkeley at CManager@berkeleyca.gov

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

Executed this 26th day of August, 2026 at Berkeley, CA

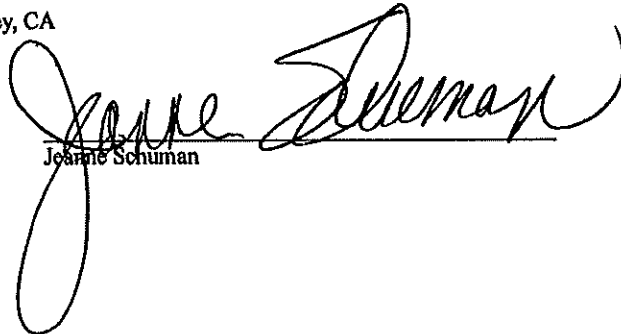

Jeanne Schuman

EXHIBIT B

1 ROBERT F. KANE (SBN 71407)
2 Law Offices of Robert F. Kane
3 870 Market Street, Suite 1128
4 San Francisco, CA. 94102
5 Tel: (415) 982-1510
6 Fax: (415) 982-5821
7 Email: rkane1089@aol.com

8 ATTORNEY FOR PETITIONERS
9 Friends of Hopkins Street, Paul Johnson,
10 Diane "Kumi" Fukawa, Haruko Fukawa
11 And Ron Joens

12 SUPERIOR COURT OF CALIFORNIA,
13 COUNTY OF ALAMEDA, UNLIMITED JURISDICTION27

14 FRIENDS OF HOPKINS STREET, a
15 California nonprofit corporation, *et al*,

16 Petitioners and Plaintiffs.

17 vs.

18 CITY OF BERKELEY, a municipal
19 corporation; *et al*,

20 Respondents.

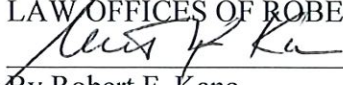
No.

21 **NOTICE OF PETITIONERS'**
22 **ELECTION TO PREPARE IF**
23 **NECESSARY AN ADMINISTRATIVE**
24 **RECORD**

25 To the extent that it may be necessary to prepare an administrative record, Petitioners and
26 Plaintiffs Friends of Hopkins Street, Paul Johnson, Diane "Kumi" Fukawa, Haruko Fukawa, and
27 Ron Joens (collectively "Petitioners") hereby notify all parties that Petitioners, to the extent
28 necessary, elect to prepare the administrative record relating to the above entitled action.
Respondents and Defendants are directed not to prepare the administrative record for this action
and not to expend any resources to prepare said administrative record.

Dated: August 28, 2026

LAW OFFICES OF ROBERT F. KANE


By Robert F. Kane
Attorney for Petitioners