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September 19, 2025

VIA E-MAIL ONLY

Gabriel M.B. Ross
Shute Mihaly & Weinberger, LLP
396 Hayes Street
San Francisco, CA 94102
Ross@smwlaw.com

Re: Native Directions / HomeCA

Dear Mr. Ross:

I am in receipt of your September 5, 2025, letter to Don Knight and Karen Ganer concerning numerous permits sought by your clients, Native Directions, Inc. and HomeCA, Inc. We appreciate your efforts to answer questions that, to date, your clients have failed to satisfactorily answer. However, for the reasons stated below, the County is not currently in a position to issue the subject permits or to publicly concur that the BHCIP funded projects are exempt from CEQA.

Our primary concern stems from a February 15, 2024, letter from the Directors of Department of Health Care Services ("DHCS") and California Department of Social Services ("CDSS") to Senator Marie Alvarado-Gill concerning Native Directions / HomeCA's projects in El Dorado County. In case you have not been provided with a copy of that letter, I'm attaching it hereto. As you know, DHCS and CDSS are the two agencies responsible for administering the BHCIP and CCE programs. In their letter, the Directors made the following statement:

Applicants receiving BHCIP and CCE conditional awards have demonstrated they meet the minimum threshold requirements as specified in the RFA for each round/source of funding. However, for BHCIP and CCE projects to progress, awardees are required to work within their local jurisdiction to obtain necessary permits through local Planning and Building Departments ***and meet relevant zoning requirements to ensure programmatic and local requirements are met.*** This includes ensuring construction work complies with the minimum standards of safety, and protecting public and program participant health, safety, and welfare.

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(February 15, 2024, Letter from Kim Johnson (Director of CDSS) and Michelle Baass (Director of DHCS) [emphasis added].)

Based on that statement, in the County's May 3, 2024, letter to Patrick Prado, we asked for an explanation of how the subject projects "meet relevant zoning requirements" but we have yet to receive a satisfactory response. Instead, correspondence from Native Directions / HomeCA simply cited to the BHCIP and CCE statutes without providing any additional explanation as to how their projects comply with the guidance from the Directors of DHCS and CDSS that such projects "meet relevant zoning requirements." We are fully aware of Welfare & Institutions Code § 18999.97 and § 5960.3, but the County cannot simply ignore guidance from the directors of the agencies responsible for these programs that funded projects must "meet relevant zoning requirements." And Native Directions / HomeCA's projects do not appear to meet the County's zoning requirements.

Additionally, the County remains unconvinced that projects utilizing BHCIP funds are exempt from CEQA absent satisfaction of the required conditions in Welfare & Institutions Code § 5960.3(b). A plain reading of § 5960.3 in its entirety supports that position. Your letter focuses only on the language in Subsection (a), but notably that Subsection doesn't expressly reference CEQA at all. This is in stark contrast with similar provisions for CCE funding in Welfare & Institutions Code § 18999.97(l), where the Legislature made clear that CCE funded projects are deemed to be ministerial actions for purposes of CEQA by expressly referencing the CEQA Guidelines' definition of "ministerial projects." Clearly the Legislature knows how to invoke CEQA's ministerial exemption when it wants to, making its failure to do so for BHCIP funded projects all the more telling. Moreover, the position in your letter that BHCIP funded projects are exempt from CEQA notwithstanding their inability to satisfy the conditions in Subsection (b), and that Subsection (b) is simply a "redundant" exemption," would render Subsection (b) completely meaningless and pure surplusage, an interpretation that would be highly disfavored by the courts. Put simply, why would the Legislature craft a detailed, conditional exemption from CEQA if all BHCIP funded projects are exempt by virtue of the ministerial exemption?

Our June 7, 2024, letter clearly states the reasons why we do not believe that Native Directions / HomeCA's BHCIP funded projects meet § 5960.3(b)'s requirements to be exempt from CEQA. For those reasons, the County cannot "publicly concur" that these BHCIP funded projects are exempt from CEQA.

As we have stated previously, the County has not denied the subject permits. We are simply not in a position to approve them until we can resolve the outstanding concerns expressed herein. Upon resolution of those concerns, the County remains ready to act on the subject permit applications.

Very truly yours,

DAVID A. LIVINGSTON

County Counsel

A handwritten signature in blue ink, appearing to read "David A. Livingston", is written over a horizontal line.

cc: Karen Garner, Director of Planning & Building



February 15, 2024

THIS LETTER SENT VIA EMAIL

Senator Marie Alvarado-Gil
1021 O Street, Suite 7240
Sacramento, California, 95814

RE: RESPONSE TO QUESTIONS/CONCERNS RELATED TO DEPARTMENT OF HEALTH CARE SERVICES BEHAVIORAL HEALTH CONTINUUM INFRASTRUCTURE PROGRAM (BHCIP) / DEPARTMENT OF SOCIAL SERVICES COMMUNITY CARE EXPANSION (CCE) PROJECTS PROPOSED BY NATIVE DIRECTIONS/HOMECA FOR BEHAVIORAL HEALTH TREATMENT SERVICES IN EL DORADO COUNTY

Dear Senator Marie Alvarado-Gil:

Thank you for your letter dated January 29, 2024, regarding substance abuse treatment center projects proposed by HomeCA and Native Directions Inc. AB 133 (Committee on Budget, Chapter 143, Statutes of 2021) authorized the California Department of Health Care Services (DHCS) to establish the BHCIP and award \$2.2 billion to construct, acquire, and expand properties and invest in mobile crisis infrastructure related to behavioral health. DHCS is releasing these funds in six individual rounds to target various gaps in the state's behavioral health facility infrastructure. In addition, AB 172 (Committee on Budget, Chapter 696, Statutes of 2021) authorized the California Department of Social Services (CDSS) to establish CCE and award \$805 million for the acquisition, construction, and/or rehabilitation of adult and senior care facilities that serve applicants and recipients of Supplemental Security Income/State Supplementary Payment (SSI/SSP) or Cash Assistance Program for Immigrants (CAPI), who are at risk of or experiencing homelessness.

DHCS and CDSS launched the BHCIP and the CCE Programs to address historic gaps in the behavioral health and long-term care continuum and meet the growing demand for services and support across the life span. To date, five rounds of BHCIP funding and funding for 48 CCE projects have been released/awarded on a competitive basis.

Priorities for BHCIP and CCE include:

- Invest in behavioral health and community care options that advance racial equity.
- Seek geographic equity of behavioral health and community care options.
- Address urgent gaps in the care continuum for people with behavioral health conditions, including seniors, adults with disabilities, and children and youth.
- Increase options across the life span that serve as an alternative to incarceration, hospitalization, homelessness, and institutionalization.

California Department of Health Care Services

Director's Office

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State of California
Gavin Newsom, Governor



California Health and Human Services Agency

- Meet the needs of vulnerable populations with the greatest barriers to access, including people experiencing homelessness and justice involvement.
- Ensure care can be provided in the least restrictive settings to support community integration, choice, and autonomy.
- Leverage county and Medi-Cal investments to support ongoing sustainability.
- Leverage the historic state investments in housing and homelessness.

Eligible entities to apply for this funding include counties, cities, tribal entities (including Tribal 638 facilities and urban clinics), nonprofit organizations, and for-profit organizations whose projects reflect the State's priorities.

The following stipulations and specifications apply to both BHCIP and CCE:

- For-profit organizations, including private real estate developers, with related prior development experience who are collaborating with nonprofit organizations, tribal entities, or counties may apply, but will be required to demonstrate a legal agreement (e.g., memorandum of understanding) with the county, tribe, city, for-profit, or nonprofit organization to confirm the organization's role in the project, including that they are working on behalf of the service provider.

The following stipulations and specifications apply to BHCIP:

- Proposed projects must meet the focus specified for each round.
- Projects must make a commitment to serve Medi-Cal beneficiaries.

The following stipulations and specifications apply to CCE:

- Funds to preserve existing licensed facilities that currently serve the CCE target population were made available through the CCE Preservation Program by a direct-to-county allocation process and announced separately from the BHCIP/CCE project Request for Application (RFA).
- CCE funding being awarded to a provider was not and is not predicated on the relevant county participating in the CCE Preservation Program.

Native Directions/HomeCA were awarded conditional funding grants for BHCIP Round 3: Launch Ready, BHCIP Round 4: Children and Youth, and CCE based on their application and demonstration of meeting state priorities. DHCS and CDSS released a joint BHCIP/CCE project Request for Application (RFA) during the Round 3 timeframe; however, BHCIP and CCE are separate programs. The application review process and subsequent awards for these programs follow separate tracks.

Applicants receiving BHCIP and CCE conditional awards have demonstrated they meet the minimum threshold requirements as specified in the RFA for each round/source of funding. However, for BHCIP and CCE projects to progress, awardees are required to work within their local jurisdiction to obtain necessary permits through local Planning and Building Departments and meet relevant zoning requirements to ensure programmatic and local requirements are met. This includes ensuring construction work complies with the minimum standards of safety, and protecting public and program participant health, safety, and welfare.



February 15, 2024

DHCS and CDSS are moving forward expeditiously with these funds with the understanding that the need for access to behavioral health services across the state is at an all-time high. Coupled with the opioid epidemic, there is no greater time to leverage the available funding to expand California's behavioral health infrastructure. According to a statewide needs assessment conducted in 2021, "Assessing the Continuum of Care for Behavioral Health Services in California," the mental health and well-being of California's children and youth (25 years and younger) are a rising concern. Amid rising rates of children and youth experiencing behavioral health conditions, youth emergency department visits for mental health concerns, and youth suicides, there are limited treatment options available to children with significant mental health and substance use disorders (SUDs). Moreover, in California, rates of serious mental illness and SUDs are highest for individuals ages 18 to 25.

The Administration has committed to, and wholeheartedly supports, the expansion of the state's behavioral health and community care infrastructure. DHCS and its BHCIP administrative entity, Advocates for Human Potential, as well as CDSS and its CCE administrative entity, HORNE, will continue to work with Native Directions/HomeCA as they proceed through the process of obtaining required permits for construction to commence. DHCS and CDSS appreciate your support and interest in our BHCIP and CCE work.

In partnership,



MICHELLE BAASS, Director
Department of Health Care Services



KIM JOHNSON, Director
Department of Social Services

