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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

EXEMPT FROM FILING FEES  
GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF HUMBOLDT

CITY OF EUREKA,

Plaintiff,

v.

ALL PERSONS INTERESTED IN THE  
MATTER of the Issuance and Sale of Bonds  
for the Purpose of Refunding Certain  
Obligations that the City of Eureka Owes to  
the California Public Employees Retirement  
System Arising Under Section 20000 et seq.  
of the California Government Code, and  
Certain Proceedings Leading Thereto,  
Including the Adoption of a Resolution that  
Authorizes the Issuance of Taxable Pension  
Obligation Funding Bonds and the Execution  
and Delivery of an Indenture Relating to the  
Issuance of Such Bonds,

Defendants.

CASE NO. **DR120811**

**COMPLAINT FOR VALIDATION  
(C.C.P. §§ 860-870.5)**

1 Plaintiff, City of Eureka (the "City"), brings this validation action pursuant to  
2 California Code of Civil Procedure section 860 *et seq.* and Government Code section 53511. The  
3 City alleges as follows:

4 **Nature Of The Action**

5 1. This is a validation action brought pursuant to California Code of Civil  
6 Procedure section 860 *et seq.* (the "Validation Statute") and Government Code section 53511 to  
7 obtain an order from this Court declaring the validity of:

- 8 a) Bonds to be issued for the purpose of refunding the City's obligations to the  
9 California Public Employees' Retirement System (the "System") to make certain  
10 payments to the System in respect of unfunded accrued actuarial liability related to  
11 fire and police retirees of the City (the "Series 2013 Bonds");
- 12 b) An indenture to be entered by the City and a financial institution, as trustee (the  
13 "Indenture");
- 14 c) Additional bonds ("Additional Bonds" and together with the Series 2013 Bonds,  
15 the "Bonds") that may be issued by the City from time to time for similar  
16 purposes;
- 17 d) Resolution No. 2012, a Resolution of the City Council of the City of Eureka  
18 Providing for the Issuance of One or More Series of City of Eureka Taxable  
19 Pension Obligation Funding Bonds, And Approving the Form of and Authorizing  
20 the Execution and Delivery of an Indenture Relating Thereto; and Authorizing a  
21 Validation Action and Authorizing Certain Other Actions In Connection  
22 Therewith (the "Resolution"); and
- 23 e) Certain related proceedings and other matters.

24 All of these matters arise in connection with the City's pre-existing obligation to the System, as  
25 described below.

26 **The Parties**

27 2. The City is and was at all times mentioned herein a municipal corporation  
28 of the State of California (the "State"), organized, existing and exercising governmental functions

1 under the Constitution and laws of the State. The City is a local public agency authorized to bring  
2 this action under the Validation Statute and Government Code section 53511.

3 3. The governing body of the City is the City Council of the City of Eureka  
4 (the "Council"), which has its principal place of business in Humboldt County, California.

5 4. Defendants are all persons having or claiming to have an interest in the  
6 proceedings leading up to and including the adoption of the Resolution, the execution and  
7 delivery of the Indenture, any related contracts and agreements, and the issuance of bonds related  
8 thereto for the purposes described herein.

9 5. Venue is proper in the Superior Court of California for the County of  
10 Humboldt pursuant to Code of Civil Procedure section 860.

11 **The City's Obligation To Fund Its Pension Obligation**

12 6. The City has contracted with the System pursuant to Public Employee's  
13 Retirement Law commencing with Section 20000 of the Government Code of the State of  
14 California, as amended (the "PERS Law") to provide its employees with pension benefits. The  
15 City participates in separate risk pools within the System for the City's fire and police retirees,  
16 pursuant to which the System has established "side funds" ("PERS Side Fund Obligations")  
17 which are obligated to be funded by the City pursuant to a contract between the City and the  
18 System dated as of April 1, 1970, as amended thereafter from time to time ("PERS Contract").

19 7. The PERS Law obligates the City, among other things, to:

20 a. Make annual contributions to the System for each fiscal year to  
21 fund the value of pension and other retirement benefits for City employees (the "Normal  
22 Contribution");

23 b. Amortize the unfunded accrued actuarial liability of the City under  
24 the PERS Law, which is the liability that the System's actuary has determined to have accrued  
25 under the PERS Law but which the City has not paid to the System (the "Unfunded Liability,"  
26 and together with the Normal Contribution, the "Pension Obligation"); and

27 c. Appropriate funds for the purpose of making such contributions and  
28 meeting the City's obligation to the System under the PERS Law.

8. The obligation of the City to make contributions to the System pursuant to the PERS Law represents an obligation imposed by law and, as such, the City is required to satisfy such obligation from any money available in any fund in the City's treasury. The City's obligation to make payments to fund such retirement benefits is exempt from the debt limitation of Article XVI, Section 18 of the California Constitution.

9. Pursuant to the City's obligation to the System under the PERS Law, the City must pay the System interest on its Unfunded Liability at an interest rate established from time to time by the System in consultation with the System's actuary. As of June 30, 2012, based upon the actuarial report issued by the System, the PERS Side Fund obligation of the City is approximately \$7,782,683.

10. The City desires to issue Series 2013 Bonds in an aggregate principal amount equal to the sum of (a) the principal amount not to exceed the total combined amount of the PERS Side Fund obligations, (b) the costs of issuance of the Series 2013 Bonds (including underwriters' discount), and (c) the original discount (if any) on the Series 2013 Bonds, for the purpose of refunding the PERS Contract and thereby providing funds for the System to invest. In addition, the City desires to authorize the issuance of the Additional Bonds for the purpose of refunding any additional obligations under the PERS Contract in the future from time to time.

## The Resolution

11. On November 6, 2012, after public notice in accordance with law, the Council adopted the Resolution. A true and correct copy of the Resolution is attached hereto as Exhibit A and incorporated by this reference as if fully set forth herein.

12. The Resolution authorizes and directs the authorized officers of the City to execute and deliver any and all documents in order to consummate the transactions contemplated by the Resolution and to carry out, give effect to, and comply with the terms and intent of the Resolution, including bringing the present validation action.

### The Issuance Of The Bonds

13. The City is authorized under Articles 10 and 11 (commencing with section 53570) of Chapter 3 of Division 2 of Title 5 of the Government Code of the State of California

(the “Refunding Bond Law”) to provide for the refunding of its obligations by issuing bonds or other evidence of indebtedness and applying the proceeds of such to the retirement of its obligations evidenced by the PERS Contract.

14. As authorized and approved in the Resolution, the City will issue the Series 2013 Bonds in an aggregate principal amount equal to the sum of (a) the principal amount not to exceed the total combined amount of the PERS Side Fund Obligations; (b) the costs of issuance of the Series 2013 Bonds (including underwriters' discount), and (c) the original issue discount (if any) on the Series 2013 Bonds. The Series 2013 Bonds may be issued at one time or from time to time and will be substantially in the form or forms set forth in the Indenture, with such changes therein, deletions therefrom and additions thereto as authorized in the Resolution. In no event will the aggregate principal amount of the Series 2013 Bonds exceed \$8,250,000 net of the original issue discount (if any). Pursuant to the Resolution, the City has approved and authorized the issuance of Additional Bonds from time to time in the future to refund any additional obligations under the PERS Contract.

15. As authorized in the Resolution, the Series 2013 Bonds shall be issued as fixed rate bonds and the Additional Bonds may be issued as fixed rate bonds, variable rate bonds, indexed notes, current interest bonds, deferred interest bonds, capital appreciation bonds, convertible capital appreciation bonds, embedded cap bonds, equity participation bonds or synthetic or hedged fixed rate bonds, or such other types of bonds as may be set forth in the Indenture or supplemental indenture. The interest rate on the 2013 Bonds shall not exceed 6 percent per annum and shall mature not later than thirty years from the date of their issuance. Additional Bonds shall be issued pursuant to a Supplemental Indenture subject to the limitations contained in the Indenture and Resolution.

## The Indenture

16. The Resolution approved the form of, and authorized the City to execute and deliver, the Indenture, pursuant to which the proceeds from the sale of the Series 2013 Bonds will be deposited with a trustee, which in turn will remit such proceeds to the System for the purpose of funding obligations of the City under the PERS Contract. A true and correct copy of

1 the Indenture is attached hereto as Exhibit B and is incorporated by this reference as if fully set  
2 forth herein. As provided in the Resolution, the Indenture will be substantially in the form  
3 attached hereto with such changes therein, deletions therefrom and additions thereto as authorized  
4 in the Resolution.

5 17. The Indenture establishes the terms and conditions upon which the Series  
6 2013 Bonds shall be issued, including the terms and conditions for issuance of the various types  
7 of bonds described above. As provided in the Indenture, a portion of the proceeds of the Series  
8 2013 Bonds will be applied to pay the costs of issuance, including any underwriter's discount,  
9 original issue discount, and bond insurance premiums, if any. Pursuant to the Resolution and the  
10 Indenture, any Additional Bonds issued by the City shall be issued pursuant to supplemental  
11 indentures and duly adopted resolutions, consistent with and subject to the limitations contained  
12 in the Resolution and the Indenture.

13 18. The Series 2013 Bonds, and any Additional Bonds that may be issued  
14 relate to and constitute the refunding of a pre-existing obligation imposed by law. Accordingly,  
15 the Series 2013 Bonds and any Additional Bonds, the Indenture, and any and all contracts and  
16 agreements relating thereto are exempt from the debt limitation of Article XVI, Section 18 of the  
17 California Constitution.

18 **Statutory Authorization For Institution Of This Validation Proceeding**

19 19. Government Code section 53511 provides that a local agency may bring an  
20 action pursuant to the Validation Statute to determine the validity of its bonds, warrants,  
21 contracts, obligations or evidence of indebtedness. The City is a local agency authorized to bring  
22 an action under the Validation Statute pursuant to Government Code section 53510.

23 20. Code of Civil Procedure section 860 provides that a public agency, such as  
24 the City, may bring an *in rem* action to determine the validity of any matter which under any  
25 other law is authorized to be determined pursuant to the Validation Statute. The Validation  
26 Statute provides that the action shall be brought in the Superior Court of the county in which the  
27 principal office of the public agency is located.

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1                   21.     The principal office of the City is located in Humboldt County, California.

2                   22.     This action is properly brought by the City as an *in rem* proceeding  
3 pursuant to Government Code section 53511 and Code of Civil Procedure section 860 for the  
4 judicial examination, approval and confirmation of the validity of the proceedings described  
5 above, the Resolution, the issuance and sale of the Series 2013 Bonds and any Additional Bonds,  
6 and the execution and delivery of the Indenture and any other related contracts or agreements  
7 authorized or contemplated by the City, and the adoption of resolutions pertaining thereto.

8                   23.     All such proceedings by and for the City and the provisions of the  
9 Resolution, the Series 2013 Bonds, the Additional Bonds, the Indenture, and any other related  
10 contracts or agreements were, are and will be in conformity with the applicable provisions of all  
11 laws and enactments at any time in force or controlling upon such proceedings, whether imposed  
12 by law, constitution, statute or ordinance, whether federal or state, and were, are and will be fully  
13 in conformity with all applicable requirements of all regulatory bodies, agencies or officials  
14 having or asserting authority over said proceedings or any part thereof.

15                                   **Service By Publication**

16                   24.     The TIMES-STANDARD is a newspaper of general circulation published  
17 daily in the County of Humboldt and is the newspaper most likely to give notice to persons  
18 interested in these proceedings. Publication of summons in said newspaper should be ordered by  
19 the Court pursuant to Code of Civil Procedure section 861 and Government Code section 6063.  
20 The only other notice reasonably practicable is (a) by posting a copy of the Summons in two  
21 public places within the City, and (b) by mailing copies of the Summons and Complaint to those  
22 persons, if any, or their attorneys of record, who, not later than ten days after publication of  
23 Summons is complete, have expressly notified in writing the City's attorneys of record of their  
24 interest in this matter.

25                                   **First Cause Of Action**

26                                   (Determination of the Validity of Proceedings)

27                   25.     The City realleges and incorporates by this reference the allegations of  
28 paragraphs 1 through 24 above as though fully set forth herein.

1                   26.     Based upon the foregoing, the City is entitled to a judicial declaration  
2 determining that:

3                             a.   This action is properly brought under Government Code section  
4 53511 and the Validation Statute;

5                             b.   All proceedings by and for the City in connection with the  
6 Resolution, the Series 2013 Bonds, the Additional Bonds, the Indenture, and any other related  
7 contracts or agreements authorized or contemplated by the City, were, are and will be valid and  
8 legal, and were, are and will be in conformity with the applicable provisions of all laws and  
9 enactments at any time in force or controlling upon such proceedings, whether imposed by law,  
10 constitution, statute or ordinance, whether federal or state, including but not limited to the  
11 Refunding Bond Law and provisions of Article XVI, Section 18 of the California Constitution;

12                            c.   All conditions, things and acts required by law to exist, happen or  
13 be performed precedent to the adoption of the Resolution, and the terms and conditions thereof,  
14 including the issuance and sale of the Series 2013 Bonds and Additional Bonds, and the execution  
15 and delivery of the Indenture and any other related contracts or agreements authorized or  
16 contemplated by the City, have existed, happened and been performed in the time, form and  
17 manner required by law;

18                            d.   The City has the authority under the California Constitution and  
19 California law, including but not limited to the Refunding Bond Law, to execute and deliver the  
20 Indenture and any other related contracts or agreements, and issue the Series 2013 Bonds; apply  
21 the proceeds of the Series 2013 Bonds to refund obligations under the PERS Contract (including  
22 costs incidental to or in connection with such obligations), pay costs of issuance of the Series  
23 2013 Bonds and issue Additional Bonds upon the terms and conditions authorized in the  
24 Resolution and the Indenture;

25                            e.   Upon execution and delivery thereof, the Series 2013 Bonds, the  
26 Additional Bonds, the Indenture and any and all contracts and agreements executed and delivered  
27 in connection therewith will be valid, legal and binding obligations.

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1                   34. Pursuant to the Validation Statute and Government Code section 53511,  
2 the City is entitled to a judicial determination establishing that the Series 2013 Bonds, the  
3 Indenture, any Additional Bonds, and any and all contracts and agreements executed and  
4 delivered in connection therewith, are valid, legal and binding obligations under the Constitution  
5 and the laws of the State, and specifically, under the Refunding Bond Law and Article XVI,  
6 Section 18 of the California Constitution.

7                                   **Prayer For Relief**

8                   1. That the Court order that the jurisdiction over all interested persons be  
9 obtained by:

10                                   a. Publishing the Summons pursuant to Code of Civil Procedure  
11 section 861 and Government Code section 6063 in the TIMES-STANDARD;

12                                   b. Posting a copy of the Summons in two public places within the City  
13 prior to completion of publication; and

14                                   c. Mailing copies of the Summons and Complaint to those persons, if  
15 any, or their attorneys of record, who, not later than ten days after publication of Summons is  
16 complete, have expressly notified in writing Plaintiff's attorneys of record of their interest in this  
17 matter.

18                   2. That the Court find that the notice procedures in accordance with the  
19 Validation Statute, and the notice provided by the City in this action as described above, provide  
20 due and proper notice to all persons interested in the subject matter of this action, and that  
21 pursuant to such notice, this Court has jurisdiction over all persons and the subject matter of this  
22 action;

23                   3. That the Court find that this action is properly brought under California  
24 Government Code section 53511 and the Validation Statute in the Superior Court for the County  
25 of Sacramento;

26                   4. That judgment be entered on the First Cause of Action determining that:

27                                   a. All proceedings by and for the City in connection with the  
28 Resolution, the Series 2013 Bonds, any Additional Bonds, the Indenture, and any other related

1 contracts or agreements authorized or contemplated by the City, were, are and will be valid and  
2 legal, and were, are and will be in conformity with the applicable provisions of all laws and  
3 enactments at any time in force or controlling upon such proceedings, whether imposed by law,  
4 constitution, statute or ordinance, whether federal or state, including but not limited to the  
5 Refunding Bond Law and the provisions of Article XVI, Section 18 of the California  
6 Constitution;

7                   b. All conditions, things and acts required by law to exist, happen or  
8 be performed precedent to the adoption of the Resolution, and the terms and conditions thereof,  
9 including the authorization for the issuance and sale of the Series 2013 Bonds and Additional  
10 Bonds, and the execution and delivery of the Indenture and any other related contracts or  
11 agreements authorized or contemplated by the City, have existed, happened and been performed  
12 in the time, form and manner required by law;

13                   c. The City has the authority under the California Constitution and  
14 California law to (i) execute and deliver the Indenture, any other related contracts or agreements,  
15 and issue the Series 2013 Bonds; (ii) apply the proceeds of the Series 2013 Bonds to refund any  
16 obligations under the PERS Contract and pay costs of issuance of the Series 2013 Bonds; and  
17 (iii) issue Additional Bonds upon the terms and conditions authorized in the Resolution and the  
18 Indenture;

19                   d. Upon execution and delivery thereof, the Series 2013 Bonds, any  
20 Additional Bonds, the Indenture, and any and all contracts and agreements executed and delivered  
21 in connection therewith will be valid, legal and binding obligations.

22                   5. That judgment be entered on the Second Cause of Action determining that:

23                   a. The Series 2013 Bonds, any Additional Bonds, and the Indenture  
24 and all contracts and agreements executed and delivered in connection therewith, are obligations  
25 imposed by law;

26                   b. The Series 2013 Bonds, any Additional Bonds, and the Indenture  
27 and all contracts and agreements executed and delivered in connection therewith, are and will be  
28 valid and binding obligations under the Constitution and the laws of the State;

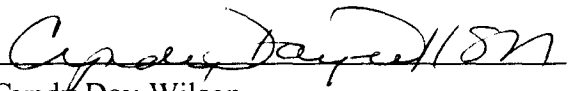
1 c. The City's incurrence of any and all indebtedness and/or liability in  
2 connection with the Series 2013 Bonds and Additional Bonds, and all contracts and agreements  
3 related thereto, including the Indenture, is exempt from and not subject to the debt limitation set  
4 forth in Article XVI, Section 18 of the California Constitution.

5 6. That the Court permanently enjoin and restrain all persons from the  
6 institution of any action or proceeding challenging, *inter alia*, the validity of the Resolution, the  
7 execution and delivery of the Indenture and any related contracts or agreements, and the issuance  
8 and sale of the Series 2013 Bonds and Additional Bonds, or any matters herein adjudicated or  
9 which at this time could have been adjudicated against the City and against all other persons;

10 7. For costs incurred herein; and

11 8. For such other and further relief as the Court may deem just and proper.

12 Dated: November 20, 2012

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14 By:   
15 Cyndy Day-Wilson  
16 City Attorney, City of Eureka  
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