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2 Including Professional Corporations
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6 Attorneys for Plaintiff
HELIX ELECTRIC, INC.

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 HELIX ELECTRIC, INC.
11
12 Plaintiff,
13
14 v.
15 DIVISION OF LABOR STANDARDS
16 ENFORCEMENT, an agency of the State of
California; DEPARTMENT OF
17 INDUSTRIAL RELATIONS, an agency of the
State of California; DONNA DELL, an
18 individual in her capacity as Labor
Commissioner of the State of California;
19 JOHN REA, an individual in his capacity as
Acting Director of the Department of
Industrial Relations of the State of California;
COUNTY OF SACRAMENTO, PUBLIC
WORKS COMPLIANCE PROGRAM,
20
21 Defendants.

CASE NO. 05-cv-2303

**DECLARATION OF RICHARD M.
FREEMAN IN SUPPORT OF PLAINTIFF
HELIX ELECTRIC, INC.'S EX PARTE
APPLICATION FOR INJUNCTION
PENDING APPEAL**

Hearing On Application
Date: TBD, if desired by the Court
Time: TBD, if desired by the Court
Ctrm.: 2
Judge: Hon. Frank C. Damrell, Jr.

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I, Richard M. Freeman, declare:

1. I am partner in the law firm of Sheppard, Mullin, Richter & Hampton LLP, counsel of record for plaintiff Helix Electric, Inc. ("Helix"). I have personal knowledge of the facts stated herein, and if called as a witness to testify thereto, I could competently do so.

2. On Thursday, March 9, 2006, at approximately 3:03 p.m., I received notice of an email that was sent to an associate at my firm, Matt McConnell, from Ray Thompson, Deputy County Counsel for the County of Sacramento. Mr. McConnell forwarded Mr. Thompson's email to me. A true and correct copy of this email is attached hereto as Exhibit 1. Mr. Thompson wrote to inform us that he had received an email from Kevin Abram, on behalf of defendant Public Works Compliance Program ("PWCP"), requesting that the County of Sacramento release unredacted certified payroll records from Helix. The email from Mr. Abram to Mr. Thompson is also included in Exhibit 1. Mr. Thompson informed us that, in light of Mr. Abram's request, he intended to inform Mr. Abram on Monday, March 13, 2006, that he would be instructing the County's Labor Compliance staff to comply with Mr. Abram's request for the payroll records.

3. On Friday, March 10, 2006, I had filed with the Court a Notice of Appeal of the Court's February 27, 2006 order denying Helix's Motion for a Preliminary Injunction. For the Court's convenience, a true and correct copy of its February 27, 2006 order is attached hereto as Exhibit 2.

4. On Friday, March 10, 2006, I asked an associate at my firm, Matt Holder, to call counsel for PWCP and inquire whether they would stipulate to maintain the status quo and not seek the release of Helix's unredacted certified payroll records pending Helix's appeal. I am informed and believe that Mr. Holder telephoned counsel for PWCP, and was told that two attorneys – Caren Sencer and Roberta Perkins – were not available. I am further informed and

1 believe that Mr. Holder then left a voicemail message for the lead attorney on the matter, David
2 Rosenfeld, at approximately 2:30 p.m., after being told by the receptionist that Mr. Rosenfeld was
3 on the telephone. On that voicemail, Mr. Holder explained the situation and inquired whether
4 PWCP would withdraw its request to the County of Sacramento for the payroll records and agree
5 to maintain the status quo via an injunction pending Helix's appeal of the Court's order. I am
6 further informed and believe that Mr. Holder left a follow-up voicemail for Mr. Rosenfeld at
7 approximately 4:20 p.m. after being told by the receptionist that Mr. Rosenfeld was still in the
8 office, wherein he restated his position and indicated that he would treat Mr. Rosenfeld's non-
9 response as a refusal to stipulate to maintaining the status quo pending appeal should Mr.
10 Rosenfeld not respond by 4:40 p.m. Mr. Rosenfeld did not return Mr. Holder's two voicemail
11 messages.

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13 5. I also requested that Mr. Holder give notice of Helix's intent to file an Ex
14 Parte Application for Injunction Pending appeal to Mr. Thompson as counsel for the County of
15 Sacramento, as well as David Balter, Staff Counsel for the Department of Industrial Relations,
16 Division of Labor Standards Enforcement. I am informed and believe that Mr. Holder spoke to
17 both Mr. Thompson and Mr. Balter on the afternoon of March 10, 2006, and gave them notice of
18 our intent to file the Ex Parte Application. Each agreed that there was no relief to which they
19 could stipulate, since both were currently subject to the Court's Order and could not modify that
20 Order by stipulation.

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22 6. On Friday, March 10, 2006, I had filed Helix's Ex Parte Application For
23 Injunction Pending Appeal and supporting papers. I then had those same papers in their entirety
24 sent by email to Mr. Thompson, Mr. Rosenfeld, Ms. Sencer, and Ms. Perkins. I also had these
25 same papers in their entirety sent by facsimile to Mr. Thompson and Mr. Balter.

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27 7. Attached as Exhibit 3 is a true and correct copy of a January 27, 2006, from
28 Ray Thompson to the Court indicating that the County of Sacramento's construction project,

1 formally known as "Juvenile Hall Expansion and Modification Package No. 1, Contract No.
2 3843," is estimated to be substantially complete in October, 2006.

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I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct to the best of my knowledge and belief. Executed this 10th day of March, 2006, at San Diego, California.

/s/
Richard M. Freeman