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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES

12 FIX THE CITY, INC., a California nonprofit
13 corporation,

14 Petitioner and Plaintiff,

15 v.

16 CITY OF LOS ANGELES; LOS ANGELES
17 CITY COUNCIL; and DOES 1 through 100,
18 inclusive,

19 Respondents and Defendants.

Case No.

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

(Code of Civil Procedure, §§ 526, 1060, 1085
& 1097; Government Code, § 65300.5; Los
Angeles City Charter, §§ 555, 556 & 558)

1 2012 response times were inadequate.¹ Today, response times have deteriorated even further into
2 inadequacy. In 2012, the LAFD estimated that 89 new stations would be required for the LAFD to
3 achieve a five-minute on-scene emergency medical services response time. (Los Angeles City
4 Council Motion 12-0395-S3 (Mar. 27, 2012).) While the public generally believes that the LAFD will
5 arrive on time when they dial 911, these first responders cannot overcome increasing call loads and
6 increasing traffic.

7 5. The California Constitution itself acknowledges that “the protection of the public safety
8 is the first responsibility of local government and local government officials have an obligation to give
9 priority to the provision of adequate public safety services.” (Art. XIII, § 35(2)).

10 6. Respondents City of Los Angeles and City Council of the City of Los Angeles
11 (collectively, “the City” or “Respondents”) continue to approve significant increases in permissible
12 construction density without the existence of at least adequate infrastructure. The City has kicked the
13 infrastructure can down the road — and right into a pothole. Infrastructure is consumed by time and
14 demand. The City has simultaneously allowed deterioration over time while increasing demand.

15 7. Petitioner Fix the City, Inc., (“FTC” or “Petitioner”) by this Verified Petition for Writ
16 of Mandate, seeks to enforce a binding commitment that Respondents made to its constituents,
17 asserted in its General Plan Framework, in legal briefing to this Court and the Court of Appeal, that it
18 would not approve new increases in allowable density if infrastructure was inadequate or threatened.

19
20 ¹ A Los Angeles Times article quoted Councilmember Mitchell Englander as asking, “Now
21 that we know the problems, what are they doing to fix them?” (Healy, *LAFD Response Times Miss
22 Goal 39 Percent of the Time: Study* (Nov. 16, 2012) NBC News <[https://www.nbclosangeles.com/
23 news/local/LA-Fire-Response-Times-Miss-Target-39-of-Calls--Study-179768711.html](https://www.nbclosangeles.com/news/local/LA-Fire-Response-Times-Miss-Target-39-of-Calls--Study-179768711.html)> [as of Oct.
24 23, 2018].) Councilmember Paul Koretz aptly observed that “[e]very minute that you add to a response
25 to a heart attack, or the beginning of a fire, that could actually be a life and death issue.” (Linthicum,
26 Lopez & Zahniser, *L.A. Council members call for accurate Fire Department figures* (Mar. 13, 2012)
27 Los Angeles Times <[http://articles.latimes.com/2012/mar/13/local/la-me-fire-response-times-
28 20120313/2](http://articles.latimes.com/2012/mar/13/local/la-me-fire-response-times-20120313/2)> [as of Oct. 23, 2018].) Councilmember Bonin observed that the LAFD’s “[m]orale is in
the toilet. Our response times are not nearly good enough.” (Welsh, Finnegan & Zahniser, *Garcetti
replaces LAFD Chief Cummings after 911 disclosures* (Oct. 10, 2013) Los Angeles Times
<<http://www.latimes.com/local/la-me-1011-lafd-chief-20131011-story.html>> [as of Oct. 23, 2018].)
Then-Councilmember Eric Garcetti stated that “[t]he department’s managers are either unwilling or
unable to do their job to reduce response times and make L.A. safer.” (Lopez, Linthicum & Welsh,
Two council members assail LAFD over response times (Nov. 17, 2012) Los Angeles Times
<<http://articles.latimes.com/2012/nov/17/local/la-me-lafd-response-20121117>> [as of Oct. 23, 2018].)

1 This binding commitment, embedded in the City’s General Plan Framework Element and related
2 approvals, has been ignored by the City for too long, resulting in the degraded, underfunded and
3 inadequate services now provided to Angelenos. The result is literally an unmitigated disaster.

4 8. This action specifically challenges the City’s determination to approve the Exposition
5 Corridor Neighborhood Transit Plan (“Expo Plan”). In approving the Expo Plan, the City significantly
6 increased the residential and commercial allowable density in the neighborhoods within one-half mile
7 of five stations located along Phase 2 of the Exposition light rail line. The Expo Plan increases the
8 residential capacity by amending the General Plan and the zoning ordinances to increase permissible
9 residential density, permit greater floor to area ratios (“FAR”), allow additional height, and increased
10 mixed-use development. The Expo Plan increases residential density by 20 percent and employment
11 capacity by 25 percent in the re-zoned areas.

12 9. The City approved these increases in density through General Plan Amendments and
13 zone changes without regard for the mandatory policies in the General Plan Framework Element and
14 in applicable community plans that require, per the City’s own interpretation, the provision of
15 adequate infrastructure services prior to permitting additional growth.

16 10. When the City adopted the General Plan Framework, the City included an innovative
17 policy: it would measure the adequacy of city services and infrastructure, and only approve increases
18 in density when infrastructure and services were adequate and not threatened. It was a simple and
19 effective way to guarantee that the City would keep residents safe and with a decent quality of life by
20 preventing growth from outpacing infrastructure.

21 11. In this way, the General Plan Framework allowed the City to dynamically react to
22 changes such as earthquakes, financial stress, or inaccurate growth projections simply by monitoring,
23 reporting on, and then reacting to changes in the infrastructure of the City and its services.

24 12. As the City stated to the Court of Appeal in a case specifically involving the adoption
25 of the General Plan Framework Element, “What became clear was that a crucial feature of dealing
26 with growth impacts was contained in the General Plan Framework – its program for timing allowable
27 development with available infrastructure.” (*Federation of Hillside and Canyon Associations v. City*
28 *of Los Angeles*, City of Los Angeles’ Combined 1. Respondent’s Brief on Appeal 2. Opening Brief on

1 Cross Appeal (2nd App. Dist. Case No. B126659), p. 36.)

2 13. This policy was the centerpiece of the City’s adopted mitigation plan for the
3 Framework Element. The City explained in its Environmental Impact Report for the Framework
4 Element and to the Court reviewing the Framework Element, that the policy was a mandatory
5 mitigation measure.

6 14. Now the City has employed a bait-and-switch approach by taking the position that these
7 mandatory policies are optional after all. The deficiencies in the City’s infrastructure could not be
8 clearer. To take fire and EMS response times as one critical example, the City’s own independent
9 consultant’s report, which the City relied upon in approving the Expo Plan, confirmed that the City
10 was not meeting its response time standards, and that the West Bureau had the slowest response times.
11 Not only did the City ignore the Fire Chief’s warnings about the cumulative impact of increased
12 development permitted by the Expo Plan and the statements in its report, it argued that it had the
13 discretion to simply ignore mandatory Policy 3.3.2.²

14 15. These policies are indisputably mandatory: the policy at issue, Framework Element
15 Policy 3.3.2, is one of several mandatory mitigation measures included in the “Mitigation Through
16 Policy,” section in the General Plan Framework Final Environmental Impact Report. Indeed, that
17 Environmental Impact Report’s discussion of mitigation measures for police and fire services
18 specifically states that “the Framework Element includes a policy that requires the City to correlate the
19 type, amount, and location of development with the provision of adequate supporting infrastructure
20 and public services.” For fire, that same Environmental Impact Report additionally explains that
21 Policy 3.3.2 “directs the establishment of programs for infrastructure and public service improvements
22 to accommodate development in areas the General Plan Framework targets for growth.”

23 16. This lawsuit is neither about stopping development nor is it an attempt to impede the
24 City’s discretion. The City made a determination when it adopted the Framework Element that it
25 would correlate the provision of adequate infrastructure with allowable increases in density. This
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27 ² To be clear, this is not a lawsuit about response times under the California Environmental
28 Quality Act. This lawsuit is about a binding commitment the City made to its residents when it
adopted the General Plan Framework Element, that adequate infrastructure is a necessary prerequisite
to the approval of increased density.

1 lawsuit seeks compliance with that commitment.³ The City exercised its discretion to adopt this policy
2 when it adopted the Framework Element. The City has further exercised its discretion over time to
3 allow infrastructure and public services to deteriorate below the level of adequacy.

4 17. Although Petitioner repeatedly raised to the City’s attention the deficiencies in its
5 infrastructure and its legal requirement and commitment to ensure the sufficiency of such
6 infrastructure prior to increasing allowable density, the City ignored the mandatory nature of requiring
7 adequate infrastructure prior to approval and also failed to provide any substantial evidence of
8 adequacy. What the City did do was to increase allowable density by adopting the Expo Plan. Fix the
9 City brings this lawsuit in its capacity as private attorney general to enforce the commitments the City
10 made in the General Plan Framework Element, and protect residents of the City from threats to their
11 lives, safety, and well-being from deficient and inadequate infrastructure and services.

12 18. The City Council’s July 31 approval of the Expo Plan was inconsistent with the
13 requirements of the City’s General Plan, its own determination of the meaning of its policies, binding
14 commitments the City made to its residents as well as representations made to this Court and the Court
15 of Appeal during litigation over the General Plan Framework Element. In prior briefing, the City
16 clearly articulated that the Framework Element’s growth and infrastructure policies were mandatory
17 mitigation measures that the City must follow to mitigate against the adverse impacts of growth
18 without sufficient supporting infrastructure. For far too long, the City has ignored these policies in
19 derogation of its legal requirements. By adopting the Expo Plan without making findings supported
20 by evidence that the City’s infrastructure is adequate to serve the area affected, the City has
21 demonstrably and provably failed to comply with this General Plan Framework policy and mitigation
22 measure.

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26 ³ Councilmember Englander stated in 2014 that “[t]he single biggest impediment [to
27 maintaining infrastructure] was dedicated, continuous funding, sufficient to keep pace and address the
28 massive backlog. The sources that we have depended on have been reduced, are restrictive, or have
disappeared entirely. . . with infrastructure often taking a backseat.” (Romero, *L.A.’s “Save Our
Streets” Tax Increase Abandoned* (June 11, 2014) Los Angeles Weekly <<https://www.laweekly.com/news/las-save-our-streets-tax-increase-abandoned-4779142>> [as of Oct. 23, 2018].)

1 **PARTIES**

2 19. Petitioner and Plaintiff, FIX THE CITY, INC. (“Fix the City” or “Petitioner”) is a
3 California nonprofit public benefit corporation duly incorporated under the laws of the State of
4 California. Fix The City’s mission is to improve and maintain quality of life and public safety by
5 facilitating neighborhood improvements and neighborhood protection; supporting local infrastructure;
6 improving the efficiency of local government; and advocating for other improvements to the
7 environment throughout the City of Los Angeles. Fix The City participated in the actions challenged
8 herein, submitting extensive written comments into the record on multiple occasions. Petitioner’s
9 members are residents and taxpayers of the City of Los Angeles.

10 20. Respondent and Defendant CITY OF LOS ANGELES (the “City”) is the public
11 governmental entity serving the people of the City of Los Angeles.

12 21. Respondent and Defendant LOS ANGELES CITY COUNCIL (the “City Council”) is
13 the elected governing body of the City of Los Angeles, a charter city in the State of California. The
14 City Council has an office in Los Angeles, California.

15 22. Petitioner is unaware of the true names and capacities of Respondents DOES 1 through
16 100, inclusive, and they are therefore sued by such fictitious names pursuant to Code of Civil
17 Procedure section 474. Petitioner alleges on information and belief that each such fictitiously named
18 Respondent is responsible or liable in some manner for the events and happenings referred to herein,
19 and Petitioner will seek leave to amend this Petition to allege their true names and capacities after the
20 same have been ascertained.

21 **GENERAL ALLEGATIONS**

22 **Emergency Response Adequacy**

23 23. One critical component of infrastructure is the provision of life and safety services,
24 including response provided by the LAFD for emergency services for both health and fire. The City
25 has admitted that LAFD response times are inadequate, including specifically for the very area
26 included in the Expo Plan. In an Environmental Impact Report for a large project in the Expo Plan
27 area a few years ago, the LAFD stated in its review of its capacity for the area: “The existing staffing
28 level, equipment inventories, and fire station facility space are not adequate to meet the project area’s

1 current demand for fire service. Fire Station 37 is too old and small.” Call volume has only increased
2 since then, and not surprisingly, response time has deteriorated further.

3 24. The standard for adequate response time is well known and has been cited by the City.
4 The standard, National Fire Protection Association (“NFPA”) 1710, has been used in reports by the
5 City Controller, by the Los Angeles County Grand Jury, and by independent consultants to the City.
6 That standard is a response to medical calls within 5 minutes, 90 percent of the time, and to fire calls
7 within 5 minutes and 20 seconds, 90 percent of the time.

8 25. The City has on occasion and contrary to its own experts, improperly conflated the
9 average response time⁴ for a station with the established 90 percent figure. The average response time
10 has never been used as the standard, as Patrick Butler, the LAFD Assistant Chief Special Operations
11 Division explained in a December 2012 City Council meeting: “There is an issue with using averages
12 because they overlook outliers. If you are an outlier you want to make sure your response is on time.
13 That is why we use the 90 percent figure” (Los Angeles City Council Hearing, December 4, 2012,
14 Items 19 and 20, testimony of Dep. Chief Patrick Butler, starting 1:55 in hearing video,
15 <http://lacity.granicus.com/MediaPlayer.php?view_id=&clip_id=11117&meta_id=214398>[as of Oct.
16 23, 2018]).

17 26. All of the evidence in the record shows that response times do not meet the standard 90
18 percent of the time, 80 percent of the time, 70 percent of the time, nor even 60 percent of the time.
19 The LAFD arrives within 5 minutes less than 55 percent of the time, and the stations in the Expo Plan
20 area are among the slowest response times.

21 27. A former LAFD Captain of Station 92, which serves the Expo Plan area, reviewed the
22 figures below for Fix the City. These figures show both average response and the NFPA 1710 90%
23 response times for the stations that serve the Expo Plan area. Not one of these stations is near to
24 meeting the NFPA 1710 standard for adequate response times.

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⁴ The City has incorrectly and inconsistently cited a 5-minute average response time. Even by that measure, response times are inadequate.

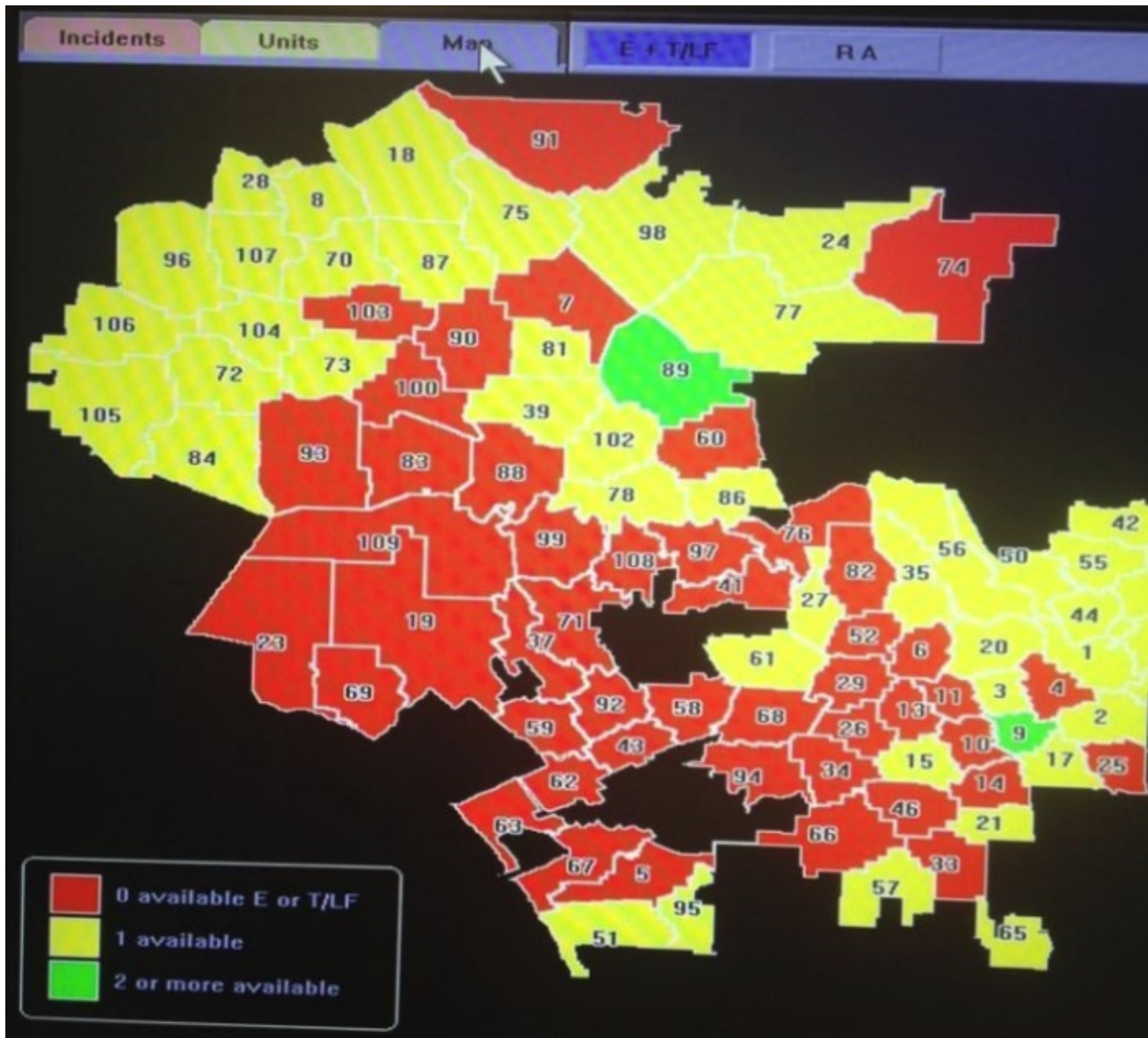
LAFD EMS 2016 Response Time Analysis								
								Standard: 90% within 5:00
First In	Avg Dispatch	Avg Turnout	Avg Travel	Avg Response	Avg Operational	#Incidents	#OnTime	NFPA 1710
37	0:01:04	0:00:54	0:04:42	0:05:36	0:06:40	4610	2162	46.9%
43	0:01:00	0:00:47	0:04:06	0:04:53	0:05:53	2596	1682	64.8%
58	0:01:02	0:00:50	0:04:29	0:05:19	0:06:21	5052	2564	50.8%
59	0:01:00	0:00:47	0:04:35	0:05:22	0:06:22	3250	1666	51.3%
71	0:01:00	0:00:51	0:05:03	0:05:54	0:06:55	1152	564	49.0%
92	0:01:04	0:00:48	0:04:55	0:05:43	0:06:46	2139	896	41.9%

LAFD FIRE 2016 Response Time Analysis								
								Standard: 90% within 5:20
First In	Avg Dispatch	Avg Turnout	Avg Travel	Avg Response	Avg Operational	#Incidents	#OnTime	NFPA 1710
37	0:00:53	0:01:07	0:04:25	0:05:32	0:06:25	975	535	54.9%
43	0:00:55	0:00:53	0:04:28	0:05:21	0:06:16	431	259	60.1%
58	0:00:51	0:00:54	0:04:48	0:05:42	0:06:32	803	438	54.5%
59	0:00:52	0:00:49	0:04:40	0:05:28	0:06:20	631	343	54.4%
71	0:00:57	0:00:53	0:05:19	0:06:13	0:07:10	284	142	50.0%
92	0:00:57	0:00:50	0:04:50	0:05:40	0:06:37	496	248	50.0%

28. A visual example of the demand faced by LAFD on a typical day is shown by the image below. The photo was taken at a LAFD Dispatch Center by a member of Fix the City in 2012. The photograph shows the display in the Dispatch illustrating the availability of fire engines and trucks throughout the City. Red areas indicate that no resources are available in an area. Yellow means that only one resource is available. The entire Expo Plan area is red. Were a call to have been placed from one of the red areas at that time, the LAFD would have had to travel miles, through LA traffic, to get to the incident.

29. This lack of resources in a given area, called a 'collision', results in the very inadequate response times that the statistics prove out.

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1 30. Police response times are also inadequate in the Expo Plan area. The LAPD's standard
2 for response time is within 7 minutes. The Department's response to the Expo EIR was that LAPD
3 was not meeting this goal, and instead the average response time was 7.5 minutes for the West Bureau.
4 Basic Car Service is inadequate according to Councilmember Bonin, as explained in his white paper⁵.
5 Demand for Police services is rising along with rising crime rates and demands placed on the police as
6 they cope with increased homelessness.

7 **The Expo Plan**

8 31. The Expo Plan is a Specific Plan adopted in an area in the City of Los Angeles,
9 affecting roughly 1,971 acres, and all properties located within one-half mile of the Exposition Light
10 Rail Line Transit stations of Culver City, Palms, Westwood/Rancho Park, Expo/Sepulveda, and
11 Expo/Bundy. The Expo Plan amends Community Plans (the land use element of the General Plan) of
12 West Los Angeles, Palms — Mar Vista — Del Rey, West Adams — Baldwin Hills — Leimert, as
13 well as the General Plan. It also includes numerous density-increasing zone changes to conform the
14 zoning to the Specific Plan.

15 32. The stated purpose of the Expo Plan is to encourage infill development and a mix of
16 uses around the train stations to promote transit ridership, reduce automobile dependence, and create
17 vibrant neighborhoods around the transit stations. The Expo Plan primarily (but not exclusively)
18 rezones land that is presently zoned industrial and commercial to allow for dense residential use, but it
19 also increases residential density in existing residential areas.

20 33. The City began preparing the Expo Plan by holding community workshops and
21 soliciting public comment in the fall of 2012 and the spring of 2013.

22 34. On March 7, 2013, the planning case was initiated with the Department of City
23 Planning, and on March 14, 2013, a Notice of Preparation under the California Environmental Quality
24

25 ⁵ "In several cases constituents have shared their personal experience and discomfort with
26 inadequate LAPD response times. In one recent case, a resident reported waiting over an hour for a
27 police response to his 9-1-1 call for a man actively attempting to enter the front door of his home.
28 Such reports raise legitimate questions regarding the adequacy of current LAPD deployment and
community policing strategies, the overall number of officers assigned to patrol neighborhoods
throughout the City, and the ability to quickly respond to a life-threatening emergency."
(Councilmember Mike Bonin, *"Back To Basic Car": A Comprehensive Neighborhood Police Patrol
Strategy*. White Paper (Jan. 19, 2017).)

1 Act (“CEQA”) was issued informing the public that the City would prepare an Environmental Impact
2 Report for the Expo Plan project.

3 35. On April 10, 2013, the City convened a public scoping meeting for the Expo Plan EIR.

4 36. In January 2015, a Draft Exposition Corridor Transit Neighborhood Plan was released.
5 A “Preliminary” Draft Exposition Corridor Transit Neighborhood Plan was released in March 2017.

6 37. A Draft Environmental Impact Report was issued for public review and comment, with
7 a comment period from April 6, 2017 to June 5, 2017. During this period, 77 individual comment
8 letters, along with eight public agencies and nine groups or organizations, were received by the City.

9 38. On May 23, 2017, an open house and public hearing was held before a City hearing
10 officer to obtain public testimony on the Draft plan.

11 39. The City Planning Commission (“CPC”), the body of appointed officials designated by
12 the City to review City-wide planning proposals held a hearing on the Expo Plan on May 23, 2017.

13 40. On November 9, 2017, the CPC held a “limited public hearing” on the proposed Expo
14 Plan.

15 41. In May 2018, after the Expo Plan had been considered by the City Planning
16 Commission at public hearings, the Final EIR (“FEIR”) was released.

17 42. On May 14, 2018, the City Planning Commission issued its Letter of Determination,
18 recommending that the City Council adopt the Expo Plan and associated resolutions and zone change
19 ordinances.

20 43. On May 16, 2018, the Mayor of the City of Los Angeles concurred in the actions of the
21 CPC and recommended to the City Council that it adopt the proposed General Plan Amendment and
22 zoning ordinances for the establishment of the Expo Plan, as approved by the CPC.

23 44. On June 26, 2018, the Los Angeles City Council Planning and Land Use Management
24 (“PLUM”) Committee convened a public hearing on the Expo Plan. The PLUM Committee
25 recommended that the City Council adopt the Expo Plan, certify its EIR, and adopt all of the related
26 actions approved by the CPC and the Mayor.

27 45. On July 3, 2018, the City Council adopted the resolutions and ordinances for the Expo
28 Plan.

1 46. On July 31, 2018, the City Council held a second reading and finally adopted the Expo
2 Plan, certified its EIR, and adopted the Statement of Overriding Considerations, Findings, and a
3 Mitigation Monitoring Program, along with ordinances enacting zone changes and directing other
4 conforming amendments to the City’s planning documents.

5 47. The approvals constituting the Expo Plan and its implementing resolutions became final
6 on August 2, 2018. This lawsuit is filed within 90 days of the approvals.

7 **JURISDICTION AND VENUE**

8 48. This Court has original jurisdiction over this matter pursuant to article VI, section 10 of
9 the California Constitution and sections 1085 and 1094.5 of the Code of Civil Procedure.

10 49. Venue is proper in the County of Los Angeles pursuant to Code of Civil Procedure 394
11 in that Respondents are government entities and/or agents of the City of Los Angeles.

12 **FIRST CAUSE OF ACTION**

13 **General Plan Inconsistency**

14 **(Government Code, § 65300.5; Los Angeles City Charter, § § 556 & 558)**

15 50. Petitioner incorporates by reference all the allegations contained in the previous
16 paragraphs as though fully set forth herein.

17 51. Consistency among all elements of a General Plan is required by both state law and the
18 Los Angeles City Charter. Government Code section 65300.5 requires that “the general and elements
19 and parts thereof comprise an integrated, internally consistent and compatible statement of policies.”

20 52. Los Angeles City Charter section 556 requires that the City Council make findings that
21 any General Plan amendment is in “substantial conformance with the purposes, intent and provisions
22 of the General Plan.”

23 53. Los Angeles City Charter section 558 requires the City Council to make a finding for a
24 General Plan amendment that the amendment “will be in conformity with public necessity,
25 convenience, general welfare and good zoning practice.”

26 54. The City of Los Angeles General Plan includes a Framework Element. “The General
27 Plan Framework Element is a strategy for long-term growth that sets a citywide context to guide the
28 subsequent amendments of the City’s community plans, zoning ordinance, and other pertinent

1 programs.” The Framework Element “provides fundamental guidance regarding the City’s future.”

2 55. The Framework Element contains an Objective 3.3, which is to “[a]ccomodate
3 projected population and employment growth within the City and each community plan area and plan
4 for the provision of adequate supporting transportation and utility infrastructure and public services.”

5 56. This Objective is achieved by several Policies, including Policy 3.3.2, which provides:

6 “Monitor population, development, and infrastructure and service capacities
7 within the City and each community plan area, or other pertinent service area. The
8 results of this monitoring effort will be annually reported to the City Council and shall
9 be used in part as a basis to:

10 a. Determine the need and establish programs for infrastructure and public
11 service investments to accommodate development in areas in which economic
12 development is desired and for which growth is focused by the General Plan Framework
13 Element.

14 b. Change or increase the development forecast within the City and/or
15 community plan area as specified in Table 2-2 (see Chapter 2: Growth and Capacity)
16 when it can be demonstrated that (1) transportation improvements have been
17 implemented or funded that increase capacity and maintain the level of service, (2)
18 demand management or behavioral changes have reduced traffic volumes and
19 maintained or improved levels of service, and (3) the community character will not be
20 significantly impacted by such increases.

21 Such modifications shall be considered as amendments to Table 2-2 and depicted
22 on the community plans.

23 c. Initiate a study to consider whether additional growth should be
24 accommodated, when 75 percent of the forecast of any one or more category listed in
25 Table 2-2 (see Chapter 2: Growth and Capacity) is attained within a community plan
26 area. If a study is necessary, determine the level of growth that should be accommodated
27 and correlate that level with the capital, facility, or service improvements and/or
28 transportation demand reduction programs that are necessary to accommodate that level.

d. Consider regulating the type, location, and/or timing of development, when
all of the preceding steps have been completed, additional infrastructure and services
have been provided, and there remains inadequate public infrastructure or service to
support land use development.”

57. When the City initially adopted the Framework Element in 1996, it contained Policy
3.3.2. The City was sued by the Federation of Hillside and Canyon Associations for failing to
adequately analyze and mitigate the environmental impacts of the adoption of the Framework Element
and its growth policies. In 2000, the Court of Appeal determined that the City’s environmental
analysis and subsequent approval was inadequate because the City had not “require[d] that the
mitigation measures be implemented as a condition of the development allowed under the [Framework
Element].” (*Federation of Hillside and Canyon Associations v. City of Los Angeles* (2000) 83

1 Cal.App.4th 1252, 1256; see also *id.* at p. 1261.) The Court of Appeal stated that “[t]he city may
2 comply with CEQA by amending the [Framework Element] so that effective mitigation measures are
3 required as a condition of the development allowed under the [Framework Element] or by restricting
4 the scope of development,” and making certain findings under CEQA. (*Id.* at p. 1266.)

5 58. In response to the Court of Appeal’s ruling, the City revised the Framework Element
6 EIR, Statement of Overriding Conditions and Findings, making the policy explicitly required. The
7 City was again sued by the Federation of Hillside and Canyon Associations. In briefing to the Court
8 of Appeal, the City explained its intent in adopting Policy 3.3.2 as well as its interpretation of the
9 policy: “The GPF was designed to coordinate increased development with the necessary infrastructure
10 to maintain the quality of life ([citing Policy 3.3.2]). The City concluded that the policies and goals
11 would promote and facilitate this end. However, in response to public concerns expressed during the
12 administrative process about the feasibility of the various mitigation measures, the GPF contains a
13 specific provision which prevents amendment of community plans to permit additional development
14 until the supporting infrastructure is in place.” (City Brief, p. 8.)

15 59. The City explained in its briefing the central role of Policy 3.3.2 in the operation of the
16 Framework Element: “First, the [Framework Element] itself specifically provides that the
17 development which triggers the need for transportation mitigation measures will only be allowed to
18 occur when the money is available for the infrastructure. If the TIMP’s preliminary projection is
19 correct and funds will not be available in sufficient amounts, then the City will not amend its
20 community plans to allow the intensification of development.” (City Brief, p. 27.)

21 60. The City told the Court of Appeal that it had adopted the Framework Element after
22 evaluating alternatives in the environmental review process specifically because the binding mitigation
23 measure of monitoring growth and correlating infrastructure availability with increased development
24 would mitigate the environmental impacts of that development: “What became clear was that a crucial
25 feature of dealing with growth impacts was contained in the [Framework Element]- its program for
26 timing allowable development with available infrastructure and frequent updating of its data along
27 with a formal monitoring program. For this reason, the City concluded that the [Framework Element]
28 was the environmentally desirable alternative, because it had the best combination of land use policies

1 tied to mitigation measures tied to annual reporting and selective amendments of community plans
2 only when consistent with the [Framework Element] policies.” (City Brief, pp. 36-37.)

3 61. Consistent with its statements regarding the Framework Element, the City has included
4 policies in Community Plans that reflect the Framework Element’s approach correlating infrastructure
5 and increased development density. The 35 Community Plans constitute the required Land Use
6 Element of the City of Los Angeles General Plan.

7 62. The West Los Angeles Community Plan, one of the Community Plans directly
8 amended by the Expo Plan, contains numerous references to the monitoring policies of the Framework
9 Element and adopts those policies as part of the Community Plan. The West Los Angeles Community
10 Plan states that the plan has “three fundamental premises,” one of which is “monitoring of population
11 growth and infrastructure improvements,” and another of which is “if this monitoring finds that
12 population in the Plan area is occurring faster than projected; and that infrastructure resource
13 capacities are threatened, particularly critical ones such as water and sewerage; and, there is not a clear
14 commitment to at least begin the necessary improvements within twelve months; then building
15 controls should⁶ be put into effect, for all or portions of the West Los Angeles Community, until land
16 use designations for the Community Plan and corresponding zoning are revised to limit development.”

17 63. The West Los Angeles Community Plan also provides that decision makers shall “not
18 increase residential densities beyond those permitted in the Plan unless the necessary infrastructure
19 and transportation systems are available to accommodate the increase,” and requires a finding on “the
20 availability and adequacy of infrastructure as part of any decision relating to an increase in residential
21 density.”

22 64. The West Los Angeles Community Plan also provides that the City must “ensure that
23 the location, intensity, and timing of development is consistent with the provision of adequate
24 transportation infrastructure.” The West Los Angeles Community Plan states that “No increase in
25 density shall be effected by zone change, plan amendment, subdivision, or other discretionary action,
26 unless it is determined that the transportation infrastructure serving the property can accommodate the
27
28

⁶ The ‘should’ here refers to a discretionary ability to limit development until such limits are codified in the Plan. It does not refer to the need for the required mitigation.

1 traffic generated.⁷” “Decision makers shall adopt a finding with regards to infrastructure adequacy as
2 part of their action on discretionary approvals resulting in increased density or intensity.”

3 65. Similarly, another of the affected Community Plan, the Palms — Mar Vista — Del Rey
4 Community Plan, contains policies requiring a correlation between growth and available
5 infrastructure.

6 66. The Court of Appeal has opined in an unpublished decision that the City Planning
7 Department has discretion as to how it implements the policies of the Framework Element, including
8 the timing and manner of implementation. The Court of Appeal did not find that the City was not
9 bound by the policies in the Framework Element or entitled to ignore those policies when approving
10 broad-scale increases to density by General Plan Amendment.

11 67. In spite of the requirements in the Framework Element and applicable Community
12 Plans to correlate infrastructure availability with increases in density by amendments to the General
13 Plan or zone changes, the City adopted the Expo Plan without making such findings.

14 68. Petitioner does not argue that the City cannot approve development. It can, assuming
15 compliance with all other requirements, approve development within the limits of existing General
16 Plan. The City exercised its discretion by adopting the Framework Element and including as a
17 mandatory Policy 3.3.2, among others. The City must now exercise the discretion it gave itself: to
18 either improve the infrastructure so that it is adequate, or not increase allowable population density
19 until such time as adequate infrastructure is provided.

20 69. The City abused its discretion by adopting the Expo Plan. The adoption of the Expo
21 Plan violated the Government Code and the City Charter. The adoption of the Expo Plan creates an
22 inconsistency within the General Plan and departs from the requirements of the Framework Element.
23 The City Planning Commission failed to make the required findings that the Expo Plan is “in
24 substantial conformance with the purposes, intent, and provisions of the General Plan.” Such findings
25

26 ⁷ This is not a new concept. In 1975, prior to tens of millions of square feet of new
27 development, the City Department of Transportation stated: “Briefly, the report concludes that the
28 street system now serving Century City and the surrounding area does not meet the needs of the area,
nor will it in the future. As a consequence, it is recommended that further intensification of land use in
Century City and the surrounding area be halted or that alternate uses be found that do not add to the
existing peak hour congestion.” (Letter from H.M. Gilman, Los Angeles Department of
Transportation, to Cal Hamilton, Director of Planning (Dec. 4, 1975).)

1 cannot be made because the City has failed to ensure adequate infrastructure prior to approving the
2 increased density in the Expo Plan, as required by the Framework Element. A writ of mandate may
3 issue to correct this abuse of discretion by requiring the City Council to rescind its approval of the
4 Plan.

5 70. Petitioner has a direct and beneficial interest in the action herein and has exhausted all
6 other available remedies.

7 71. Petitioner has a beneficial right to Respondents' performance of their respective duties
8 based on Petitioner's interest in maintaining and improving the quality of the urban infrastructure in
9 the City of Los Angeles, as well as the interest of Petitioner's members in improving quality of life in
10 their own city.

11 72. Respondents' refusal to comply with the Los Angeles City Charter, and the
12 Government Code, and the mitigation measures adopted pursuant to CEQA for the adoption of the
13 General Plan Framework Element cause and threatens to cause Petitioner irreparable and substantial
14 harm by allowing substantial increases in allowable density on without the existence of adequate
15 infrastructure and services. So long as the Expo Plan remains in effect, proposals consistent with the
16 Expo Plan can be approved by Respondents/Defendants which will exacerbate the deficient
17 infrastructure contrary to the requirements of policy 3.3.2 that allow increases in density only after a
18 finding, based on substantial evidence, that the infrastructure is adequate.

19 73. Petitioners have no plain, speedy, and adequate remedy at law, in that unless
20 Respondents/Defendants are enjoined by this Court to rescind the approval of the Expo Plan and all
21 other associated approvals based on Expo Plan, as well as delay any approvals which may now exist or
22 will exist that are based on the Expo Plan until this matter is resolved. No amount of monetary
23 damages or other legal remedy can adequately compensate Petitioner and all residents of the City of
24 Los Angeles for the irreparable harm that they will suffer from the violations of law described herein.

25 74. A dispute has arisen between Petitioner and Respondents, in that Petitioner believes
26 and contends, for the reasons set forth above, that Respondents' actions as set forth above were
27 unlawful and invalid. Petitioner is informed and believes, and on that basis contends, that
28 Respondents contend in all respects to the contrary.

1 75. Petitioner contends that the Project's approval violates the Framework Element and
2 creates inconsistency in the Community Plans, because it was entered into without compliance with
3 Framework Element Policy 3.3.2, for the reasons set forth above. Petitioner is informed and believes
4 that in response to Petitioner having identified these issues for Respondents, Respondents have
5 disagreed with Petitioner's contentions.

6 76. A judicial declaration as to the legality of Respondents' actions, as set forth above, is
7 therefore necessary and appropriate to determine the respective rights and duties of the parties.
8

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, Petitioner prays for relief as follows:

12 1. That this Court issue a Writ of Mandate compelling Respondents to rescind their
13 approval of the Exposition Corridor Transit Neighborhood Plan, along with any and all revisions to the
14 Community Plans and other General Plan elements done to conform to the Exposition Corridor Transit
15 Neighborhood Plan any ordinances implementing the Exposition Corridor Transit Neighborhood Plan;

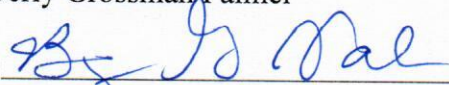
16 2. That this Court enjoin Respondents from taking any action to implement the Exposition
17 Corridor Transit Neighborhood Plan, all zoning and land use maps, and to further enjoin Respondents
18 from taking any action to approve any project under the standards of the Exposition Corridor Transit
19 Neighborhood Plan until such time as the City Council has revised the Exposition Corridor Transit
20 Neighborhood Plan, in a manner that creates consistency within the General Plan and the conforms to
21 the requirements of the General Plan;

22 3. That this Court award Petitioner attorneys' fees and costs in its capacity as private
23 attorney general.

24 4. That this Court grant Petitioner such other, different, or further relief as the Court may
25 deem just and proper.

26 Dated: October 24, 2018

27 Respectfully Submitted,
STRUMWASSER & WOOCHELL LLP
Fredric D. Woocher
Beverly Grossman Palmer

28 By: 
Beverly Grossman Palmer

1 **VERIFICATION**

2 I, Laura Lake, declare:

3 I am Secretary of Fix The City, Inc., and a resident of the City of Los Angeles. I am
4 authorized to make this verification for Petitioner.

5 I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Declaratory
6 and Injunctive Relief and know the contents thereof. Said contents are known to me to be true except
7 those matters alleged on information and belief, and as to those matters I believe them to be true.

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed this 23rd day of October, 2018, at Los Angeles, California.

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12 _____
13 Laura Lake, Secretary
14 Fix The City
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