

1 FREDRIC D. WOOCHEER (SBN 96689)
2 BEVERLY GROSSMAN PALMER (SBN 234004)
3 STRUMWASSER & WOOCHEER LLP
4 10940 Wilshire Boulevard, Suite 2000
5 Los Angeles, California 90024
6 Telephone: (310) 576-1233
7 Facsimile: (310) 319-0156
8 E-mail: bpalmer@strumwooch.com

9 *Attorneys for Petitioner and Plaintiff Fix the City, Inc.*

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; LOS ANGELES
18 DEPARTMENT OF CITY PLANNING; and
19 DOES 1 through 100, inclusive,

20 Respondents.

21 HOLLYWOOD CHAMBER OF
22 COMMERCE,

23 Intervener.

Case No. BS138580

PETITIONER'S OPENING BRIEF

Honorable Judge Allan Goodman

Date: September 16, 2013

Time: 9:30 am

Dept: P, West Dist.

Action filed: July 13, 2012

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES..... **ii**

INTRODUCTION **1**

STATEMENT OF FACTS **2**

STANDARD OF REVIEW..... **4**

ARGUMENT **6**

I. The City’s Approval of the Hollywood Community Plan Update Violates the California Environmental Quality Act.....6

 a. The EIR’s Analysis is Premised on an Improper and Unsupported Baseline Regarding Present Population of the Community Plan Area6

 1) The 2005 Population Estimate is Not Supported by Substantial Evidence 6

 2) CEQA Does Not Require a Slavish Adherence to the Baseline at the Time the Notice of Preparation Was Issued 10

 3) The City's Attempt to Incorporate 2010 Data Is Not a Substitute for a Proper EIR Utilizing an Accurate Baseline 12

 b. The EIR Fails to Analyze an Adequate Range of Alternatives Because It Does Not Analyze a Reduced Density Alternative..... 15

 c. The EIR Does Not Sufficiently Analyze or Mitigate the Impacts to Public Services and Transportation 19

 d. The FEIR Should Have Been Recirculated Due to Significant Revisions26

II. The Approval of the Hollywood Community Plan Violates Policies Set Forth in the General Plan; The Inconsistency Between the Community Plan and the General Plan is an Abuse of Discretion28

CONCLUSION **30**

1 **TABLE OF AUTHORITIES**

2 **State Cases**

3

4 *Bakersfield Citizens for Local Control v. City of Bakersfield*

5 (2004) 124 Cal.App.4th 1184 5, 22

6 *Calif. Oak Foundation v. City of Santa Clarita* (2005) 133 Cal.App.4th 1219..... 9

7 *Center for Biological Diversity v. County of San Bernardino* (2010) 185 Cal.App.4th 866 9

8 *Citizens for East Shore Parks v. California State Lands Commission*

9 (2011) 202 Cal.App.4th 549 11, 12

10 *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553 5, 15

11 *Communities for a Better Environment v. California Resources Agency*

12 (2002) 103 Cal.App.4th 98 22

13 *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70 23

14 *Communities for a Better Environment v. South Coast Air Quality Management*

15 (2010) 48 Cal.4th 310 8, 11

16 *Concerned Citizens of Calaveras County v. Board of Supervisors* (1985) 166 Cal.App.3d 90... 24

17 *Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.*

18 (1986) 42 Cal.3d 929 9

19 *Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270 11

20 *Flanders Foundation v. City of Carmel-by-the-Sea* (2012) 135 Cal.App.4th 603 18

21 *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859..... 5

22 *Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal.3d 247..... 5

23 *FUTURE v. Board of Supervisors* (1998) 62 Cal.App.4th 1332 28

24 *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 650..... 16

25 *Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles*

26 (1986) 177 Cal.App.3d 300 22

27 *Laurel Heights Improvement Assoc. v. Regents of the Univ. of Calif.*

28 (1988) 47 Cal.3d 37 *passim*

1	<i>Laurel Heights Improvement Assoc. v. Regents of the Univ. of Calif.</i>	
2	(1993) 6 Cal.4th 1112	26
3	<i>Madera Oversight Coalition v. County of Madera</i> (2011) 199 Cal.App.4th 48	12
4	<i>Mountain Lion Coalition v. Fish & Game Commission</i> (1989) 214 Cal.App.3d 1043	27
5	<i>Napa Citizens for Honest Government v. Napa County Board of Supervisors</i>	
6	(2001) 91 Cal.App.4th 342	5, 23, 28
7	<i>People v. County of Kern</i> (1974) 39 Cal.App.3d 830.....	27
8	<i>Preservation Action Council v. City of San Jose</i> (2006) 141 Cal.App.4 th 1336.....	16, 18
9	<i>Preserve Wild Santee v. City of Santee</i> (2012) 210 Cal.App.4 th 260	9
10	<i>San Joaquin Raptor Rescue Center v. County of Merced</i> (2007) 149 Cal.App.4 th 645	23
11	<i>San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus</i>	
12	(1994) 27 Cal.App.4 th 713	16
13	<i>Santa Clarita Organization for Planning the Environment v. County of Los Angeles</i>	
14	(2003) 106 Cal.App.4 th 715	9
15	<i>Save Our Peninsula Committee v. Monterey County Board of Supervisors</i>	
16	(2001) 87 Cal.App.4 th 99	9, 10, 11, 26
17	<i>Save Round Valley Alliance v. County of Inyo</i> (2007) 157 Cal.App.4 th 1437	16
18	<i>Schoen v. Department of Forestry and Fire Protection</i> (1997) 58 Cal.App.4 th 556.....	19
19	<i>Topanga Association for a Scenic Community v. County of Los Angeles</i>	
20	(1974) 11 Cal.3d 506	5
21	<i>Uphold Our Heritage v. Town of Woodside</i> (2007) 147 Cal.App.4 th 587.....	18
22	<i>Vedanta Society of So. Calif. v. Calif. Quartet, Ltd.</i> (2000) 84 Cal.App.4 th 517.....	19
23	<i>Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova</i>	
24	(2007) 40 Cal.4 th 412	13
25	<i>Wildlife Alive v. Chickering</i> (1976) 18 Cal.3d 190.....	15
26		
27		
28		

Statutes

Gov. Code,

§ 65300 2

§ 65300.5 28

§ 65302 2

Pub. Resources Code,

§ 21092.1 26

§ 21168.5 5

Guidelines

CEQA Guidelines,

§ 15088.5 26

§15091 5

§15125 11

§15126 14

§15126.4 23

§15126.6 16

§15130 22

§15364 16

§15384 5, 9

Miscellaneous

Los Angeles City Charter,

§ 556 28

§ 558 30

1 **INTRODUCTION**

2 The task of land use planning for a large city is complex and important. The
3 determinations in the land use planning process regarding the location and density of
4 development have long-term implications for a city’s residents; indeed, the effects of planning
5 decisions today will ripple into the next generation. It is critical that decisionmakers be
6 accurately informed about the environmental consequences of these land use planning decisions.
7 This case concerns the environmental impacts of the update to the Hollywood Community Plan
8 (“Plan Update”), which permits denser and taller commercial and mixed-use developments that
9 will accommodate significantly more residents and workers than are presently in the area.

10 A city’s infrastructure is its lifeblood. Well-paved streets permitting vehicles to reach
11 their destinations promptly; properly-staffed and -equipped police and fire departments available
12 to respond timely to life and safety emergencies; and schools, parks, and libraries to serve the
13 minds and bodies of youth and adults alike are all critical services that a City must provide to its
14 residents in order to maintain an adequate quality of life. The availability of that infrastructure is
15 part and parcel of the land use planning process, for if population growth or commercial
16 development exceeds a city’s capacity to provide infrastructure services, the urban experience
17 will become degraded, congested, and unsafe. For that reason, Respondent City of Los Angeles
18 (“the City”) adopted a policy as part of its General Plan Framework Element, that if the City
19 determines that infrastructure is insufficient, it shall consider implementing “development
20 controls” to limit development that cannot be adequately supported. (City of Los Angeles
21 General Plan Framework Element Policy 3.3.2.)

22 In light of the long-term consequences of planning decisions and the centrality of
23 infrastructure to a properly functioning city, it is crucial that proper information be made
24 available to decisionmakers and the public regarding the plan’s environmental impacts. In this
25 case, the City did not conduct an adequate environmental analysis under the California
26 Environmental Quality Act (“CEQA”), drafting an Environmental Impact Report (“EIR”) that
27 fails to meaningfully address a basic prerequisite in the land use planning process: what
28 population needs to be accommodated in the area being planned? The EIR relies upon an

1 estimate for a 2005 baseline population which is not supported by substantial evidence, and
2 which was vitiated by the actual population data provided to the City by members of the public.
3 The EIR studies only a narrow range of alternatives and provides no substantial evidence in
4 support of its conclusion that all other alternatives are infeasible. Finally, the EIR fails to
5 employ feasible mitigation measures to address impacts to the City's critical services that will
6 result from the development permitted in the Plan Update. The EIR's objectives are premised
7 upon the need to accommodate a projected population increase, but the facts before the City
8 demonstrated that even the existing plan would allow for significant growth given the
9 population's decline. The failure to honestly and accurately address the demographics of
10 Hollywood renders the EIR deficient as an informational document.

11 Moreover, the City incorrectly determined that the Plan Update was consistent with the
12 General Plan. The City failed to include the mitigation measure required by the General Plan
13 Framework Element to evaluate the status of infrastructure and implement development controls
14 where infrastructure is inadequate to support population increases. The City also failed to assess
15 how other community plan areas are adversely affected when excessive development in one area
16 draws public service resources away from other plan areas. Petitioner Fix the City, Inc., is
17 dedicated to improving quality of life throughout the City, maintaining critical infrastructure
18 services, enforcing the state's and City's environmental laws. Fix the City cannot countenance
19 the City's abuse of discretion in approving the Plan Update, and certifying its EIR, and thus
20 requests that this Court issue a Writ of Mandate requiring the City to rescind these invalid acts.

21 **STATEMENT OF FACTS**

22 California law requires that every city adopt a "comprehensive, long-term general plan
23 for the physical development of the . . . city." (Gov't Code, § 65300.) The plan must include a
24 "land use element that designates the proposed general distribution and general location and
25 extent of the uses of the land for housing, business, industry, [and] open space," and specifies
26 "the standards of population density and building intensity recommended for the various districts
27 . . . covered by the plan." (*Id.*, § 65302, subd. (a).) In the City of Los Angeles, the General
28 Plan's land use element is set forth in 35 separate "community plans," which include the

1 Hollywood Community Plan. A General Plan Framework Element governs the entirety of the
2 General Plan, including the land use elements as set forth in the community plans.
3 (Administrative Record (“AR”)1872.)

4 The Hollywood Community Plan area covers 25 square miles, extending south of
5 Burbank, Glendale, and the Ventura Freeway; west of I-5; north of Melrose Avenue; and
6 generally east of Mulholland Drive, West Hollywood, and Beverly Hills. (AR2994.) The
7 Hollywood Community Plan was initially adopted in 1988. (AR3011.) The City began
8 preparing the Plan Update and the Plan Update EIR at some point in 1998 (AR12299.) The City
9 issued a Notice of Preparation on April 28, 2005, and held a public scoping meeting on May 26,
10 2005. (AR2416; 2418.) Drafts of the Plan Update were released in 2009 and 2010. The Plan
11 Update Draft EIR (“DEIR”) was released in March 2011 for a public review period. (AR14121;
12 14259.) The City received 68 comments on the DEIR. (AR5705-5710.) The City released the
13 Final EIR (“FEIR”) in October 2011, presenting responses to comment letters and revisions to
14 portions of the DEIR. (AR5703.) The EIR noted significant, unmitigable impacts into parks,
15 water resources, transportation, air quality (construction and greenhouse gases), noise, and
16 cultural resources. (AR1830-1839.) The EIR identified significant impacts that could be
17 mitigated to land use, fire, police, public schools, energy resources, wastewater, solid waste, air
18 quality (operational, hot spots, and air toxics), and safety. (AR1824-1830.)

19 Subsequent to releasing the FEIR, the City held a number of hearings on the Plan Update
20 and its EIR, convened by a Hearing Officer, the Central Los Angeles Planning Commission, and
21 the City Planning Commission. (See AR11648; 11730; 11833; 11861.) The City Council then
22 considered the Plan Update and its EIR in hearings before the Planning and Land Use
23 Management (“PLUM”) Committee of the Los Angeles City Council. (See AR12050; 12153;
24 12186.) At its last hearing on May 8, 2012, the PLUM Committee could reach no
25 recommendation on the Plan Update and the EIR and forwarded the matter to the full City
26 Council without recommendation. (AR12212-12213.)

27 After the PLUM Committee’s last hearing on the Plan Update, the City released a May
28 18, 2012, “Addition to Final EIR,” and a June 14, 2012, “Second Addition to Final EIR,” both

1 *Univ. of Calif.* (1988) 47 Cal.3d 376, 390 (“*Laurel Heights P*”) [quoting *Friends of Mammoth v.*
2 *Board of Supervisors* (1972) 8 Cal.3d 247, 259].) In an action under CEQA, the Court must
3 determine “whether there was a prejudicial abuse of discretion” committed by the agency in
4 certifying an EIR. (Pub. Resources Code, § 21168.5.) “Abuse of discretion is established if the
5 agency has not proceeded in a manner required by law or if the determination is not supported by
6 substantial evidence.” (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124
7 Cal.App.4th 1184, 1197 (“*BCLC*”).) A court’s primary role in reviewing an EIR is to evaluate its
8 sufficiency as an informative document. (*Friends of the Eel River v. Sonoma County Water*
9 *Agency* (2003) 108 Cal.App.4th 859, 868.) The Court must “scrupulously enforce all
10 legislatively mandated CEQA requirements,” to ensure that governmental decisions are made
11 with full and accurate information regarding the environmental consequences. (*Citizens of*
12 *Goleta Valley v. Board of Supervisors* (“*Goleta II*”) (1990) 52 Cal.3d 553, 564.)

13 This standard of review is consistent with the requirement that the agency's approval of
14 an EIR “shall be supported by substantial evidence in the record.” (Guidelines, § 15091, subd.
15 (b).) In applying the substantial evidence standard, “the reviewing court must resolve reasonable
16 doubts in favor of the administrative finding and decision.” (*Topanga Association for a Scenic*
17 *Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514.) The Guidelines define
18 “substantial evidence” as “enough relevant information and reasonable inferences from this
19 information that a fair argument can be made to support a conclusion, even though other
20 conclusions might also be reached.” (Guidelines, § 15384, subd. (a).)

21 Petitioner’s challenges to the consistency of the Plan Update with the City’s General Plan
22 are reviewed under Code of Civil Procedure section 1085. Under that standard, judicial review
23 is limited to an examination of the proceedings to determine whether an agency action is
24 arbitrary, capricious, or lacking in evidentiary support, or whether the agency has failed to
25 conform to the law. (*Napa Citizens for Honest Government v. Napa County Board of*
26 *Supervisors* (2001) 91 Cal.App.4th 342, 357 (“*Napa Citizens*”).)

1 “the 2000 U.S. Census data and City of Los Angeles building permit data,” and further
2 elaborates that the population estimate was derived from “SCAG’s [Southern California
3 Association of Government’s] 2004 RTP [Regional Transportation Plan].” (AR3099-3100.)¹
4 The DEIR presents the census data for 1990 (a population of 213,912), and 2000 (a population of
5 210,824, a nearly 3,100 person *decrease* over the 10 years between censuses), coupled with the
6 City’s 2005 estimate of 224,426, an *increase* of almost 15,000 persons in five years. (AR3099.)
7 This is the sum total of the information provided on the calculation of the population baseline in
8 the DEIR. Neither the “building permit data” nor SCAG data is provided in the EIR. There is
9 no way for the public or City officials reviewing the DEIR to determine what underlies the
10 population estimate: How many units were constructed? How many were proposed and not
11 constructed? What was the assumed vacancy rate?² The omission of any detailed analysis or
12 supporting data is especially troubling given that the 2005 estimate, even at the time the DEIR
13 was released, was counter to the prevailing demographic trend in the previous two census
14 periods. Indeed, the public questioned the baseline population estimate in numerous comments
15 letters on the draft EIR. (E.g., AR3387, 3425, 3482, 3489, 3501-02, 3549, 3575, 3608.)

16 The 2005 estimate was proven erroneous shortly after the DEIR was released, when the
17 2010 U.S. Census data was made available to the public. The 2010 census showed that
18 population had *further declined* from the 2000 census to 198,228 persons, a nearly 13,000 person
19 *decrease*. (AR5248-5249.) The FEIR responds to the 2010 census data in two ways, neither of

21 ¹ There are some instances where impacts are calculated by reference to “housing units,”
22 rather than raw population numbers. (E.g., AR 3153, 3170.) The DEIR uses the same approach
23 to calculate “housing unit” numbers: 2000 U.S. Census data plus “City of Los Angeles building
24 permit data.” (AR3099.) The EIR and the administrative record contain no information
25 regarding the “building permit data” used as part of the estimate. For instance, did the City
26 properly subtract units extant in 2000 that were demolished and replaced? Or were these double
27 counted as existing and as new units? There is no way to know.

28 ² Comments were provided to the City providing a vacancy rate based upon publically
available data also provided to the City for its reference. (AR15078; 15095; 15098-99.) The
data show that the Hollywood area had an 8% vacancy rate in 2010, significantly higher than the
citywide average rate of 4.8%. The City nowhere appeared to address the issue of higher than
average present day vacancy rates in Hollywood, although staff calculated a vacancy rate for the
area that did not appear in the EIR. (See Reference Library (“RL”) 039658-039664.)

1 which provides substantial evidence supporting the use of the discredited 2005 estimate. First, it
2 attempts to “rehabilitate” the 2005 estimate, newly referencing, and rejecting without further
3 information the use of the data from an annual U.S. Census Bureau survey as “too small to yield
4 population estimates that have an acceptable margin of error.” (AR5248.) Second, the FEIR
5 argues against reliance on the 2010 census figures, noting that some census tracts in Hollywood
6 showed growth, that the City as a whole had population growth during the period, and that “there
7 is reason to expect that net growth may return to Hollywood.” (*Ibid.*) Notably, when graphing
8 the population trends in Hollywood, the FEIR shows a peak population in 1990 at 213,883 that
9 gradually drops off to 198,228 in 2010, omitting the 2005 estimate entirely from this graphical
10 representation. (AR5249.)

11 In spite of the public repeatedly requesting the City to reconsider the 2005 estimate, the
12 FEIR provides no more substance than the DEIR. There is no further data offered in support of
13 the 2005 estimate. Not only is the EIR devoid of the source data for 2005 estimate, so is the
14 entirety of the 70,000 page administrative record. Even the 2004 SCAG RTP does not appear to
15 be included before the decisionmakers or even in staff files, a notorious omission given the EIR’s
16 express reliance upon that document as the source of the 2005 estimate.³

17 CEQA does provide a lead agency with flexibility in establishing the baseline conditions,
18 but that flexibility remains cabined by the rule that all CEQA determinations must be supported
19 by substantial evidence. (*Communities for a Better Environment v. South Coast Air Quality*
20 *Management* (2010) 48 Cal.4th 310, 328.) The CEQA Guidelines define “substantial evidence”:

21 “(a) ‘Substantial evidence’ . . . means enough relevant information and reasonable
22 inferences from this information that a fair argument can be made to support a
23 conclusion, even though other conclusions might also be reached. . . . Argument,
24 speculation, unsubstantiated opinion or narrative, evidence which is clearly
25 erroneous or inaccurate . . . does not constitute substantial evidence.

26 ³ SCAG’s response to the Notice of Preparation contains regionwide, subregion, and City
27 of Los Angeles population forecasts. (AR2536-2537.) There is no “Hollywood” estimate
28 provide, nor any further breakdown. The comments note that “City totals are the sum of small
area data and should be used for advisory purposes only.” (AR2537.) The EIR does not
elaborate in any way as to how or whether this data served as a basis for the 2005 estimate.

1 (b) Substantial evidence shall include facts, reasonable assumptions predicated
2 upon facts, and expert opinion supported by facts.” (CEQA Guidelines, § 15384.)

3 The Guidelines are clear as to what is, and is not, substantial evidence. An EIR cannot rely upon
4 “evidence which is clearly erroneous or inaccurate,” nor can it rely upon “speculation or
5 unsubstantiated opinion or narrative.” The Plan Update EIR does both.

6 Notably, “substantial evidence” must have a *factual* basis, a serious deficiency of the
7 2005 estimate. “To facilitate CEQA's informational role, the EIR must contain facts and analysis,
8 not just the agency's bare conclusions or opinions. This requirement enables the decision-makers
9 and the public to make an ‘independent, reasoned judgment’ about a proposed project.”
10 (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929,
11 935.) “To be adequate, the EIR must include sufficient detail to enable those who did not
12 participate in its preparation to understand and ‘meaningfully’ consider the issues raised by the
13 proposed project.” (*Santa Clarita Organization for Planning the Environment v. County of Los*
14 *Angeles* (2003) 106 Cal.App.4th 715, 721.) In numerous instances, courts have concluded that
15 an EIR’s conclusions are not supported by substantial evidence because the EIR fails to provide
16 sufficient detail supporting its analysis. (See, e.g., *Preserve Wild Santee v. City of Santee* (2012)
17 210 Cal.App.4th 260, 284 [unexplained discrepancy between two estimates in EIR precludes
18 finding of substantial evidence]; *Center for Biological Diversity v. County of San Bernardino*
19 (2010) 185 Cal.App.4th 866, 884 [rejection of alternative not supported by substantial evidence
20 because EIR analyzed only such facility; conclusory statement of consultant is not substantial
21 evidence without further information supporting conclusion]; *Calif. Oak Foundation v. City of*
22 *Santa Clarita* (2005) 133 Cal.App.4th 1219, 1237 [analysis is not supported by substantial
23 evidence where EIR provides no explanation for conclusion regarding availability of water for
24 project].) In *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87
25 Cal.App.4th 99, the court invalidated the environmental baseline used for a water supply analysis
26 as unsupported by substantial evidence, specifically rejecting the contention that the
27 establishment of the baseline was within the discretion of the lead agency. (*Id.*, p. 119-120.)
28 The court acknowledged that the agency retains discretion to choose between differing expert
opinions or methodologies when selecting a baseline, but that the EIR must actually set forth

1 “reasoned analysis and evidence” supporting the chosen methodology in order for the public and
2 decisionmakers to make an informed determination regarding the selection of a baseline:

3 “If an EIR presents alternative methodologies for determining a baseline
4 condition, however, we believe CEQA requires that each alternative be supported
5 by reasoned analysis and evidence in the record so that the decision of the agency
6 is an informed one. We further find that the EIR must set forth any analysis of
7 alternative methodologies early enough in the environmental review process to
8 allow for public comment and response. This is particularly important in a case
9 such as this, where water issues were a matter of widespread public concern, and
10 where the determination of the figure for baseline water usage dictated the density
11 of the project.” (*Id.* p. 120.)

12 The situation here is identical to that analyzed in *Save Our Peninsula*, if the word “population” is
13 substituted for “water usage.” The baseline population is relevant not only to the analysis of the
14 incremental impacts of the population growth facilitated by the Plan Update, but also to the
15 determination as to how much population needs to be accommodated in the Plan area. The entire
16 EIR is premised upon the impact of population growth in the Plan area. Yet there is no way that
17 any decisionmaker or member of the public who reviewed the EIR could understand the
18 methodology that the City used to arrive at that estimate. The 2005 estimate is supported only by
19 the City’s say-so. Every actual piece of data in the record shows that the 2005 estimate was
20 significantly inflated. The City’s selection of 224,426 persons as the “baseline” for population in
21 the Plan Update EIR renders the EIR inadequate as an informational document.

22 **2) CEQA Does Not Require a Slavish Adherence to the Baseline at the**
23 **Time the Notice of Preparation Was Issued**

24 Numerous commenters requested that the EIR be recirculated with an updated baseline
25 reflecting the 2010 U.S. Census data, but the City refused to take this action. (AR4546.) Instead,
26 the City contended that it was required to use the 2005 population baseline it developed because
27 it was “a reasonable estimate at the time it was made.” (AR6171.) The FEIR states that “the
28 Planning Department is required by law to use SCAG’s population numbers for the year that the
Notice of Preparation [“NOP”] was released for the EIR, which was 2005.” (AR5250.)

The law governing the selection of a baseline is not so inflexible. While the CEQA
Guidelines require that the EIR contain a “description of the physical conditions in the vicinity of

1 the project, as they exist at the time the notice of preparation is published,” the Guidelines
2 explain that such setting “will *normally* constitute the baseline physical conditions by which a
3 lead agency determines whether an impact is significant.” (Guidelines, § 15125, subd. (a)
4 [emphasis added].) In its rigid insistence upon use of the 2005 population estimate, the City
5 ignores the flexibility provided in the Guidelines as a necessary means to ensure that an EIR will
6 contain an *accurate* analysis of the environmental impacts of a proposed project.

7 The courts construing the CEQA Guidelines have consistently reaffirmed one core
8 principle: The environmental baseline against which impacts are assessed must reflect the actual
9 environmental conditions on the ground in order to accurately measure the impacts of a proposed
10 project. The use of the term “normally” in the Guidelines necessarily means that physical
11 conditions at other points in time may constitute the appropriate baseline against which to
12 measure impacts. (*Fat v. County of Sacramento* (2002) 97 Cal.App.4th 1270, 1277–1278.)
13 Baseline conditions have been generally described as the “existing physical conditions in the
14 affected area” or the “real conditions on the ground.” (*Communities For A Better Environment*
15 *v. South Coast Air Quality Management Dist.* (“CBE”) (2010) 48 Cal.4th 310, 321.) In its most
16 recent opinion on CEQA baseline issues, the Supreme Court noted specifically that “the date for
17 establishing baseline cannot be a rigid one. Environmental conditions may vary from year to year
18 and in some cases it is necessary to consider conditions over a range of time periods.” (*Id.* at p.
19 327-328, quoting *Save Our Peninsula, supra*, 87 Cal.App.4th at p. 125.) Accordingly, “[n]either
20 CEQA nor the CEQA Guidelines mandates a uniform, inflexible rule for determination of the
21 existing conditions baseline. Rather, an agency enjoys the discretion to decide, in the first
22 instance, exactly how the existing physical conditions without the project can most realistically
23 be measured, subject to review, as with all CEQA factual determinations, for support by
24 substantial evidence.” (*CBE, supra*, 48 Cal.4th at p. 328.)

25 The courts of appeal have interpreted the Supreme Court’s opinion in *CBE* on several
26 occasions, and have consistently held that the most critical aspect in selecting a baseline is to
27 identify the actual conditions on the ground so that the analysis of the project’s impact on the
28 environment is clear. In *Citizens for East Shore Parks v. California State Lands Commission*

1 (2011) 202 Cal.App.4th 549, the court upheld an agency’s decision to revise its chosen baseline
2 during the course of environmental analysis in order to reflect actual operating conditions at a
3 project site, specifically stating that “[a]dministrative agencies not only can, but should, make
4 appropriate adjustments, including to the baseline, as the environmental review process unfolds.”
5 (*Id.* at p. 563.) In *Madera Oversight Coalition v. County of Madera* (2011) 199 Cal.App.4th 48,
6 the court explained that agencies have flexibility to select a baseline supported by substantial
7 evidence so long as the following criteria are met: “(a) A baseline used in an EIR must reflect
8 existing physical conditions; (b) [no future baselines are permitted]; and (c) lead agencies do
9 have the discretion to select a period or point in time for determining existing physical conditions
10 other than the two points specified [CEQA Guidelines section 15125, subdivision (a), the NOP
11 or the commencement of environmental analysis].” (*Id., supra*, at pp. 89-90.) These cases make
12 clear that the City not only *could* have revised the EIR to adopt a 2010 U.S. Census baseline, but
13 that the City *should* have done so, because the 2005 estimate is clearly demonstrated to be
14 entirely inaccurate by the actual demographic trends documented by the U.S. Census. The City
15 failed to revise the EIR accordingly, an abuse of the City’s discretion to select the baseline.

16 **3) The City’s Attempt to Incorporate 2010 Data Is Not a Substitute for a**
17 **Proper EIR Utilizing an Accurate Baseline**

18 The City inserted the 2010 census data into the EIR, adding the 2010 census numbers into
19 a number of charts and in the text in the FEIR. (AR3724-3726; 3728-3730; 3732; 3737.)
20 Notably, the City did not significantly revise any of its analysis in the FEIR. It was not until the
21 Second Addition to EIR was released on June 14, 2012, just days before the EIR was approved,
22 that the City provided any sort of analysis of the effect of changing the population baseline. (See
23 AR6171-6174.) The City, in paragraphs of five sentences or less, briefly reviewed the manner in
24 which each environmental impact was evaluated and concluded that not a single analysis of any
25 of the impacts was affected by the approximately 26,200 person difference between the 2005
26 estimate and the 2010 census data. For two reasons, the City’s analysis does not live up to the
27 mandates of CEQA. First, the scanty analysis released at the tail-end of the approval process is
28 not an adequate replacement for the considered analysis in an EIR. “The data in an EIR must not

1 only be sufficient in quantity, it must be presented in a manner calculated to adequately inform
2 the public and decision makers, who may not be previously familiar with the details of the
3 project. “[I]nformation ‘scattered here and there in EIR appendices’ or a report ‘buried in an
4 appendix,’ is not a substitute for ‘a good faith reasoned analysis.’” (*Vineyard Area Citizens for
5 Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442.) Second, even
6 if this last minute pastiche were an acceptable replacement for an adequate CEQA analysis, the
7 City’s analysis of many of the impacts is unsound and not supported by substantial evidence.

8 The City cannot rely upon the 2.5 page analysis it conducted supposedly using the 2010
9 data as a replacement for actually changing the baseline in the EIR. The brief analysis
10 repeatedly relies upon the fact that, although population declined by 13,000 people between 2000
11 and 2010, more residential units were constructed between 2000 and 2010. (AR6172-6174; see
12 also RL019727 [City consultant stating impacts *higher* in 2010 despite population decrease due
13 to more housing units].) Nowhere is the fact that the population declined considered in these
14 analysis. The analyses of impacts on utilities are essentially as follows: “Water Resources.
15 Residential water consumption is based on residential units not population and therefore using
16 the 2010 Census data would show less of an impact as compared to using the 2005 data.”
17 (AR6173; see also 6172 [fire services demand based on dwelling units].) The City’s position
18 appears to be that if it has used “residential units” to calculate demand for a service, there is no
19 need to think any further about whether that basis is actually reflective of the “on-the-ground”
20 conditions. For instance, sanitary engineer Bonneau Dickson, PE, explained that the EIR’s
21 failure to account for the area’s population decline in its environmental baseline meant that the
22 EIR failed to account for more than 3 million additional gallons per day of wastewater that
23 would be produced by the increased population, an amount that “could easily overwhelm parts of
24 the sewer system.” (AR17225-17226.) The City did not revise its analysis of wastewater in the
25 FEIR to address these concerns. Where the record before the City demonstrates conclusively
26 that this increase in residential unit construction was accompanied by a *decrease in population*,

1 any analysis that simply assumes away this difference does not pass the straight-face test.⁴

2 Impacts on police services and transportation are analyzed at least in part on the basis of
3 population, so the City could not entirely ignore the population decrease in considering these
4 issues. For transportation (traffic), the City's analysis contends that traffic in Hollywood is more
5 heavily influenced by cross-town traffic than by local traffic, and therefore the traffic model
6 shows only a "negligible difference" between the 2005 analysis and the 2010 Census analysis.
7 (AR6173.)⁵ The data regarding the 2010 model run does not appear in the FEIR. The FEIR does
8 show an increase of trips of 60 percent under the Plan Update as compared to 2010 conditions
9 (and 55 percent as compared to the 2005 "baseline"), a metric not specifically mentioned in the
10 Second Addition. (AR3737.) With respect to police services, the City asserts that, the precise
11 population is irrelevant because of improving law enforcement practices, and that mitigation
12 measures would make insignificant any impact on police services whether the baseline was the
13 2005 or the 2010 population. (AR6172.) Neither of these analyses is sufficiently supported by
14 data in the EIR such that the public or decisionmakers were accurately informed of any analytic
15 difference between an analysis using the inflated 2005 estimate or the real 2010 data. The City's
16 last ditch effort is insufficient under CEQA's informational mandate.

17
18
19 ⁴ The use of an erroneously inflated baseline population infects the City's conclusion
20 regarding the "growth-inducing" effect of the Plan Update, an analysis required by CEQA. The
21 CEQA Guidelines require a discussion of growth inducing impacts of a proposed project,
22 including "the ways in which proposed project could foster economic or population growth, or
23 the construction of additional housing, either directly or indirectly, in the surrounding
24 environment." (§ 15126, subd. (d).) By assuming the validity of the 2005 estimate and the
25 projected population increase based upon, the EIR concludes that the Plan Update is "growth
26 accommodating," not "growth inducing." (AR3319) Given the decline in population, the record
27 does not support the conclusion that the project will not "foster economic or population growth,
28 or the construction of additional housing," by significantly increasing permissible density and
scale of new construction in the Plan area without a documented need for the increased square
footage of commercial and residential construction that will result.

⁵ The DEIR explains that year 2005 traffic conditions were determined not by actual
counts but "using the socioeconomic data for the 2004 Regional Transportation Plan (RTP)."
These estimates provided the volumes of traffic used in the analysis, and thus incorporate the
erroneous 2005 population baseline into the traffic analysis. (AR3188.)

1 **b. The EIR Fails to Analyze an Adequate Range of Alternatives Because It Does**
2 **Not Analyze a Reduced Density Alternative**

3 The EIR’s alternatives analysis fails to address an adequate range of alternatives to the
4 project. In a discussion that spans only ten pages of the DEIR (AR3308-17), the EIR evaluates
5 only three alternatives: the proposed project (Alternative 1), the current plan (Alternative 2,
6 which serves as the “No Project” Alternative), and a plan that would accommodate the SCAG
7 population forecast, a one percent reduction in population capacity from the proposed project
8 (Alternative 3). Neither the FEIR nor the various Additions to the EIR expand upon the number
9 of alternatives analyzed, even though commenters noted that the range of alternatives studied in
10 the DEIR was too narrow. (AR3420, 3508-3509, 3553.) As a result of the deficient alternatives
11 analysis, the EIR fails to provide decisionmakers and the public with a genuine comparison of
12 the environmental consequences of different levels of development in Hollywood.

13 “One of [CEQA’s] major functions . . . is to ensure that all reasonable alternatives to the
14 proposed projects are thoroughly assessed by the responsible official.” (*Wildlife Alive v.*
15 *Chickering* (1976) 18 Cal.3d 190, 197.) The alternative analysis has been described as “the core
16 of an EIR.” (*Goleta II, supra*, 52 Cal.3d at p. 564.) “An EIR’s discussion of alternatives must
17 contain analysis sufficient to allow informed decision making . . . Without meaningful analysis
18 of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the
19 CEQA process.” (*Laurel Heights I, supra*, 47 Cal.3d at p. 404.) The alternatives analysis must
20 be specific enough to permit the public to comment meaningfully; the public’s role is “especially
21 important when, as in this case, the agency approving the proposed project is also its proponent.”
22 (*Id.*, p. 406.) The Supreme Court has noted that consideration of alternatives is particularly
23 critical in the long-term planning process, where a local government considers the wide range of
24 interests implicated by the physical development of a city. (*Goleta II, supra*, 52 Cal.3d at pp.
25 570-572 [“The planning process necessarily compels cities and counties to consider *alternative*
26 land-use goals, policies and implementation measures.”].)

27 An EIR “shall describe a range of reasonable alternatives to the project . . . which would
28 feasibly attain most of the basic objectives of the project but would avoid or substantially lessen
any of the significant effects of the project, and evaluate the comparative merits of the

1 alternatives.” (Guidelines, § 15126.6, subd. (a).) While an EIR does not have to discuss
2 infeasible alternatives, the EIR must disclose its reasons for rejecting alternatives. (*Id.*, subds.
3 (a) & (c).) A “rule of reason” governs the selection of alternatives that must be analyzed: the
4 EIR need only analyze “those alternative necessary to permit a reasoned choice.” (*Id.*, subd. (f).)
5 “[T]he EIR need examine in detail only the [alternatives] that the lead agency determines could
6 feasibly attain most of the basic objectives of the project.” (*Ibid.*) “‘Feasible’ means capable of
7 being accomplished in a successful manner within a reasonable period of time, taking into
8 account economic, environmental, legal, social, and technological factors.” (*Id.*, § 15364.) “A
9 potential alternative should not be excluded from consideration merely because it ‘would impede
10 to some degree the attainment of the project objectives.’” (*Preservation Action Council v. City*
11 *of San Jose* (2006) 141 Cal.App.4th 1336, 1351 (“*PAC*”) (quoting Guidelines, § 15126.6, subd.
12 (b).) If alternatives are rejected, “the ‘EIR must explain why each suggested alternative either
13 does not satisfy the goals of the proposed project, does not offer substantial environmental
14 advantages, or cannot be accomplished.’ The explanation must be sufficient to enable
15 meaningful public participation and criticism.” (*Save Round Valley Alliance v. County of Inyo*
16 (2007) 157 Cal.App.4th 1437, 1458 [quoting *San Joaquin Raptor/Wildlife Rescue Center v.*
17 *County of Stanislaus* (1994) 27 Cal.App.4th 713, 737.) “An EIR which does not produce
18 adequate information regarding alternatives cannot achieve the dual purpose served by the EIR,
19 which is to enable the reviewing agency to make an informed decision and to make the
20 decisionmaker’s reasoning accessible to the public, thereby protecting informed self-
21 government.” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 650, 733.)

22 The Plan Update EIR does not meet these standards, in the EIR itself or in the last-minute
23 Second Addition which, for the first time, attempted to provide “the analytic route the . . . agency
24 traveled from evidence to action.” (*Laurel Heights I, supra*, 47 Cal.3d at p. 404.) The DEIR sets
25 forth only the three alternatives that it analyzes. (AR3308-9.) It identifies *no* other alternatives,
26 and accordingly does not meet the requirements of CEQA that the public and decisionmakers be
27 provided with an explanation of the agency’s basis for rejecting other alternatives. Although
28 numerous comment letters questioned the range of alternatives analyzed, the FEIR does not

1 provide an analysis of the reasons that the City did not include consideration of any other
2 alternatives in the EIR. The FEIR states that City Planning “considered and rejected as
3 infeasible an alternative that would place a blanket moratorium on demolition permits and
4 project development.” (AR5300; see also 5308 [stating law governing “rule of reason” without
5 additional analysis].) Like the DEIR, the FEIR also fails to meet CEQA’s disclosure mandate: it
6 provides only the most cursory explanation for the rejections of alternatives not included.

7 At the last possible moment, on June 14, the City belatedly attempted to provide the
8 required explanation, doing so in a manner that provided only very limited opportunity for
9 meaningful review and comment. The Second Addition includes a discussion of the infeasibility
10 of two alternatives: no-growth, and downzoning/reduced capacity. (AR6191-92.) Focusing on
11 downzoning alternative, the Second Addition posits an alternative that accommodates 230,000
12 persons, nearly 6,000 less than projected under the existing (1988) Plan. (AR6191.) The City
13 rejects this alternative as infeasible because “it would not accommodate the future growth
14 forecasted by SCAG,” because it would be inconsistent with the General Plan Framework
15 “which seeks to direct additional growth . . . into Regional Centers,” because it would not meet
16 the project’s objectives of providing increased employment and housing, ensuring that buildings
17 and neighborhoods are well-designed, encouraging sustainable land use near transit, “expanding
18 mobility options,” and “promoting the vitality and expansion of Hollywood’s media,
19 entertainment, and tourism industry.” (AR6191-6192.)

20 Nowhere in the EIR or in the Second Addition is sufficient information provided to
21 enable the public or decisionmakers to adequately evaluate the City’s conclusory statements
22 regarding the infeasibility of a downzoning alternative. What is the basis for the conclusion that
23 a downzoning plan will not provide sufficient increased employment and housing? Why would a
24 downzoning plan still not enable some concentration of sustainable land use near transit? How
25 much less commercial and tourism opportunities would be provided for in a downzoning
26 alternative, and would these opportunities not be sufficient to promote and expand industry and
27 tourism in Hollywood? Why does a downzoning alternative not provide for well-designed
28 buildings and neighborhoods? Setting the issue of population aside for the moment, there is no

1 “meaningful detail” provided in the EIR to test the City’s conclusions about the feasibility of a
2 downzoning alternative. (*PAC, supra*, 141 Cal.App.4th at p. 1357.) Adding population back into
3 equation, the 2010 census data’s confirmation of the demographic decline in Hollywood calls
4 into question the City’s rigid adherence to the idea that it must accommodate all of SCAG’s
5 projected population growth, a figure derived from the invalidated 2005 estimate. In light of the
6 substantial evidence in the record that the 2005 population estimate was inaccurate and
7 overstated, the City’s refusal to even put the flesh on the bones of a downzoning alternative is
8 entirely unjustifiable and legally unsupportable. The EIR contains no analysis of the
9 environmental effects of a downzoning alternative, and thus fails entirely as an informational
10 document because it does not offer any information regarding the impacts of a less dense plan.

11 On numerous occasions, courts have concluded that discussion of an inadequate range of
12 alternatives renders an EIR legally deficient. (See, e.g., *Flanders Foundation v. City of Carmel-*
13 *by-the-Sea* (2012) 135 Cal.App.4th 603, 615-617 [failure to respond to comment requesting
14 study of alternative to proposed project that considers sale of historic property on smaller parcel
15 of parkland invalidates EIR for failure to respond to comment addressing environmental issue];
16 *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 598-603 [conclusion
17 that alternatives to demolition of historic residence are not economically or legally feasible not
18 supported by evidence]; *PAC, supra*, 141 Cal.App.4th at pp. 1355-1358 [analysis of reduced size
19 alternative inadequate because record contains no evidence supporting conclusion that reduced
20 size alternative is not feasible]; *Laurel Heights I, supra*, 47 Cal.3d at pp. 399-403 [EIR without
21 sufficient discussion of alternatives is inadequate under CEQA].) The Plan Update EIR likewise
22 lacks an analysis of sufficient ranges of alternatives and fails to provide substantial evidence
23 supporting its decision to analyze only the narrowest range of alternatives.

24 While it may be a reasonable policy decision for the City to plan for the level of
25 population growth accommodated in the Plan Update, the City cannot make that decision without
26 a genuine understanding of what the environmental trade-offs are of accommodating this level of
27 growth. The Plan Update EIR is the document designed to inform both the decisionmakers and
28 the public of the environmental consequences of the Plan Update and of alternative approaches

1 to the critical task of planning the City’s growth. “There is a sort of grand design in CEQA:
2 Projects which significantly affect the environment *can* go forward, but only after the elected
3 decision makers have their noses rubbed in those environmental effects, and vote to go forward
4 anyway.” (*Vedanta Society of So. Calif. v. Calif. Quartet, Ltd.* (2000) 84 Cal.App.4th 517, 530.)
5 This EIR does not rub anyone’s nose in anything. CEQA does not permit an agency to evade its
6 disclosure duties in this manner; the failure to analyze a reasonable range of alternatives without
7 any support of a finding of infeasibility is an abuse of discretion.

8 **c. The EIR Does Not Sufficiently Analyze or Mitigate the Impacts to Public**
9 **Services and Transportation**

10 The EIR falls short in its analysis of the environmental impacts of the increased
11 development permitted by the Plan Update in multiple respects, failing to accurately reflect the
12 true impact of increased development on the City’s ability to provide public services, and on the
13 City’s transportation infrastructure. It needs almost no mention that an accurate analysis of the
14 environmental impacts of a proposed project is a *sine qua non* of an adequate EIR. The EIR’s
15 shoddy analysis defeats the objectives of CEQA. A fundamental purpose of CEQA is for
16 decisionmakers and the public to be made aware of the significant environmental impacts of a
17 proposed project before any action is taken on that project. (*Laurel Heights I, supra*, 47 Cal.3d
18 at pp. 390-391; Pub. Resources Code, § 21100.) “The purpose of requiring public review is to
19 demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered
20 the ecological implications of its action Public review permits accountability and informed
21 self-government.” (*Schoen v. Department of Forestry and Fire Protection* (1997) 58
22 Cal.App.4th 556, 573.) “Because the EIR must be certified or rejected by public officials, it is a
23 document of accountability. If CEQA is scrupulously followed, the public will know the basis
24 on which its responsible officials either approve or reject environmentally significant action, and
25 the public, being duly informed, can respond accordingly to action with which it disagrees.”
26 (*Laurel Heights I*, 47 Cal.3d at p. 392.) As Intervener Hollywood Chamber of Commerce noted
27 in its comments on the DEIR, “the DEIR is broadly drafted and does not analyze all potential
28 significant impacts that could occur as a result of the H-CPU build-out. . . . The DEIR is an

1 opportunity to assess the potentially significant impacts associated with Hollywood’s future
2 development as a Regional Center, but because of the assumptions used in the DEIR, it does not
3 capture an opportunity that is seldom available.” (AR3456.) The EIR’s analysis masks rather
4 than discloses the true impacts of the Plan Update, and accordingly does not live up the
5 disclosure mandate of CEQA.

6 Within the category of Public Services (section 4.3 of the EIR), the City reviews the
7 impacts of the expanded development permitted by the Plan Update on the City’s ability to meet
8 the need for fire, police, library, parks, and school services in the Plan area. The EIR contends
9 that fire and police services will not be significantly impacted as a result of the mitigation
10 measures included in the EIR. (AR3115, 3121.) This conclusion is not supported by the
11 evidence in the record before the City.

12 Numerous commenters on the DEIR noted inadequate infrastructure in Hollywood.
13 (AR3355, 3372, 3424, 3551, 3570.) The record contains significant documentation that
14 information regarding fire department response times was incorrectly reported for years.
15 (AR17003-17019.) Instead of meeting the goal of responding to calls within 5 minutes, 90
16 percent of the time, analysis of data revealed that 90 percent of the time, the department took 7
17 minutes 24 seconds to respond to calls. (AR17004.) In a public meeting during the approval
18 process, then-Councilmember Eric Garcetti admitted that the City did not know what the fire
19 department’s current performance capability was. (AR21878-79.) The EIR does not
20 acknowledge the undisputed fact that the fire department response times are far slower than
21 previously believed. The EIR entirely avoids discussion of response times, or indeed any
22 substantive analysis of the fire department’s performance, simply concluding that the Plan
23 Update “could result in increased development in the Hollywood CPA which could require
24 upgrading or improvements of existing fire protection equipment or infrastructure.” (AR3114.)
25 This is not the hard look at existing and potential future conditions that CEQA demands.

26 The analysis of the impact on police services is similarly flawed. The EIR uses response
27 times from 2001, without explanation as to why the data cannot be updated. (AR3116.) The
28 EIR also attempts to mask the serious current-day officer deficiency in Hollywood. Noting that

1 the General Plan requires a standard of 4 officers per 1000 residents (and noting that the
2 population of Hollywood swells with visitors), the EIR states that on the basis of the 2005
3 population estimate, 898 officers should be deployed in Hollywood. (AR3118.) In comparing
4 conditions to the Plan Update, the EIR notes that the increased population requires 996 officers,
5 and that the Plan Update as compared to the existing conditions requires an additional 98
6 officers. (AR3120.) What the EIR does *not* acknowledge or explain in its assessment of the
7 impact of the increased development is that there are presently only 314 officers deployed in
8 Hollywood. (AR3116.) When the EIR states that the increased demand for officers under the
9 Plan Update is only 98, it is comparing a hypothetical present day baseline against a hypothetical
10 future condition. This analysis is essentially meaningless. If the police department is utilizing
11 an alternate method to set staffing levels (AR3118), that same analysis should be deployed to
12 determine how demand might increase under a foreseeable development scenario.⁶

13 The EIR also fails to account for the transboundary demand on police and fire services.
14 As opposed to the sections on Utilities, which acknowledge that concerns regarding utilities have
15 Citywide significance (see, e.g., AR3151), the EIR reflects no such consideration for police and
16 fire services. Yet the record reveals that deficiencies in services in Hollywood will pull
17 resources from other communities. (See AR16975 [unit from West LA deployed in Hollywood
18 area for several nights].) The EIR fails to analyze whether the increased development in
19 Hollywood will have an adverse impact on other areas of the City as deficient police and fire
20 services are stretched ever thinner, thereby failing to address the cumulative impacts of the
21 development in Hollywood and in other plan areas. The EIR's four-page analysis of cumulative
22 impacts (AR3327-3330) does not provide any meaningful analysis of this issue, asserting simply
23

24
25 ⁶ The City's response to comments on infrastructure capacity, MR-2, bears review if only
26 for its utter non-responsiveness. (See AR5253-5256.) The response is almost entirely a
27 rundown of which agencies provide which services in Los Angeles. The response concludes that
28 "it would not be reasonable and it would be speculative to prepare and analyze the range of
impacts for all future projects through 2030 in Hollywood." (AR5256.) Is it not the purpose of
an EIR of a long-range land use plan to analyze the impacts of future projects that can be built
consistent with the plan?

1 with respect to police and fire services that mitigation measures will reduce the cumulative
2 impact to insignificance (AR3327-3328). Where life and safety is on the line, the City is
3 required to take a more searching look at this question. Indeed, the CEQA Guidelines requires
4 that the EIR identify an appropriate geographic scope for cumulative impacts analysis and
5 generate a list of past, present, and future projects that are likely to contribute to the cumulative
6 impacts from the project at issue. (Guidelines, § 15130, subd. (b).) “Proper cumulative impact
7 analysis is vital ‘because the full environmental impact of a proposed project cannot be gauged
8 in a vacuum. One of the most important environmental lessons that has been learned is that
9 environmental damage often occurs incrementally from a variety of small sources. These sources
10 appear insignificant when considered individually, but assume threatening dimensions when
11 considered collectively with other sources with which they interact.’” (*BCLC, supra*, 124
12 Cal.App.4th at p.1214 [quoting *Communities for a Better Environment v. California Resources*
13 *Agency* (2002) 103 Cal.App.4th 98, 114.) “[C]onsideration of the effects of a project or projects
14 as if no others existed would encourage the piecemeal approval of several projects that, taken
15 together, could overwhelm the natural environment and disastrously overburden the man-made
16 infrastructure and vital community services. This would effectively defeat CEQA's mandate to
17 review the actual effect of the projects upon the environment.” (*Las Virgenes Homeowners*
18 *Federation, Inc. v. County of Los Angeles* (1986) 177 Cal.App.3d 300, 306.) Indeed, the non-
19 existent cumulative impacts analysis in the EIR deprives the City of the opportunity to truly
20 understand the impacts of the potential development authorized under the Plan Update.

21 Finally, the mitigation measures upon which the EIR relies to mitigate the acknowledged
22 impact of increased density on police and fire services are insufficient. For fire, the EIR requires
23 that the City “[i]dentify areas of the Hollywood CPA with deficient fire protection facilities
24 and/or services and prioritize the order in which the areas should be upgraded to established fire
25 protection standards to ensure acceptable fire protection at all times.” (AR3155, 6210.) The EIR
26 also requires that the fire department review development applications to ensure adequate
27 capacity and continue to enter into mutual assistance agreements. (*Ibid.*) For police services, the
28 EIR requires that the City “[h]ire and deploy additional police officers and civilian personnel to

1 accommodate growth or development generated by the implementation of the Proposed Plan
2 pursuant to LAPD hiring and deployment practices;” and “expand or upgrade existing police
3 protection equipment and/or facilities in areas of the CPA that do not receive adequate police
4 protection services.” (AR3121, 6211.) To accomplish this hiring, the EIR includes as a
5 mitigation measure the pursuit of “State, Federal, and other non-conventional funding sources to
6 expand the number of sworn police officers.” (*Ibid.*) For both fire and police services, the EIR
7 relies upon the implementation of the TIMP set forth in the Transportation section of the EIR as
8 a mitigation for these services. (AR3155, 3121.)

9 The EIR’s requirement of increased hiring and provision of better police and fire services
10 is laudable, but insufficient under CEQA. The EIR defers identification of areas that are
11 inadequately serviced. Without specifics, it is impossible for the public to know if the City is
12 taking any action to implement the EIR’s mitigation measures. Nor does the EIR establish
13 concrete criteria or performance standards by which sufficiency of services will be judged in the
14 future. (See, e.g., *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149
15 Cal.App.4th 645, 683-684.) An EIR is “inadequate if the success or failure of mitigation efforts .
16 . . may largely depend upon management plans that have not yet been formulated, and have not
17 been subject to analysis and review within the EIR.” (*Communities for a Better Environment v.*
18 *City of Richmond* (2010) 184 Cal.App.4th 70, 92.) The deficiency of this mitigation measure is
19 part and parcel of the EIR’s failure to properly analyze the provision of police and fire services
20 under the current and future scenarios, and to disclose whether the provision of those services
21 would be adequate in specific areas of the Hollywood Community Plan Area.

22 The EIR also improperly relies on the speculative ability of the City to providing funding
23 to hire and equip police and fire personnel. The EIR includes as a mitigation measure that the
24 City will seek funding to hire additional police personnel. “Mitigation measures must be feasible
25 and enforceable.” (*Napa Citizens, supra*, 91 Cal.App.4th at p. 360 (quoting Guidelines §
26 15126.4, subs. (a)(1) & (2).) In a similar situation, Calaveras County relied upon
27 implementation measures as part of the circulation element of its general plan requirements to
28 lobby for addition funding for highway improvements, in response to a finding in the land use

1 element that county highways needed to be expanded to accommodate planned capacity.
2 (*Concerned Citizens of Calaveras County v. Board of Supervisors* (1985) 166 Cal.App.3d 90,
3 102-103.) The court concluded that the implementation measures regarding lobbying were
4 insufficient: “[T]he general plan cannot identify substantial problems that will emerge with its
5 state highway system, further report that non known funding sources are available for
6 improvements necessary to remedy the problems, and achieve statutorily mandated correlation
7 with its land use element (which provides for substantial population increases) simply by stating
8 that the county will solve its problems by asking other agencies of government for money.” (*Id.*
9 at p. 103.) Although the case was not in the CEQA context, the efficacy of the mitigation
10 measures remain the same: speculative and insufficiently certain to occur.

11 The EIR’s reliance on the implementation of the TIMP is likewise speculative and not
12 demonstrably feasible. The final Mitigation and Monitoring Program makes the tenuous nature
13 of the TIMP’s implementation clear. The “action” item for the TIMP mitigation measure
14 explains that, for discretionary development projects, “LADOT will review the Hollywood
15 TIMP to determine if there are measures in the TIMP that could be implemented by the
16 development as mitigation for its transportation impacts.” (AR6211.) By relying on the
17 measures of the TIMP to mitigate congestion and improve the delivery of police and fire
18 services, the City relies upon the implementation of uncertain mitigation measures. The EIR
19 cannot guarantee that the City will be able to link any of the improvements identified in the
20 TIMP to any future development project, and thus the TIMP cannot mitigate the impacts of the
21 increased development on the provision of police and fire services. Finally, given that the TIMP
22 does not even mitigate the impacts of traffic to less than significant, and that the streets will be at
23 100 percent capacity during the PM peak period, it is not clear what basis the City has for relying
24 upon the TIMP to improve emergency response performance. (AR3208-09.)

25 The EIR’s transportation analysis is misleading and overly reliant upon the ability of
26 Transportation Impact Mitigation Program (“TIMP”) to ameliorate the impacts of the Plan
27 Update. The transportation analysis relies heavily on the “volume weighted average
28 volume/capacity ratio” (AR2795) to describe existing and future conditions. (See, e.g.,

1 AR3208.) The EIR concludes that even with the TIMP in place, the proposed plan would result
2 in a “weighted” V/C” of 1.000, meaning that roadways in Hollywood would be at 100 percent
3 capacity during afternoon peak hours if the Plan Update were built to capacity. (*Ibid.*)
4 Commenters noted that this analysis collapses all street segments in the Plan area into a single
5 figure, and implying a false sense of precision. (AR4338.) This means that decisionmakers and
6 the public were informed that implementation of the Plan Update could have significant impacts
7 on traffic, but the locations of those impacts were masked in the data included with the DEIR.

8 The EIR contains only one mitigation measure for transportation impacts, and it is a
9 measure of only speculative value. While the TIMP receives significant attention in the EIR, it is
10 set forth as a part of the project, not as a mitigation measure for the traffic impacts of the project.
11 As far as mitigating the traffic impacts, the EIR requires that the City “implement development
12 review procedures to ensure that the applicable Mobility policies of the Hollywood Community
13 Plan are applied and implemented by individual development projects when they are considered
14 for approval in the plan area.” (AR3209, 6215.) Although it is not identified as a mitigation
15 measure, the EIR offers the “further recommendation” that the City conduct a “nexus study” to
16 “provide an additional source of funding for transportation improvements” in order to allocate
17 the cost of the transportation improvements to individual projects. (AR3209.)

18 Without actually requiring the nexus study as a mitigation measure, and without
19 conducting that study as part of the EIR to ensure that an adequate degree of funding will be
20 available to the City to implement the TIMP, the EIR’s actual mitigation measure, ensuring that
21 the Mobility policies of the Plan Update are implemented, is meaningless. Although the TIMP
22 does contain a number of policies that can be implemented by new development, it contains no
23 evidence supporting the City’s claimed 5 percent reduction in traffic that will result from such
24 policies. (AR2878, 3514.) Without a nexus study that proportionally assesses new development
25 with a transportation impact fee, the City will not have the budget to implement many of the
26 operational or roadway improvement measures included in the TIMP. (AR3514.) The omission
27 of a nexus study renders the full benefit from the implementation of the TIMP speculative and
28 infeasible.

1 **d. The FEIR Should Have Been Recirculated Due to Significant Revisions**

2 Although many commenters requested that, following the comment period on the DEIR,
3 that the environmental impact report be recirculated for an additional period of public comment,
4 the City refused to permit this additional opportunity for comment and further analysis. A lead
5 agency must reissue the notice, re-circulate the EIR, and permit additional public comment prior
6 to certification “[w]hen significant new information is added to an environmental impact report”
7 after notice and comment from the public but “prior to certification[.]” (Pub. Resources Code, §
8 21092.1.) Information is “significant” if its addition to the FEIR after circulation “deprives the
9 public of a meaningful opportunity to comment upon a substantial adverse environmental effect
10 of the project or a feasible way to mitigate or avoid such an effect (including a feasible project
11 alternative) that the project’s proponents have declined to implement.” (*Laurel Heights*
12 *Improvement Assoc. v. Regents of the Univ. of Calif.* (1993) 6 Cal.4th 1112, 1130 (*Laurel*
13 *Heights II*)). The Supreme Court requires re-circulation where new information discloses:

14 “(1) a new substantial environmental impact resulting from the project or from a
15 new mitigation measure proposed to be implemented; (2) a substantial increase in
16 the severity of an environmental impact unless mitigation measures are adopted
17 that reduce the impact to a level of insignificance; (3) a feasible project alternative
18 or mitigation measure that clearly would lessen the environmental impacts of the
19 project, but which the project’s proponents decline to adopt; or (4) that the draft
20 EIR was so fundamentally and basically inadequate and conclusory in nature that
public comment on the draft was in effect meaningless.” (*Ibid.* (citations
omitted); see also Guidelines, § 15088.5, subd.(a)(1)-(4).)

21 When the draft EIR has been significantly modified after the close of the public comment period,
22 re-circulation is essential to provide the public with the full information and disclosures required
23 by CEQA. “The revised environmental document must be subjected to the same ‘critical
24 evaluation that occurs in the draft stage,’ so that the public is not denied an ‘opportunity to test,
25 assess, and evaluate the data and make an informed judgment as to the validity of the
26 conclusions to be drawn therefrom.’” (*Save Our Peninsula Comm. v. Board of Supervisors*
27 (2001) 87 Cal.App.4th 99, 131.)

28 The City twice contends, in the FEIR and in the Second Addition, that recirculation is not

1 required because the City has identified no new impacts, rejected no new feasible alternatives,
2 and because the EIR as a whole was not so fundamentally inadequate that it deprived the public
3 of a meaningful opportunity for comment. (AR3721; 6198-99.) As set forth above, however,
4 the EIR inadequately analyzed impacts and considered an insufficient range of alternatives. The
5 City attempted to remedy these defects (inadequately) in the Final EIR, and moreso in the June
6 14 Second Addition. In that respect, this case is much like *Mountain Lion Coalition v. Fish &*
7 *Game Commission* (1989) 214 Cal.App.3d 1043. In that case, an agency prepared a draft EIR
8 replete with conclusory statements regarding the cumulative impacts of permitting a hunt for
9 mountain lions. Although the agency attempted to address these deficiencies in its response to
10 comments for the final EIR, the court did not accept this procedure as appropriate: “The
11 cumulative impact analysis contained in the final EID has never been subjected to public review
12 and criticism. If we were to allow the deficient analysis in the draft EID to be bolstered by a
13 document that was never circulated for public comment. . . we would be subverting the important
14 public purposes of CEQA. Only at the stage when the draft EID is circulated can the public and
15 outside agencies have the opportunity to analyze a proposal and submit comment.” (*Id.* at p.
16 1052.) The City has taken the same tack here: It failed to provide support for its baseline and
17 provided no justification for rejecting any reduced scale alternative, and only at what is
18 inarguably the last minute did the City attempt to remedy those defects. These are not mere
19 technical revisions, but fundamental questions going to the heart of the need for and impacts of
20 the density increases in the Plan Update. This tactic cannot be countenanced, as it fundamentally
21 undercuts CEQA’s public review. “Only by requiring the [City] to fully comply with the letter
22 of the law can a subversion of the important public purposes of CEQA be avoided, and only by
23 this process will the public be able to determine the environmental and economic values of their
24 elected and appointed officials, thus allowing for appropriate action come election day should a
25 majority of the voters disagree.” (*People v. County of Kern* (1974) 39 Cal.App.3d 830, 842.)

1 **II. The Approval of the Hollywood Community Plan Violates Policies Set Forth in the**
2 **General Plan; The Inconsistency Between the Community Plan and the General**
3 **Plan is an Abuse of Discretion**

4 California law and the Los Angeles City Charter require consistency between the policies
5 set forth in the General Plan and land use ordinances adopted by the City. (See Los Angeles City
6 Charter, § 556 [land use actions must be “in substantial conformance with the purposes, intent,
7 and provisions of the General Plan.”]; Govt Code, § 65300.5.) Such consistency is absent here
8 for several reasons, and thus the Community Plan itself is invalid.

9 Courts considering challenges regarding the internal consistency of a general plan have
10 determined that a project is consistent with the general plan “if, considering all its aspects, it will
11 further the objectives and policies of the general plan and not obstruct their attainment.”
12 (*FUTURE v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1336.) While a general plan
13 may not state a specific mandate or prohibition, the achievement of the plan’s policies and goals
14 is the relevant metric against which consistency is assessed. (*Napa Citizens, supra*, 91
15 Cal.App.4th at p. 378.) An outright conflict is not required for a finding of inconsistency; if a
16 project will frustrate the achievement of the general plan’s goals and policies, and the project
17 does not include definitive affirmative commitments to mitigate the adverse effect on the
18 achievement of the goals, the project is inconsistent with the general plan. (*Id.*, p. 379.)

19 As the City explains in the Findings in support of the Plan Update, the City’s General
20 Plan contains a Framework Element, which “establishes the standards, goals, policies, objectives,
21 programs, terms, definitions, and direction to guide the update of citywide elements and the
22 community plans.” (AR1810.) As the City explains, community plans are to apply the
23 Framework Element’s policies regarding growth and development in the smaller area
24 encompassed in each community plan. (*Ibid.*) The Findings discuss consistency with
25 Framework Element Objective 3.3, “Accommodate projected population and employment
26 growth within the City and each community plan area and plan for the provision of adequate
27 supporting transportation and utility infrastructure and public services.” (*Ibid.*) City find the
28 Plan Update to be consistent with Objective 3.3 because it “includes a recommended pattern of
land use that directs future growth to areas of Hollywood where new development can be

1 supported by transportation infrastructure and different types of land uses can be intermingled to
2 reduce the length and number of vehicle trips.” (*Ibid.*) This Finding is notable in that it focuses
3 exclusively on transportation infrastructure and not other types of infrastructure and public
4 services that are required to support increased population or commercial development; the
5 Finding therefore does not demonstrate consistency with Objective 3.3.

6 Moreover, the City’s analysis ignores significant policies included in the Framework
7 Element that enable the City to meet Objective 3.3. Most significantly, the City’s findings
8 ignore the policies designed to ensure a continual monitoring of population growth *and* the
9 ability of infrastructure to support the pace of growth. (General Plan Framework Element Policy
10 3.3.2.) The Framework Element includes Implementation Policies that are intended to achieve
11 its Policies. Specifically, the Framework Element requires the use of a monitoring program to
12 assess the status of development activity and supporting infrastructure and public services and
13 “[i]dentify existing or potential constraints or deficiencies of other infrastructure in meeting
14 existing and projected demand.” Policy 3.3.2 provides that where the City is unable to provide
15 the necessary infrastructure improvements, it must “[c]onsider regulating the type, location,
16 and/or timing of development, when all of the preceding steps have been completed, additional
17 infrastructure and services have been provided, and there remains inadequate public
18 infrastructure or service to support land use development.” The Plan Update is inconsistent with
19 the Framework Element because it does not include any mechanism to ensure that the state of
20 infrastructure will be assessed or to provide for controls on development in the event that
21 infrastructure is insufficient to support the level of development permitted by the Plan Update.
22 (See AR21692.) In light of the EIR’s deficiencies in assessing the impact of the Plan Update on
23 public services, this omission is particularly troubling. The City’s approach to the Framework
24 Element is focused entirely on the aspects that encourage growth, with no attention to those
25 policies that require period assessment of the capacity for additional growth. Without inclusion
26 of similar policies in the Plan Update, which is a part of the Land Use Element of the General
27 Plan, the City’s General Plan is fatally inconsistent. The Plan Update, while permitting
28 increased density and growth in key parts of Hollywood, fails to provide a mechanism to

1 continually assess whether the infrastructure has the ability to support the increased development
2 and therefore frustrates the policies in the Framework Element that are designed to ensure the
3 provision of adequate public services. The Framework Element permits only the appropriate
4 amount of growth in light of the City's infrastructure; the Plan Update omits the necessary
5 mitigation measures to require controls on development where the infrastructure is threatened.

6 In addition to the consistency requirement, Los Angeles City Charter section 558 requires
7 a finding that any plan adopted by the City will not have an adverse effect on the General Plan or
8 any other plans. The City adopted such a finding, but the Findings do not demonstrate
9 compliance with this provision. (AR1820.) The City's Findings provide that the Plan Update
10 has no adverse effect because it is consistent with the General Plan; and promotes economic
11 well-being and public convenience by satisfying the housing, commercial, retail, service,
12 industrial, and open space needs of the community. (*Id.* at 1820-21.) The Findings rely upon
13 the concentration of growth in existing centers near public transportation and protection of
14 existing single-family neighborhoods from dense development. (*Id.* at 1821.) The Finding is
15 notable for what it lacks: any substantive discussion of the potential inter-plan effects of the Plan
16 Update. How can the decisionmakers conclude that the Plan Update will not have an adverse
17 effect on other community plan areas without considering if the increased growth facilitated by
18 the Plan Update will harm other areas? Because this analysis is not in the EIR or the record
19 before the Council, substantial evidence does not support this finding. Indeed, the record before
20 the City showed that public services are stretched thin throughout the City. (Eg., AR3411,
21 16973-75, 17901-03, 17983, 18876-77,19039.) On this record, the City cannot find that the Plan
22 Update will not adversely affect other areas of the City; the finding must be overturned.

23 CONCLUSION

24 The EIR is fundamentally flawed due to its failure to address the population decline in
25 Hollywood, and it must therefore be prepared anew and recirculated for additional public
26 comment. Moreover, the Plan Update itself must be revised to be consistent with the General
27 Plan. Petitioner requests that this Court invalidate the EIR and require the City to rescind its
28 approval of the Plan Update, and require the City to issue documents compliant with CEQA.

1 Dated: June 6, 2013

Respectfully Submitted,

3 STRUMWASSER & WOOCHEER LLP

4 Fredric D. Woocher

5 Beverly Grossman Palmer

6 By 

Beverly Grossman Palmer

7 *Attorneys for Petitioner and Plaintiff*

8 *Fix The City, Inc.*

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Re: *Fix The City v. City of Los Angeles et al.*
L.A.S.C. Case No. BS 138580

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 10940 Wilshire Boulevard, Suite 2000, Los Angeles, California 90024.

On **June 6, 2013** I served the foregoing document(s) described as **PETITIONER'S OPENING BRIEF** on all appropriate parties in this action, as listed below, by the method stated:

If electronic-mail service is indicated, by causing a true copy to be sent via electronic transmission from Strumwasser & Woocher LLP's computer network in Portable Document Format (PDF) this date to the e-mail address(es) stated, to the attention of the person(s) named.

If fax service is indicated, by facsimile transmission this date to the fax number stated, to the attention of the person named, pursuant to Code of Civil Procedure section 1013(f).

If U.S. Mail service is indicated, by placing this date for collection for mailing true copies in sealed envelopes, first-class postage prepaid, addressed to each person as indicated, pursuant to Code of Civil Procedure section 1013a(3). I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in the affidavit.

If overnight service is indicated, by placing this date for collection by sending true copies in sealed envelopes, addressed to each person as indicated, pursuant to Code of Civil Procedure, section 1013(d). I am readily familiar with this firm's practice of collecting and processing correspondence. Under that practice, it would be deposited with an overnight service in Los Angeles County on that same day with an active account number shown for payment, in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **June 6, 2013**, at Los Angeles, California.


LaKeitha Oliver

SERVICE LIST

Fix The City v. City of Los Angeles et al.
L.A.S.C. Case No. BS 138580

Carmen A. Trutanich
Andrew J. Nocas
Siegmond Shyu
Michael J. Bostrom
200 N. Spring Street, 701 City Hall East
Los Angeles, California 90012-4131
Phone: (213) 978-8231
Fax: (213) 978-8090
Email: Siegmond.Shyu@lacity.org
Attorneys for City of Los Angeles, Los Angeles City Council, and Los Angeles Department of City Planning

Related Case

Richard S. MacNaughton, Esq.
Attorney at Law
9107 Wilshire Boulevard, Suite 700
Beverly Hills, California 90210-5525
Phone: (323) 957-9588
Fax: (323) 464-0135
Email: MacNaughtonEsq@gmail.com

Frank Angel, Esq.
Law Offices of Frank P. Angel
2601 Ocean Park Boulevard, Suite 205
Santa Monica, California 90405
Phone: (310) 314-6433
Fax: (310) 314-6434
Email: fangel@angellaw.com

Attorneys for SaveHollywood.Org, aka People for Livable Communities and Hollywoodians Encouraging Logical Planning

Robert P. Silverstein
Daniel E. Wright
Bradly S. Torgan
THE SILVERSTEIN LAW FIRM, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, California 91101-1504
Phone: (626) 449-4200
Fax: (626) 449-4205
Email: Robert@robertsilversteinlaw.com

Attorneys for La Mirada Avenue Neighborhood Association of Hollywood

Intervenor

Alfred Fraijo, Jr.
Phillip M. Tate
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 South Hope Street, 43rd Floor
Los Angeles, California 90071-1422
Phone: (213) 620-1780
Fax: (213) 620-1398
Email: afraijo@sheppardmullin.com
Email: ptate@sheppardmullin.com

Arthur J. Friedman
Alexander L. Merritt
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4109
Phone: (415) 434-9100
Fax: (415) 434-3947
Email: afriedman@sheppardmullin.com
Email: amerritt@sheppardmullin.com

*Attorneys for Intervener
HOLLYWOOD CHAMBER OF
COMMERCE*