

1 Hydee Feldstein Soto, City Attorney (SBN 106866X)
2 Valerie L. Flores, Chief Deputy City Attorney (SBN 138572)
3 John W. Heath, Chief Assistant City Attorney (SBN 194215)
4 **Robert M. Mahlowitz**, Deputy City Attorney (SBN 160125)
5 **Los Angeles City Attorney's Office**
6 200 North Main Street, 701 City Hall East
7 Los Angeles, California 90012
8 Tel: 213.978.8205
9 Fax: 213.978.8090
10 E-Mail: robert.mahlowitz@lacity.org
11 Attorneys for Respondent, City of Los Angeles

12 **No Fee ~ Gov't Code § 6103**

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

15 Plated Personal Chef Services, LTD., a
16 New York corporation dba Saucy Bird,

17 Petitioner,

18 vs.

19 City of Los Angeles, a Municipal
20 Corporation; The City of Los Angeles
21 City Council; and Does 1 Through 10,
22 inclusive,

23 Respondent.

Case No.: 24STCP02773

Honorable Stephen I. Goorvitch
Department 82

**City of Los Angeles' Request for Judicial
Notice in Support of Opposition to Petitioner's
Preliminary Injunction Motion**

(Exhibits 2-7, 9 & 12-15 to Declaration of Robert
M. Mahlowitz)

Action Filed: August 28, 2024

Hearing Date: September 25, 2024

Place: Dept. 82

Time: 9:30 a.m

24
25 Respondent City of Los Angeles (“City”) submits this request for judicial notice,
26 pursuant to Evidence Code sections 450 *et. seq.* and California Rule of Court 3.1306(c), in
27 support of its opposition to Petitioner’s motion for a preliminary injunction pursuant of
28 Evidence Code sections 450 *et. seq.* and California Rule of Court 3.1306(c), for the reasons set

1 forth below. The City refers to each of the Exhibits attached to the Declaration of Robert
2 Mahlowitz filed in support of the City’s motion as “Exhibits.” The City requests judicial notice
3 of Exhibits 2-7 & 9 (City official actions) and Exhibits 12-15 (Legislative history).

4 **A. Notice of the City’s Requests for Judicial Notice has been Provided**

5 Evidence Code section 453 provides that a trial court shall take judicial notice “of any
6 matter specified in Section 452 if a party requests it and: (a) gives each adverse party sufficient
7 notice of the request ... to enable such adverse party to prepare to meet the request; and (b)
8 furnishes the court with sufficient information to enable it to take judicial notice of the matter.”

9 The City has served this request on Petitioner concurrently with the Declaration of
10 Robert Mahlowitz and the attached Exhibits, which includes all the exhibits for which the City
11 seeks judicial notice. Below, the City provides the court with sufficient information to take
12 judicial notice of each Exhibit, thereby satisfying the requirements of Evidence Code section
13 453. Pursuant to Evidence Code section 453 or section 452, judicial notice of the Exhibits is
14 warranted.

15 **B. All of the Exhibits are Relevant to issues raised by Petitioner’s Motion for**
16 **Preliminary Injunction and/or the City’s Opposition**

17 Exhibits 2-7 & 9 are relevant to demonstrating the project which Petitioner seeks to
18 delay and/or prevent is a response to a public emergency, which shows the harm to the City
19 and public if Petitioner’s injunction were granted. Exhibits 5, 6 & 9 are also relevant to
20 showing the change to the Midvale Project lots is temporary and in response to an emergency,
21 showing Code of Civil Procedure section 1245.245 is not triggered because no permanent
22 change in use exists. This shows Petitioner’s writ stands no possibility of success because the
23 writ asserts solely a City violation of Section 1245.245 which does not apply.

24 Exhibits 12-15 are relevant to showing the legislature’s intent that Section 1245.245
25 applies only to a property acquired via eminent domain after January 1, 2007, thus, not to the
26 Midvale Project lots at issue here, acquired in 1990. This shows Petitioner’s writ stands no
27 possibility of success because it asserts solely a City violation of Section 1245.245.

28

1 **C. Authentication and Evidence Code 452(h) (All Exhibits)**

2 City Exhibits 2-7, 9 & 12-15 are authenticated individually by the concurrently filed
3 Declaration of Robert M. Mahlowitz, demonstrating they are official records of the California.
4 Evidence Code section 452(h) authorizes the Court to take judicial notice of facts or
5 propositions “not reasonably subject to dispute and are capable of immediate and accurate
6 determination by resort to sources of reasonably indisputable accuracy.” Exhibits City
7 Exhibits 2-7 & 12-15 are records found on websites maintained by public entities. In addition
8 to the other provision of the Evidence Code authorizing judicial notice of them noted below,
9 the exhibits are subject to judicial notice as matters not reasonably subject to dispute, capable
10 of immediate and accurate determination.

11 **D. Official Acts and Regulations (All RJN Exhibits)**

12 Evidence Code Section 452(b), allows judicial notice of “[r]egulations and legislative
13 enactments issued by or under the authority of the United States or any public entity in the
14 United States.” Evidence Code Section 452(c) allows judicial notice of “Official acts of the
15 legislative, executive, and judicial departments of the United States and of any state of the
16 United States. Judicial notice of Exhibits 2-7, 9 & 12-15 are proper pursuant to Section 452(b)
17 and/or 452(c) for the following reasons:

18 **1. The City’s Official Acts [Exhibits 2-7 & 9]**

- 19
- 20 • Exhibit 2 is a copy of City of Los Angeles Ordinance 187922. (RMM Decl., ¶ 3).
 - 21 • Exhibit 3 is copy of the City of Los Angeles Mayor’s July 7, 2023, Declaration
22 of Local Housing and Homelessness Emergency. (*Id.*, ¶ 4)
 - 23 • Exhibit 4 is a copy of the August 4, 2023 report to the Los Angeles City Council,
24 titled, “Housing and Homelessness Emergency Action Plan,” part of the Ciyt’s
25 official records within City Clerk Council File No. 23-0652. (*Id.*, ¶ 5)
 - 26 • Exhibits 5 -7 constitute the City of Los Angeles’ Official Act via resolution
27 approving the Midvale shelter which is the subject of the Petition. (*Id.*, ¶ 6).
 - 28 • Exhibit 9 is an October 18, 2023, Report to the City of Los Angeles Board of
Transportation Commissioners, approved by the Board. (*Id.*, ¶ 8 & Exh. 9 at p.
4).

Exhibits 2-7 and 9 are official acts of the City. Pursuant to either Evidence Code section

1 452(b) or (c), a court may judicially notice the official resolutions, reports, and other official
2 acts of a city. (*E.g., Trinity Park, L.P. v. City of Sunnyvale* (2011) 193 Cal.App.4th 1014, 1027
3 disapproved on other grounds by *Sterling Park, L.P. v. City of Palo Alto* (2013) 57 Cal.4th
4 1193).

5 **2. State Bills, Legislative Reports and Legislative Counsel Digests**

6 **[Exhibits 12-15]**

- 7
- 8 • Exhibit 12 is enacted Senate Bill 1650 (2006-2007) (RMM Decl., ¶ 11).
 - 9 • Exhibit 13 are portions of five Legislative reports for SB 1640 (*Id.*, ¶ 12)
 - 10 • Exhibit 14 is the Legislative Council Digest report for SB 1650 (*Id.*, ¶ 13)
 - 11 • Exhibit 15 contains a copy of a portion of AB-299 (2007-2008) “Maintenance of the
12 codes” including the Legislative Counsel’s Digest. (*Id.*, ¶ 14).

13 Exhibits 12 and 15 qualify as either regulations or legislative enactments thus are
14 subject to judicial notice. (*Carlton Browne & Co. v. Superior Court* (1989) 210 Cal.App.3d 35,
15 40–41). The 2nd District Appellate Court has explained:

16 When considering extrinsic aids, “legislative history, comments
17 by commissions that proposed the statute, and interpretative
18 comments by official commissions such as [the California Law
19 Revision Commission] as to legislative purpose are entitled to
20 significant weight.” (*Dieckmann v. Superior Court* (1985) 175
21 Cal.App.3d 345, 353, 220 Cal.Rptr. 602.) “Statements of
22 legislative committees pertaining to the purpose of legislation are
23 presumed to express the legislative intent of statutes as enacted.”
24 (*Altaville Drug Store, Inc. v. Employment Development
25 Department* (1988) 44 Cal.3d 231, 238, 242 Cal.Rptr. 732, 746
26 P.2d 871.) The Legislative Counsel’s Digest is also relevant when
27 attempting to ascertain the intent of the Legislature. (*California
28 Teachers’ Assn. v. Governing Board* (1983) 141 Cal.App.3d 606,
613, 190 Cal.Rptr. 453.)

(*Carlton Browne & Co. v. Superior Court* (1989) 210 Cal.App.3d 35, 40–41). Thus, Exhibits
12 -15 are all the proper subject of judicial notice.

26 **E. Published Adopted Bills and Legislative Counsel Digests are Admissible without**
27 **Judicial Notice (Exhibits 12, 14 & 15)**

- 28 • Exhibit 12 is enacted Senate Bill 1650 (2006-2007) (RMM Decl., ¶ 11).

- Exhibit 14 is the Legislative Council Digest report for SB 1650 (*Id.*, ¶ 13)
- Exhibit 15 contains a copy of a portion of AB-299 (2007-2008) “Maintenance of the codes” including the Legislative Counsel’s Digest. (*Id.*, ¶ 14).

Although Exhibits 12, 14 & 15 qualify for judicial notice as indicated above, judicial notice is not required of published government records including Legislative Council Digest reports. (*Merced Irrigation Dist. v. Superior Court* (2017) 7 Cal.App.5th 916, 933; *People v. Rodriguez* (2012) 55 Cal.4th 1125, 1129).

II. Conclusion

Because the City has demonstrated that Exhibits 1-7, 9 & 12-15 are all relevant to the motion filed by Petitioner seeking a preliminary injunction, all are authenticated, and all are properly the subject of judicial notice, the City requests the Court take judicial of each of the exhibits.

Dated: September 18, 2024

Hydee Feldstein Soto, City Attorney
Valerie L. Flores, Chief Deputy City Attorney
John W. Heath, Chief Assistant City Attorney

By: _____


Robert M. Mahlowitz, Deputy City Attorney
Attorney for Respondent, City of Los Angeles

1 **PROOF OF SERVICE**

2 I, the undersigned, say: I am over the age of 18 years and not a party to the within
3 action or proceeding. My business address is 200 North Main Street, 701 City Hall East, Los
4 Angeles, California 90012.

5 On September 18, 2024, I served the foregoing documents described as: **City of Los**
6 **Angeles Request for Judicial Notice in Support of Opposition to Petitioner’s**
7 **Preliminary Injunction Motion** on all interested parties in this action as follows:

8 **SEE ATTACHED SERVICE LIST**

9
10 [] **BY MAIL** – I placed a copy thereof enclosed in a sealed envelope addressed to each
11 addressee stated above. I deposited such envelope for collection, processing and
12 mailing by United States mail by my office in the ordinary course of business. I am
13 readily familiar with the business practice of my office for collection, processing, and
14 mailing of correspondence by the United States mail. Under that practice, it is
15 collected and deposited with first class postage thereon fully prepaid with the United
16 States Postal Service on that same day, at Los Angeles, California. I am aware that on
17 motion of the party served, service is presumed invalid if postage cancellation date or
18 postage meter date is more than one (1) day after the date of deposit for mailing in
19 affidavit; and/or

20 [X] **BY ELECTRONIC MAIL** – I electronically transmitted the document listed above to
21 the email address stated above which has been confirmed for each addressee stated
22 above. My electronic service address is leilany.roman@lacity.org.

23 I declare that I am employed in the office of a member of the bar of this court at whose
24 direction the service was made. I declare under penalty of perjury under the laws of the State
25 of California that the foregoing is true and correct. Executed on September 18, 2024, at Los
26 Angeles, California.

27
28


Leilany Roman

SERVICE LIST

DARIN R. MARGULES
NICOLE V. ROSENBERG
LAW OFFICE OF DARIN MARGULES, PLC
17835 Ventura Blvd.,
Suite 104 Encino, CA 91316
Telephone: (818) 344-5900
darin@marguleslawfirm.com
Case No. 24STCP02773
Attorney for PLATED PERSONAL CHEF SERVICES LTD

LARRY SLADE, ESQ.,
SLADE LAW
14146 Killion St., Suite 100
Sherman Oaks, CA 91401
Telephone: (818) 997-8585
larry@sladelaw.com
Case No. 24STCP02773
Attorney for PLATED PERSONAL CHEF SERVICES LTD

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