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9 Attorneys for Petitioner
10 FIX THE CITY, INC.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**

THE SILVERSTEIN LAW FIRM, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504

13 FIX THE CITY, INC., a California
14 Nonprofit Corporation,

15 Petitioner and Plaintiff,

16 vs.

17 CITY OF LOS ANGELES, a municipal
18 corporation; the CITY OF LOS
19 ANGELES CITY COUNCIL; and
20 DOES 1 through 10, inclusive,

21 Respondents and Defendants

Case No. 23STCP04410

**PETITIONER’S REPLY TO CITY’S
OBJECTIONS TO PETITIONER’S
OPENING TRIAL BRIEF EXHIBITS**

**[Petitioner’s Reply Trial Brief,
Supplemental Request for Judicial Notice,
and Objections to City’s Declarations and
Evidence, filed concurrently herewith]**

Trial Date: November 14, 2024
Time: 9:30 a.m.
Dept.: 85

[Hon. James C. Chalfant]

1 Petitioner Fix the City, Inc. (“Petitioner”) makes the following reply to the City’s
 2 Objections To Petitioner’s Opening Trial Brief Exhibits. The City’s objections should be
 3 overruled as follows:

Material Objected To by City	Grounds for Objection by City	Petitioner’s Reply
<p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8 2. Print-out of City Clerk record found in Council File No. 89- 2577 concerning the City’s 1990 aquistion [sic] of Lot 707. (SX 12)</p>	<p>9 Irrelevant (Evid. Code § 350).</p> <p>10 SX 12 shows that on January 12, 1990, the Council adopted a motion to approve the use of special parking revenue trust funds to purchase the parcels that became LADOT Parking Lot 707, where the Midvale Shelter is located.</p> <p>11 Petitioner cites it in support of its contention there is no other available public parking near Lot 707 (Pet. Trial Brief, p. 8) and for its incorrect contention that Lot 707 does not meet the definition of “public facility” at Government Code section 8698(c), thus, the City’s Midvale Shelter approval cannot rely on Section 8698.4. (Id., p. 18).</p> <p>12 SX 12 offers no evidence concerning whether Lot 707 is a “public facility.” Section 8698(c) defines a “public facility” as public</p>	<p>13 The City’s objection is improper, and should be stricken. The City is simply attempting to extend its opposing brief arguments.</p> <p>14 Exhibit 12 is relevant to show that funding for the acquisition of Lot 707 was not taxes, which is relevant to the definition of public facility in Govt. Code § 8698.4.</p> <p>15 The City argues the operational funding of Lot 707 in its objection. That does not make Exhibit 12 irrelevant.</p> <p>16 The City’s objection is also improper because part of it, e.g., the references to the Cervantes Decl., are themselves objectionable. (See separately filed Petitioner’s Evidentiary Objections to City’s Declarations.)</p>

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	<p>property “operated, leased, or maintained, or any combination thereof, by the political subdivision through money derived by taxation or assessment.” SX 12 merely establishes that special parking revenue trust funds (defined LAAC § 5.117, at Silversteing [sic] Decl., Exh. C) were used to purchase Lot 707. The exhibit provides no facts concerning the source of funds used to operate, lease, or maintain Lot 707 as required by Section 8698(c) and the definition of “public facility.” Nor does SX 12 connect to or support any other evidence that demonstrates the source of funding used to operate, maintain, or lease Lot 707. It is irrelevant.</p> <p>Also, Lot 707 meets the definition of “public facility” because Lot 707 parking enforcement and violation collection operations are paid for by general revenue funds which are derived from public taxes. (Declaration of Roy Cervantes, ¶ 3).</p> <p>The exhibit is further irrelevant because whether 707 qualifies as a “public facility” is of no consequence. Section 8698.4(a)(1)(B) states, “This section applies only to a public facility or</p>	
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	<p>homeless shelters reserved entirely for the homeless pursuant to this chapter.” (emphasis added). The City need not demonstrate Lot 707 is a “public facility” because it will operate as a homeless shelter.</p>	
<p>3. Los Angeles Administrative Code § 5.117. (Silverstein Declaration, Exh. C)</p>	<p>Irrelevant (Evid. Code § 350).</p> <p>Exhibit C, to the Declaration of Robert Silverstein is irrelevant. It presents Los Angeles Administrative Code (LAAC) section 5.117 (Use of Money Deposited in Parking Meters and Revenue from Public Off-Street Parking Facilities.). Section 5.177 establishes that all money derived from City parking meters and parking lot fees are provided to a “Special Parking Revenue Fund” (SPRF) and states the purposes for which those funds may be used.</p> <p>Petitioner cites it in support of its incorrect and irrelevant contention that Lot 707 does not meet the definition of “public facility” at Government Code section 8698(c), thus, the City’s Midvale Shelter approval cannot rely on Section 8698.4. (Pet. Trial Brief, p. 18).</p> <p>Exhibit C should be excluded for the same</p>	<p>The City’s objection is improper, and should be stricken. The City is simply attempting to extend its opposing brief arguments.</p> <p>Exhibit C is relevant to show parking enforcement cost is not considered part of the operation of parking lots in LAAC § 5.117.</p>

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	<p>reasons the City stated above in City Objection No. 2 to SX 12.</p> <p>Exhibit C offers no evidence concerning whether Lot 707 is a “public facility.” Section 8698(c) defines a “public facility” as public property “operated, leased, or maintained, or any combination thereof, by the political subdivision through money derived by taxation or assessment.” LAAC section 5.177 does not establish the source of funds used to operate, lease, or maintain Lot 707 – it merely defines SPRF funds and states how those funds can be used. Nor does Exhibit C connect or support any other evidence that demonstrates the source of funding used to operate, maintain, or lease Lot 707.</p> <p>Also, Lot 707 meets the definition of “public facility” because Lot 707 parking enforcement and violation collection operations are paid for by general revenue funds, which are derived from public taxes. (Declaration of Roy Cervantes, ¶ 3).</p> <p>The exhibit is further irrelevant because whether 707 qualifies as a “public facility” is of no</p>	
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	<p>consequence. Section 8698.4(a)(1)(B) states, “This section applies only to a public facility or homeless shelters reserved entirely for the homeless pursuant to this chapter.” (emphasis added). The City need not demonstrate Lot 707 is a “public facility” because it will operate as a homeless shelter.</p>	
<p>4. Comment inserted on duplicate draft pages of Midvale Project construction Bridging Documents. (SX 15)</p>	<p>Irrelevant (Evid. Code § 350); Lack of personal knowledge / Foundation (Evid. Code §§ 702(a), (800))</p> <p>The six pages of SX 15 present only three unique pages from drafts of Bridging Documents concerning the Midvale Project construction. (Declaration of Marina Quiñónez, BOE senior architect [Quiñónez Decl.] ¶ 6). SX 15 pages 1 and 3 are the same GO (General Overview) coversheet, pages 2 and 4 are the same E001 (Electrical Legends and Notes) sheets with draft comments inserted, and page 6: is the E001 (Electrical Legends and Notes) sheet of plans with no comments showing. (Id., ¶ 7). The box on pages 2 and 4 comments were inserted by Son Voung, a mid-level engineer at BOE, at least a year after the City’s approval of the Midvale Project. (Id.). Mr.</p>	<p>Exhibit 15 shows City staff annotations on the plans for Midvale. The staff member included ED1 and ED3 as bases for the project. That is relevant to key issues.</p> <p>The document was provided to Petitioner in response to a Public Records Act request. The City complains about the pages of the documents as created by the City. That is not a valid objection.</p> <p>Also, page 6 of Exhibit 15, which is not marked as draft, provides: “THIS PROJECT IS PURSUANT TO THE LOS ANGELES MUNICIPAL CODE SECTION 12.80, THE CITY OF LOS ANGELES MAYOR’S EXECUTIVE DIRECTIVE #24, THE LOS ANGELES EMERGENCY SHELTER ORDINANCE, THE EMERGENCY DECLARATION, COUNCIL FILE 2C-0841 AND THE 2016</p>

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	<p>Young does not have the authority or expertise to determine the legal authority upon which the City Council’s approval of the Midvale Project could be based. (Id. ¶ 8).</p> <p>Fix cites the draft comment on SX 15 pages 2 and 4, for the proposition that “Project construction plans appear to justify the Project under LAMC § 12.80, ED1, ED3 and ED7”. (Pet. Trial Brief, p. 9:16-17, 12:27-1, 18:10-11).</p> <p>Mr. Young lacks the foundation to know the basis upon which the City’s Project Approval is legally proper, the only purpose for which Fix presents SX 15.</p> <p>Nor are the sheets at SX 15 final documents. These are draft plans to allow construction contractors to estimate their project costs. (Quiñónez Decl. ¶ 7). The project construction contractor will alter them before they become final, which has not yet occurred. (Id.) The draft comment on draft plans by a mid-level engineer lacking the foundation to know what is stated in the comments is not relevant to establishing the basis upon which the City’s approval of the Midvale Project is legally proper.</p>	<p>CALIFORNIA BUILDING ENERGY EFFICIENCY STANDARD SECTION 100.0(A), EXCEPTION #2, AS DIRECTED BY THE LOS ANGELES DEPARTMENT OF BUILDING AND SAFETY.”</p> <p>The exhibit is also relevant to show Midvale proceeds under LAMC § 12.80, of which the City seeks to distance itself in its opposing trial brief.</p>
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PROOF OF SERVICE

I, ESTHER KORNFELD, declare:

I am a resident of the state of California and over the age of eighteen years, and not a party to the within action; my business address is The Silverstein Law Firm, 215 North Marengo Ave, Third Floor, Pasadena, California 91101-1504. On November 4, 2024, I served the within document(s):

**PETITIONER’S REPLY TO CITY’S OBJECTIONS TO PETITIONER’S
OPENING TRIAL BRIEF EXHIBITS**

by transmitting the document(s) listed above via e-mail to the person(s) named below at the respective e-mail addresses and receiving confirmed transmission reports indicating that the document(s) were successfully transmitted.

**CASE NAME: FIX THE CITY, INC., a California Nonprofit Corporation v.
CITY OF LOS ANGELES, a municipal corporation; et al.**
CASE NO.: 23STCP04410

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 4, 2024, at Pasadena, CA.

/s/ Esther Kornfeld

ESTHER KORNFELD

SEE ATTACHED SERVICE LIST

SERVICE LIST

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