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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 Fix the City, Inc., a California Nonprofit  
16 Corporation,

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.: 23STCP04410

*Honorable James C. Chalfant*  
*Department 85*

**City Objections to Petitioner's Supplemental  
Request for Judicial Notice Made in Support  
of Improper Reply Arguments**

*Action Filed: December 5, 2023*

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

24 Respondent City of Los Angeles ("City") submits the following objections to all but one  
25 of the exhibits (Nos. 77 & 79 to 89) to the Supplemental Request for Judicial Notice filed by  
26 Petitioner Fix the City ("Fix") presenting improper Reply evidence in support of improper  
27 Reply arguments.  
28

**OBJECTIONS**

1  
2 **1. EXHIBIT 77: City’s June 16, 2020, CCP 1094 Motion, filed in *Friends of Waverly,***  
3 ***Inc. v. City of Los Angeles*, LASC Case No 20STCP00082**

4 Objection Grounds: (A) Relevance; (B) Improper new reply argument and evidence.

5 **A. *Relevance***

6 Fix’s request for judicial notice of new reply Exhibit 77 should be denied because it is  
7 not relevant not demonstrating any issue presented by the parties. (See, *Mangini v. R. J.*  
8 *Reynolds Tobacco Co.*, 7 Cal. 4th 1057, 1063 (1994) overruled on other grounds, *In re*  
9 *Tobacco Cases II* (2007) 41 Cal. 4th 1257 [judicial notice allowed only of relevant matters];  
10 Evid. Code § 352). The City’s 2020 legal argument made in *Friends of Waverly* is not relevant  
11 to proving any issue in dispute. The City’s trial brief here presented two independent bases  
12 upon which approval of the Midvale Shelter is proper as a matter of law: (1) Project approval  
13 is authorized by Los Angeles Municipal Code section 12.03 and 12.08 which apply State  
14 shelter crisis streamlining provisions of Government Code section 8698 *et. seq.*, as shown by  
15 the City’s consistent approval of identical low barrier navigation center projects pursuant to the  
16 same City laws (City Trial Brief, pp. 13 – 14); and (2) even if not authorized by Section 12.03  
17 or 12.80 as Fix incorrectly contends, the Mayor’s February 10, 2023, Executive Directive 3  
18 (“ED-3”) set aside those Code provisions and only applies the Government Code section  
19 8698’s shelter crisis streamlining requirements, with which the Midvale Project complies. (*Id.*,  
20 pp. 18-21; Exh 48, ED-3).

21 Fix’s reply incorrectly asserts the City’s 2020 *Friends of Waverly* legal brief conflicts  
22 with the City’s October 2024 trial brief filed in this action because, in 2020, the City did not  
23 assert the ED-3 in the City’s *Friends of Waverly* brief to support approval of a similar  
24 homeless shelter. (Reply, pp. 12-13). ED-3, however, did not exist until 2023. (Exh. 48). The  
25 City could not have discussed ED-3 in its 2020 *Friends of Waverly* brief. Thus, the City’s 2020  
26 legal arguments cannot conflict with its 2024 brief filed in this action, discussing a provision of  
27 law that did not exist four years ago. Moreover, the City’s 2020 *Friends of Waverly* argument  
28 quoted at pages 12 to 13 of Fix’s Reply is entirely consistent with the City’s argument here that

1 the Midvale Project approval is authorized by LAMC 12.03 and 12.08. The City has made this  
2 argument in both actions. The City’s new and additional argument here that approval need not  
3 be consistent with LAMC 12.03 or 12.08 is also correct based upon application of ED-3 which  
4 the Mayor adopted in 2023, clearing the deck of the very type of issues Fix attempts to assert  
5 in this action. Had ED-3 existed in 2020, the City would have asserted it in the *Friends of*  
6 *Waverly* case just as it has done here. The new exhibit Fix asserts on reply for the first time is  
7 not relevant to supporting this new point Fix failed to assert in its trial brief.

8 The City does not object to Fix’s request for judicial notice of Reply Exhibit 78, the trial  
9 court’s order granting the City’s 2020 *Friends of Waverly* motion presented at Exhibit 77 and  
10 finding the City’s low barrier navigation centers are authorized by LAMC sections 12.03 and  
11 12.80 just as the City here has argued. (Reply Brief, p. 13:6-8; Exh. 78 at p. 5).

12 **Objection No. 1.A (Relevance): Sustained: \_\_\_\_\_ Overruled \_\_\_\_\_.**

13  
14 ***B. Improper New Reply Points and Evidence***

15 Additionally, Fix’s new argument based upon the 2020 *Friends of Waverly* brief and the  
16 brief itself should not be considered for any purpose. The general rule of trial court motion  
17 practice is that new evidence is not permitted with reply papers and, “[T]he inclusion of  
18 additional evidentiary matter with the reply should only be allowed in the exceptional case ....”  
19 (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1538). While new reply evidence may be  
20 allowed to respond to an issue first raised by a party opposing a motion, it is not allowed  
21 simply to support an issue raised, but not established by the moving party’s papers. (See  
22 *Carbajal v. CWPSC, Inc.* (2016) 245 Cal.App.4th 227, 241). The rule applies both to new  
23 evidence as well as new arguments. “Points raised for the first time in a reply brief will  
24 ordinarily not be considered, because such consideration would deprive the respondent of an  
25 opportunity to counter the argument.” (*American Drug Stores, Inc. v. Stroh* (1992) 10  
26 Cal.App.4th 1446, 1453 (citing, *Neighbours v. Buzz Oates Enterprises* (1990) 217 Cal.App.3d  
27 325, 335); See also, *Regency Outdoor Advertising, Inc. v. Carolina Lanes, Inc.* (1995) 31  
28 Cal.App.4th 1323, 1333 [court need not reach new argument raised in reply].) Further, denial

1 of judicial notice is particularly appropriate where the material is “further support.” (*Newhall*  
2 *County Water Dist. v. Castaic Lake Water Agency* (2016) 243 Cal.App.4th 1430, 1450).

3 Finally, new reply argument or evidence may only be considered if the opposing party  
4 is provided the opportunity to respond. (*Plenger v. Alza Corp.* (1992) 11 Cal.App.4th 349,  
5 362). The City’s relevance objections stated herein constitute the City’s effort to respond to  
6 Fix’s improper new Reply evidence and arguments. (The City refers below to the legal  
7 argument presented in this Section 1.B as “**New Reply Points and Evidence Law.**”)

8 Fix’s *Friends of Waverly* argument and Exhibit 77 is not a response to a new issue  
9 raised by the City’s Trial Brief, but instead purports to present further support for Fix’s trial  
10 brief arguments where Fix contended that the Midvale Project approval could not be upheld  
11 pursuant to either ED-3 or LAMC section 12.03 and 12.80. (Fix Trial Brief, pp. 11-16 & 18).  
12 The City’s 2020 *Friends of Waverly* brief at Exhibit 77 was publicly filed more than four years  
13 before Fix filed its trial brief here in August of 2024. If Fix believed the *Friends of Waverly*  
14 brief supported its trial contentions, it was required to present the Exhibit and assert its  
15 argument in its moving papers, not assert them for the first time in reply.

16 **Objection. No. 1.B (Reply Evidence & Argument):**

17 **Sustained: \_\_\_\_ Overruled \_\_\_\_\_.**

18  
19 **2. EXHIBIT 79: LAMC Section 57.105.6.11**

20 Objection Grounds: (A) Relevance; (B) Improper new reply argument and evidence.

21 **A. *Relevance***

22 Fix’s request for judicial notice of Exhibit 79 should be denied because it is not relevant  
23 to Fix’s improper effort to supplement its trial brief argument asserting the Midvale Shelter is a  
24 Community Care Facility. (See, *Mangini, supra*, 7 Cal.4th at p. 1063; Evid. Code § 352). Fix’s  
25 Trial brief incorrectly argued that the Midvale Shelter is not a “Shelter for the Homeless” as  
26 defined by Section 12.03 and required by Section 12.80. (Fix Trial Brief, pp. 13-16). Section  
27 12.80 states that’s that the definition of “Shelter for the Homeless” is provided at Section  
28 12.03. Section 12.03, in turn, provides that a “ ‘community care facility’ as defined by

1 California Health and Safety Code Section 1502, which provides temporary accommodations  
2 to homeless persons and/or families and which meets the standards for shelters contained in  
3 Title 25, Division 1, Chapter 7 of the California Code of Regulations” is not a “Shelter for the  
4 Homeless.” (Exh. 26). Section 12.03 does not incorporate or reference LAMC Section  
5 57.105.6.11 (Exh. 79) as any component of the definition of “Shelter for the Homeless” and  
6 Section 57.105.6.11 nowhere states it has any relevance to the definition of “Shelter for the  
7 Homeless” stated at Section 12.03 or 12.80. Exhibit 79 is not relevant to any issue in this  
8 action. (Reply, p. 11:11-18).

9 **Objection No. 2.A (Relevance): Sustained: \_\_\_\_\_ Overruled \_\_\_\_\_.**

10  
11 ***B. Improper New Reply Points and Evidence***

12 Judicial notice should not be taken of Exhibit 79 because it improperly constitutes new  
13 additional reply argument to support arguments Fix made in its trial brief. (See New Reply  
14 Points and Evidence Law above). Fix’s trial brief already incorrectly argued that the Midvale  
15 shelter is a community care facility, thus, cannot be approved pursuant to LAMC section  
16 12.80. (Fix Trial Brief, pp. 14-15). Fix is not entitled to present additional law in support of its  
17 argument in reply which Fix did not already assert and which was not raised by the City’s trial  
18 brief. (See Reply, p. 11:11-18).

19 **Objection. No. 2.B (Reply Evidence & Argument):**

20 **Sustained: \_\_\_\_\_ Overruled \_\_\_\_\_.**

21  
22 **3. EXHIBIT 80: “FY 24-25 Tiny Home Interim Housing Program Scope of Required  
23 Services.”**

24 Objection Grounds: (A) Not shown to be the subject of judicial notice and  
25 authentication; (B) Truth of judicially noticed writings and hearsay; (C) Relevance; (D)  
26 Improper new reply argument and evidence.

27 ***A. Not shown to be the subject of judicial notice and failure to authenticate.***

28 Fix’s Supplemental Request for Judicial Notice does not specify the legal basis upon

1 which it seeks judicial notice of Exhibit 80 (or any of Exhibits 77 to 89 for that matter). Exhibit  
2 80 is a document bearing the title “FY 24-25 Tiny Home Interim Housing Program Scope of  
3 Required Services.” Fix’s Supplemental Request for Judicial Notice generically cites,  
4 “Evidence Code Section 452(b) (judicial notice of the “regulations and legislative enactments  
5 issued by or under the authority of the United States or any public entity in the United States”)  
6 and 452 (c) (judicial notice of “official acts of the legislative, executive, and judicial  
7 departments of the United States and of any state of the United States.”) (Supp. RJN,  
8 unnumbered p. 2). Fix never links any specific new exhibit to either of these provisions,  
9 presumably asserting they both apply to all exhibits. However, neither Mr. Link’s declaration  
10 in support of Fix’s Supplemental RJN or any other fact submitted by Fix shows Exhibit 80 is a  
11 regulation or legislative enactment or the official act of any legislative, executive, or judicial  
12 department of the United States or a state. (See, Supp. RJN, unnumbered p. 9, Link Decl., ¶ 6).  
13 Fix does not demonstrate Exhibit 80 qualifies for judicial notice on any basis.

14         Additionally, Fix does not authenticate Exhibit 80, merely presenting Attorney Link’s  
15 declaration stating he downloaded the document from a website address, without documenting  
16 the source of the web link or its reliability or establishing Mr. Link’s basis to know what it is.  
17 (Supp. RJN, unnumbered p. 9, Link Decl., ¶ 6). To establish authenticity, the party introducing  
18 the writing must introduce “evidence sufficient to sustain a finding that it is the writing that the  
19 proponent of the evidence claims it is” or establish “such facts by any other means provided by  
20 law.” (Evid. Code, § 1400.) Fix presents no information from a witness with percipient  
21 knowledge explaining what Exhibit 80 is.

22         This is particularly true because Fix cites Exhibit 80 purportedly to show that a “new”  
23 Request for Proposals (“RFP”) for a shelter operator “has now been released.” (Reply, p. 9:27-  
24 29). Neither Mr. Link’s declaration nor Exhibit 80 demonstrate it is part of an RFP, the date of  
25 a “new” RFP, or what entity is alleged to have issued the document. Fix has demonstrated only  
26 that Mr. Link downloaded Exhibit 80 from a website address, and nothing more.

27         **Objection. No. 3.A (Failure to Authenticate or Show Judicial Notice Grounds):**

28         **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

1           ***B. Judicial Notice of Truth of Document Statements and Hearsay.***

2           Fix improperly presents Exhibit 80 for the truth of its contents, purportedly to establish  
3 the fact that Midvale Shelter residents will be allowed to remain in the Shelter indefinitely.  
4 (Reply, p. 15). Judicial notice may not be taken of the truth of matters stated in such records.  
5 (*Mangini, supra*, 7 Cal.4th at p. 1063.) Fix cites Exhibit 80 not merely to show the cited words  
6 of the document exist, but that they will govern the operation of the Midvale Shelter in a  
7 particular manner. This is not allowed. Moreover, the statements in this document constitute  
8 inadmissible hearsay. (Evid. Code, § 1200).

9           **Objection. No. 3.B (Improper Judicial Notice of Truth of Document Statements;  
10 Hearsay): Sustained: \_\_\_\_ Overruled \_\_\_\_.**

11  
12           ***C. Relevance***

13           Fix’s request for judicial notice of Exhibit 80 should be denied because it is not relevant  
14 to Fix’s improper effort to supplement its trial brief argument asserting that the Midvale  
15 Shelter will allow residents to stay beyond six months. (See, *Mangini, supra*, 7 Cal.4th at p.  
16 1063; Evid. Code, § 352; Fix Trial Brief, p. 14:15-22). As the City documented in its Trial  
17 Brief, issues concerning the operation of the Midvale Shelter are not ripe for court  
18 consideration because no operational contract yet exists. (City Trial Brief, pp. 21-22) (Fix’s  
19 reply brief does not address this fact or law). Until such a contract exists, no basis exists to  
20 determine which desired Shelter requirements an operator will agree to provide, and the  
21 contract may simply state that residents may to remain beyond six months. Fix’s contentions  
22 continue to constitute speculation. Further, the City’s Trial Brief shows that ED-3 sets aside the  
23 requirements of Section 12.03, which presents the durational limits asserted by Fix. (*Id.*, pp.  
24 18-21). Fix pulls language out of an unauthenticated document not shown to be a City  
25 document, and asserts it supersedes all of the clear language of the City’s specific project  
26 approvals establishing that the Midvale project will provide transitional shelter of a limited  
27 duration – not long-term housing as Fix pretends. (See Exh. 51, RMM Decl., Vol. 1, pp. 206  
28 and 217-18 at ¶ B.2). The rooms will consist of a bed and bathroom, not long-term housing.

1 (*Id.*, p. 220 [“The Project is designed to provide privacy to participants by providing each  
2 family or individual with their own sleeping space. There are separated sleeping spaces with  
3 bathrooms in each “ensuite” unit.”]) Exhibit 80 does not demonstrate a relevant fact.

4 **Objection. No. 3.C (Relevance): Sustained: \_\_\_\_ Overruled \_\_\_\_.**

5  
6 **D. Improper New Reply Points and Evidence.** Judicial notice should not be taken  
7 of Exhibit 80 because it improperly constitutes new additional reply argument solely in support  
8 of Fix’s trial brief arguments. (See New Reply Points and Evidence Law above). Exhibit 80  
9 appears to be an updated version of Exhibit 16, “FY 23-24 Tiny Home Interim Housing  
10 Program Scope of Required Services” which Fix submitted in support of its opening trial brief.  
11 (“23/24 SRS”). Fix’s reply first cites to both Exhibit 16 and page 18 of Exhibit 80 to support  
12 the same proposition. (Reply, p. 15:5-6). Fix’s reply also quotes page 7, paragraph 17 of  
13 Exhibit 80. (Reply, p 15:14-19). The identical quote is found at page 7, paragraph 17 of Exhibit  
14 16. (August 27, 2024, Stipulation Regarding Exhibits, unnumbered PDF page 355, 23/24  
15 SRS). The identical language is also found in the 23/24 SRS. (Stipulation Regarding Exhibits,  
16 unnumbered PDF page 355, 23/24 SRS page 7. Exhibit 80 and Fix’s reply improperly reassert  
17 the same argument and facts it already presented in its trial brief, thus is not properly presented  
18 on reply.

19 **Objection. No. 3.D (Reply Evidence & Argument):**

20 **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

21  
22 **4. EXHIBIT 81: Electrical Plans.**

23 Objection Grounds: (A) Improper new reply evidence; (B) Failure to authenticate and  
24 no basis established for judicial notice; (C) Truth of judicially noticed writings and hearsay;  
25 (D) Relevance improper legal opinion testimony.

26 **A. Improper New Reply Evidence**

27 Judicial notice should not be taken of Exhibit 81 because Fix admits the document was  
28 available to it prior to when it filed its trial brief, but that Fix did not submit it at the time. (Link



1 Decl., ¶ 7, Supplemental RJN, unnumbered PDF p. 9). It was improper for Fix to withhold this  
2 document and assert it only upon Reply. (See New Reply Points and Evidence Law above).

3 **Objection. No. 4.A (Reply Evidence & Argument):**

4 **Sustained: \_\_\_\_ Overruled \_\_\_\_\_.**

5  
6 ***B. Failure to Authenticate/No Basis for Judicial Notice Shown***

7 Fix’s Supplemental RJN does not specify the legal basis upon which Fix seeks judicial  
8 notice of Exhibit 81, electrical plans. The Supplemental RJN generically cites, “Evidence Code  
9 Section 452(b) (judicial notice of the “regulations and legislative enactments issued by or  
10 under the authority of the United States or any public entity in the United States”) and 452 (c)  
11 (judicial notice of “official acts of the legislative, executive, and judicial departments of the  
12 United States and of any state of the United States.”) (Supp. RJN, unnumbered p. 2). Fix never  
13 links any specific new exhibit to either of these provisions, presumably asserting they both  
14 apply to all exhibits. However, neither Mr. Link’s declaration in support of Fix’s Supplemental  
15 RJN or any other fact submitted by Fix shows Exhibit 81 is a regulation or legislative  
16 enactment or the official act of any legislative, executive, or judicial department of the United  
17 States or a state.(See. Supp. RJN, unnumbered p. 9, Link Decl., ¶ 6). Fix does not demonstrate  
18 Exhibit 81 qualifies for judicial notice on any basis.

19 Additionally, Fix does not authenticate Exhibit 81. Mr. Link’s declaration merely states  
20 it is an accurate copy of Plans “obtained through a California Public Records Act.” (Link Decl.  
21 ¶ 7, Supp. RJN unnumbered PDF p. 9). Mr. Link does not state what public agency produced  
22 the record, to whom, or identify the request, when it was made, or who made it. Fix presents a  
23 document to the Court without establishing any foundation for it or authenticating it and  
24 requests the Court take judicial notice. To establish authenticity, the party introducing the  
25 writing must introduce “evidence sufficient to sustain a finding that it is the writing that the  
26 proponent of the evidence claims it is” or establish “such facts by any other means provided by  
27 law.” (Evid. Code, § 1400.) Fix presents no sworn facts of anyone with percipient knowledge  
28 explaining what Exhibit 81 is, or that it is an authentic copy of a particular writing.

1 **Objection. No. 4.B (Failure to Authenticate or Show Judicial Notice Grounds):**

2 **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

3  
4 **C. *Judicial Notice of Truth of Document Statements and Hearsay***

5 Fix improperly presents Exhibit 81 for the truth of its contents, purportedly to establish  
6 the legal basis upon which the City approved the Midvale Project. (Reply, p. 10:7-12). Judicial  
7 notice may not be taken of the truth of matters stated in records judicially noticed. (*Mangini*,  
8 *supra*, 7 Cal.4th at p. 1063.) Moreover, the statements in Exhibit 81 constitute inadmissible  
9 hearsay. (Evid. Code, § 1200).

10 **Objection. No. 4.C (Improper Judicial Notice of Truth of Document Statements;**

11 **Hearsay): Sustained: \_\_\_\_ Overruled \_\_\_\_.**

12  
13 **D. *Relevance and Improper Legal Opinion***

14 Judicial notice may not be taken because the Exhibit is not relevant. (See, *Mangini*,  
15 *supra*, 7 Cal. 4th at p. 1063; Evid. Code, § 352). A legal conclusion may not be presented as a  
16 matter of either lay or expert testimony and a question of law may not be the subject of  
17 testimony. (*WRI Opportunity Loans II, LLC v. Cooper* (2007) 154 Cal.App.4th 525, 532 n. 3;  
18 *Hoover Community Hotel Development Corp. v. Thomson* (1985) 167 Cal.App.3d 1130, 1137).  
19 Fix presents a statement found in Exhibit 81 and asserts it shows that the Midvale Project is  
20 subject to the requirements of LAMC sections 12.80 and 12.03. (Reply, p. 10:9-14). Whether  
21 that is the case is an issue of law for the Court to determine and is not the subject of testimony  
22 presented via a City engineer as found on a document. (*Summers v. A.L. Gilbert Co.* (1999) 69  
23 Cal.App.4th 1155, 1178 [Court decides questions of law]). Further, as stated in the City’s  
24 October 7, 2024 Objection to Fix’s initial evidence, Son Voung, a mid-level engineer at BOE,  
25 inserted the language Fix again cites and Mr. Voung does not possess sufficient foundation to  
26 determine the legal authority upon which the City Council’s approval of the Midvale Project  
27 could be based. (City October 7, 2024 Objection No. 4).

28 Additionally, the purported “signed” plans would still only be the final bridging

1 documents to enable contractors to submit estimated bids for the Midvale Project construction  
2 contract, as explained at Object No. 4 to the City’s October 7, 2024 Objections to Fix’s initial  
3 trial evidence. (Citing the Declaration of Maria Quiñónez Decl. filed October 7, 2024 at ¶ 7,  
4 documenting that final construction plans would come later). Fix’s Supplemental RJN states  
5 that Fix possessed the Exhibit 81 plans before Fix filed its August 27, 2024 trial brief. (Supp.  
6 RJN Link Decl., ¶ 7). Thus, the “signed” plans are simply another iteration of the draft  
7 bridging document plans Maria Quiñónez discussed in her declaration filed with the Court  
8 October 7, 2024. Exhibit 81 adds nothing new to the case, thus is not relevant to Fix’s Reply  
9 brief arguments and should be excluded for the same reasons stated in the Objection No. 4 to  
10 Fix trial evidence filed by the City October 7, 2024.

11 **Objection. No. 4.D (Relevance and Improper Legal Opinion):**

12 **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

13  
14 **5. EXHIBIT 82: 2015 City Attorney Opinion**

15 Objection Grounds: (A) Relevance; (B) Improper new reply argument and evidence.

16 **A. *Relevance***

17 Fix’s request for judicial notice of Exhibit 82 should be denied because it is not relevant  
18 to the argument Fix improperly makes on Reply for the first time. (See, *Mangini, supra*, 7 Cal.  
19 4th at p. 1063; Evid. Code, § 352). Once again, Fix fails to recognize that the City’s trial brief  
20 here presented two independent bases upon which approval of the Midvale Shelter is proper as  
21 a matter of law: (1) Project approval is authorized by Los Angeles Municipal Code section  
22 12.03 and 12.08 which apply State shelter crisis provisions at Government Code section 8698  
23 *et. seq.*, as shown by the City’s consistent approval of identical low barrier navigation center  
24 projects pursuant to the same City laws (City Trial Brief, pp. 13 – 14); and (2) even if the  
25 project did not meet any requirement of Sections 12.03 or 12.80, the project approval was  
26 proper because Mayoral ED-3 set aside those Code provisions as applied to the Midvale  
27 Project and only required compliance with Section 8698, the requirements of which the  
28 Midvale Project meets. (*Id.*, pp. 18-21; Exh 48, ED-3).

1 Fix's reply asserts the City Attorney 2015 opinion means ED-3 cannot set aside LAMC  
2 section 12.03 and 12.80. (Reply, p. 12:14-23). The contention makes no sense. The 2015  
3 opinion could not address the effect of ED-3 which was not enacted until nearly a decade later.  
4 The 2015 opinion is not relevant to the contention for which the Reply cites it. Moreover, the  
5 2015 City Attorney opinion is consistent with the City's trial brief argument that, if not set  
6 aside by ED-3, the Midvale Project approval complies with the requirements of Section 12.03  
7 and 12.80. Thus, Fix can identify no relevant purpose supporting the need for judicial notice of  
8 the 2015 judicial opinion.

9 **Objection No. 5.A (Relevance): Sustained: \_\_\_\_\_ Overruled \_\_\_\_\_.**

10  
11 ***B. Improper New Reply Points and Evidence***

12 Additionally, possessed the 2015 City Attorney opinion before Fix filed its opening trial  
13 brief August 27, 2024. (See Link Decl., ¶ 8, Supp. RJN unnumbered PDF page. 10). No basis  
14 exists authorizing Fix to seek judicial notice of this record for the first time in reply simply to  
15 buttress Fix's incorrect trial brief argument that ED-3 does not authorize the Midvale Project  
16 approval. (Reply, p. 12:14-18; Fix Trial Brief, pp. 18-20) (See above, New Reply Points and  
17 Evidence Law).

18 **Objection. No. 5.B (Reply Evidence & Argument):**

19 **Sustained: \_\_\_\_\_ Overruled \_\_\_\_\_.**

20  
21 **6. EXHIBITS 83 & 84: City Charter section 240 and LAAC Section 2.1**

22 Objection Grounds: (A) Improper new reply evidence; (B) Relevance.

23 ***A. Improper New Reply Evidence***

24 Judicial notice should not be taken of Exhibits 83 and 84 because they support a brand-  
25 new argument attacking the validity of the City's approval of the Midvale Project on  
26 procedural grounds not asserted in Fix's trial brief, its writ petition, and not made in response  
27 to any City trial brief argument. Fix relies on Exhibits 83 and 84 to incorrectly assert for the  
28 first time that the Midvale Project was not approved by motion, which Fix now alleges was

1 required by Charter Section 240 and LAAC Section 2.1. (Reply, p. 15:23-37). It was improper  
2 for Fix to withhold this argument and citation to law and to assert it for the first time on reply  
3 as a new ground warranting its writ. (See New Reply Points and Evidence Law above).

4 **Objection. No. 6.A (Reply Evidence & Argument):**

5 **Sustained: \_\_\_\_ Overruled \_\_\_\_\_.**

6  
7 **B. Relevance**

8 Judicial notice may not be taken because the Exhibits are not relevant. (See, *Mangini*,  
9 *supra*, 7 Cal. 4th at p. 1063; Evid. Code, § 352). Charter section 240 and LAAC section 2.1 are  
10 not relevant to any issue because the evidence before this Court shows the Midvale Project was  
11 approved upon motion via City resolution as required by that Charter provision. The Exhibits  
12 do not support a viable argument. The components of the Official Action of the City Council  
13 approving the Midvale Project are presented at Exhibits 13, 14 and 49 to 52. Exhibit 49 is the  
14 October 20, 2023 Official Action of the Los Angeles City Council approving the Midvale  
15 Shelter project by adopting the October 4, 2023, Report from the Housing and Homelessness  
16 Committee of the City Council. (“HHC”). (October 7, 2024 Declaration of Robert Mahlowitz,  
17 Vol. 1., ¶ 15.a). The HHC Report moves the full City Council to adopt the report  
18 recommending approval of the Midvale Project. (*Id.*, Exh. 51, RMM Decl., Vol. 1, ¶ 15(b).  
19 [“After providing an opportunity for public comment, the Committee moved to approve the  
20 recommendations reflected above. This matter is now forwarded to the Council for its  
21 consideration.”])

22 The Council’s Official Action constitutes a resolution. “A resolution is commonly  
23 defined as ‘a formal expression of opinion, will, or intent voted by an official body or  
24 assembled group.’ (Merriam–Webster's Collegiate Dict. (11th ed. 2006) p. 1061.) A resolution  
25 does not require the same formality of enactment as a state statute or local ordinance, such as  
26 being initiated by a bill or having more than one reading. (*Marquez v. Medical Bd. of*  
27 *California* (2010) 182 Cal.App.4th 548, 557–58, citing *American Federation of Labor v. Eu*  
28 (1984) 36 Cal.3d 687, 708–709). For the first time on reply, Fix asserts that the HHC motion is

1 not a proper motion pursuant to Charter section 240 because Fix has identified different forms  
2 of motions presenting other similar low barrier navigation center shelters for Council action.  
3 (Reply, p. 15:23-37; Exh. 88). Charter section 240 and LAAC section 2.1 do not state that  
4 every motion made to the City Council must take the same form. Exhibits 83 and 84 are not  
5 relevant to demonstrating any issue warranting writ relief, particularly since neither Fix's writ  
6 petition nor its opening trial brief assert the Midvale Project was not presented to the City  
7 Council upon a motion or a proper motion.

8 **Objection. No. 6.B (Relevance): Sustained: \_\_\_\_ Overruled \_\_\_\_.**

9  
10 **7. EXHIBIT 88: Various Motions for Shelter Approvals**

11 Objection Grounds: (A) Improper new reply evidence; (B) Relevance.

12 **A. *Improper New Reply Evidence***

13 Fix cites the various motions presented at Exhibit 88 in support of its new and incorrect  
14 Reply contention that the City's approval of the Midvale Project was not made upon motion.  
15 (Reply, p. 15:23-37). It was improper for Fix to withhold this argument and citation to law  
16 from its trial brief and to assert it for the first time on reply in support of a contention never  
17 before raised. (See New Reply Points and Evidence Law above).

18 **Objection. No. 7.A (Reply Evidence & Argument):**

19 **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

20  
21 **B. *Relevance***

22 Judicial notice may not be taken because the Exhibit is not relevant. (See, *Mangini*,  
23 *supra*, 7 Cal. 4th at p. 1063; Evid. Code, § 352). As explained above at Objection No. 6 to new  
24 Exhibit 87, the City's approval of the Midvale Shelter was made upon motion as required by  
25 Charter section 240 and LAAC section 2.1. Exhibit 88 presents different forms of motions  
26 compared to the HHC Council Committee motion presenting the Midvale Project for full City  
27 Council consideration and approval but Fix identifies no law prescribing the precise format of  
28 a motion required to allow the City Council to take official action. Exhibit 88 is not relevant to

1 any issue presented by Fix’ operative first amended petition, any issue raised by its trial brief,  
2 any issue raised by the City’s trial brief, or any issue presented by Fix’s late-presented Reply  
3 contentions.

4 **Objection. No. 7.B (Relevance): Sustained: \_\_\_\_ Overruled \_\_\_\_.**

5  
6 **8. EXHIBIT 85: Application For Fire Sprinkler/Plan Check And Inspection**

7 Objection Grounds: (A) Improper new reply evidence; (B) Relevance.

8 **A. *Improper New Reply Evidence***

9 Fix cites Exhibit 85 in support of a new argument not made in its trial brief incorrectly  
10 asserting that the Midvale Project is blocked by application of Government Code section  
11 8698(c)(1). (Reply, p. 13:28-36) (notably, there is no subsection 1 to Section 8698 part (c).) It  
12 was improper for Fix to withhold this argument and citation to law from its trial brief and to  
13 assert it for the first time on reply. (See New Reply Points and Evidence Law above). This is  
14 particularly the case because the argument is incorrect and not supported by any fact.

15 **Objection. No. 8.A (Reply Evidence & Argument):**

16 **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

17  
18 **B. *Relevance***

19 Judicial notice may not be taken because the Exhibit and Fix’s new reply argument are  
20 not relevant to Fix’s writ. (See, *Mangini, supra*, 7 Cal. 4th at p. 1063; Evid. Code, § 352).  
21 Assuming Fix’s Reply brief intended to cite to Government Code section 8698.1(c) – rather  
22 than the statutory provision Fix cites which does not exist -- no evidence shows that the  
23 Midvale Project requires any type of permit that was once excused by Section 8698.1(c) before  
24 the provisions of that statute sunset January 1, 2023. The expiration of Section 8698.1(c) does  
25 not, as Fix’s Reply argues, preclude issuance of any and all permits needed to establish a  
26 homeless shelter (Reply, p. 14 p. 28-36). Section 8698.1(c) merely set aside the need for  
27 certain City fire permits until 2023. Exhibit 85, instead, shows the City is going through permit  
28 plan check for the Midvale Project and is following all applicable permitting laws. Exhibit 85

1 does not show the City is relying on the expired waiver provisions of Section 8698.1(c), thus is  
2 not relevant to any issue presented by Fix’s trial brief or the City’s trial brief and judicial  
3 notice should not be taken.

4 **Objection. No. 8.B (Relevance): Sustained: \_\_\_\_ Overruled \_\_\_\_.**

5  
6 **9. EXHIBIT 86: May 17, 2023 Maria Quinonez Email**

7 Objection Grounds: (A) Improper new reply evidence; (B) Failure to authenticate and  
8 no judicial notice basis established; (C) Truth of judicially noticed writings and hearsay; (D)  
9 Relevance: Purported improper legal opinion testimony.

10 **A. *Improper New Reply Evidence***

11 Judicial notice should not be taken of the May 17, 2023 email at Exhibit 86 because Fix  
12 does not demonstrate it is newly acquired evidence or present any reason why Fix did not  
13 present the email in support of its trial brief. The Reply cites Exhibit 86 as further support for  
14 Fix’s trial brief contention that the Midvale Project must comply with the requirements of Los  
15 Angeles Municipal Code section 12.80, but does not (Reply, p. 9:34-37; Fix Trial Brief, pp.  
16 13-16). In fact, the Reply declaration of James Link seeks to obfuscate the date Fix first  
17 obtained Exhibit 86 by not stating when he or Fix obtained a copy of the e-mail. Concerning  
18 the e-mail, the entirety of Mr. Link’s declaration states, “Exhibit 86 is a true and correct copy  
19 of the email of the City’s Marina Quinonez dated May 17, 2023 obtained by California Public  
20 Records Act request.” (Supplemental RJN, Link Decl., ¶ 12 at unnumbered PDF page 10).  
21 Whether or not Fix received new CPRA responses after filing its opening trial brief (not stated  
22 by Fix’s reply papers), judicial notice of new evidence presented by Fix merely to provide  
23 additional support for its trial brief contentions should not be taken on reply. (See New Reply  
24 Points and Evidence Law above).

25 **Objection. No. 9.A (Reply Evidence & Argument):**

26 **Sustained: \_\_\_\_ Overruled \_\_\_\_.**



1           ***B. Failure to Authenticate/No Basis for Judicial Notice Shown***

2           Fix’s Supplemental RJN does not specify the legal basis upon which it seeks judicial  
3 notice of Exhibit 86, the Quinonez e-mail. The Supplemental RJN generically cites, “Evidence  
4 Code Section 452(b) (judicial notice of the “regulations and legislative enactments issued by or  
5 under the authority of the United States or any public entity in the United States”) and 452 (c)  
6 (judicial notice of “official acts of the legislative, executive, and judicial departments of the  
7 United States and of any state of the United States.”) (Supp. RJN, unnumbered p. 2). Fix never  
8 links any specific new exhibit to either of these provisions, presumably asserting they both  
9 apply to all exhibits. However, neither Mr. Link’s declaration in support of Fix’s Supplemental  
10 RJN or any other fact submitted by Fix shows Exhibit 86 is a regulation or legislative  
11 enactment or the official act of any legislative, executive, or judicial department of the United  
12 States or a state. Fix does not demonstrate Exhibit 86 qualifies for judicial notice on any basis.

13           Additionally, Fix does not authenticate Exhibit 86. Mr. Link’s declaration merely states  
14 it was “obtained by California Public Records Act request.” (*Id.*). Mr. Link does not state what  
15 public agency produced the record, to whom, or identify the request, when it was made, or who  
16 made it. Fix presents a document to the Court without establishing any foundation for it or  
17 authenticating it and requests the Court take judicial notice. To establish authenticity, the party  
18 introducing the writing must introduce “evidence sufficient to sustain a finding that it is the  
19 writing that the proponent of the evidence claims it is” or establish “such facts by any other  
20 means provided by law.” (Evid. Code, § 1400.) Fix presents no sworn facts of anyone with  
21 percipient knowledge authenticating Exhibit 86 in any way.

22           **Objection. No. 9.B (Failure to Authenticate or Show Judicial Notice Grounds):**  
23           **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

24  
25           ***C. Judicial Notice of Truth of Document Statements and Hearsay***

26           Fix improperly presents Exhibit 86 for the truth of its contents, purportedly to establish  
27 the legal basis upon which the City approved the Midvale Project – 5 months after the May  
28 2023 e-mail at Exhibit 86. (Reply, p. 9:34-37; Exh. 49 [October 2023 Project Approval]).

1 Judicial notice may not be taken of the truth of matters stated in records judicially noticed.  
2 (*Mangini, supra*, 7 Cal.4th at p. 1063.) Moreover, the statement in this document constitutes  
3 inadmissible hearsay. (Evid. Code, § 1200).

4 **Objection. No. 9.C (Improper Judicial Notice of Truth of Document Statements;**  
5 **Hearsay): Sustained: \_\_\_\_ Overruled \_\_\_\_.**

6  
7 ***D. Relevance and Improper Legal Opinion***

8 Judicial notice may not be taken because the Exhibit is not relevant. (See, *Mangini,*  
9 *supra*, 7 Cal. 4th at p. 1063; Evid. Code, § 352). A legal conclusion may not be presented as a  
10 matter of either lay or expert testimony and a question of law may not be the subject of  
11 testimony. (*WRI Opportunity Loans II, LLC, supra*, 154 Cal.App.4th at p. 532 n. 3; *Hoover*  
12 *Community Hotel Development Corp., supra*, 167 Cal.App.3d at p. 1137). Fix presents a  
13 statement found in Exhibit 86 purportedly to establish that the Midvale Project must meet the  
14 requirements of LAMC section 12.80 as a matter of law. (Reply, p. 9:34-37). The Court  
15 determines questions of law which may not be the subject of testimony presented via a City  
16 engineer in a single remark in an internal City email not authenticated by Fix. (*Summers,*  
17 *supra*, 69 Cal.App.4th at p. 1178 [Court decides questions of law]).

18 **Objection. No. 9.D (Relevance and Improper Legal Opinion):**  
19 **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

20  
21 **10. EXHIBIT 87: July 27, 2023 Emails**

22 Objection Grounds: (A) Improper new reply evidence; (B) Failure to authenticate and  
23 no judicial notice basis established; (C) Undue confusion; (D) Truth of judicially noticed  
24 writings and hearsay; (E) Relevance: purported legal opinion testimony.

25 ***A. Improper New Reply Evidence***

26 Judicial notice should not be taken of either of the July 27, 2023 emails at Exhibit 87.  
27 The emails contain questions and responses between two or more persons, shown in black,  
28 blue, and red interlineated text, and there is no way to determine the author of the different

1 colors of text blocks from the face of the Exhibit. Fix presents this late reply evidence to  
2 support its reply brief contention that City Engineer Maria Quinonez stated that if LA Family  
3 Housing operates the Midvale Project, it would become a permanent housing facility rather  
4 than a temporary one. (Reply, p. 10:1-04 [Fix’s reply describes Exhibit 87 as a “July 27, 2023  
5 email from Quinonez where she indicates the Project is a 12.80 project and that if the Project  
6 uses a service provider such as LA Family Housing, that would change the Project to a  
7 “permanent interim housing project,” i.e., not a shelter for the homeless.”]). As detailed below,  
8 the email says no such thing and there is no way to determine which portions of Exhibit 87  
9 were authored by Ms. Quinonez. Before getting to that, however, Fix’s trial brief did not argue  
10 that the Midvale Shelter is a permanent shelter, thus, Exhibit 87 provides support for a new  
11 argument made for the first time in Reply.

12 Further, Fix does not demonstrate Exhibit 87 is newly acquired evidence or present any  
13 reason why Fix did not include the email in support of its trial brief. As with Fix’s presentation  
14 of Exhibit 86, the Reply declaration of James Link seeks to obfuscate the date he or Fix  
15 obtained the emails by not stating when that took place. Concerning the e-mail, the entirety of  
16 Mr. Link’s declaration states, “Exhibit 87 is a true and correct copy of the email of the City’s  
17 Marina Quinonez dated July 27, 2023 obtained by California Public Records Act request.”  
18 (Supplemental RJN, Link Decl., ¶ 13 at unnumbered PDF page 10). Whether or not Fix  
19 received new CPRA responses after filing its opening trial brief, a fact not asserted by Fix,  
20 judicial notice of evidence presented by Fix to support a new argument not made in its trial  
21 brief should not be taken on reply. (See New Reply Points and Evidence Law above).

22 **Objection. No. 10.A (Reply Evidence & Argument):**

23 **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

24  
25 ***B. Failure to Authenticate/No Basis for Judicial Notice Shown***

26 Fix’s Supplemental RJN does not specify the legal basis upon which it seeks judicial  
27 notice of Exhibit 87. Moreover, Mr. Link’s declaration does not accurately describe Exhibit 87,  
28 which appears to present a July 27, 2023 email from Zahcary Warma as well as one from Ms.

1 Quinonez. The Supplemental RJN generically cites, “Evidence Code Section 452(b) (judicial  
2 notice of the “regulations and legislative enactments issued by or under the authority of the  
3 United States or any public entity in the United States”) and 452 (c) (judicial notice of “official  
4 acts of the legislative, executive, and judicial departments of the United States and of any state  
5 of the United States.”) (Supp. RJN, unnumbered p. 2). Fix never links any specific new exhibit  
6 to either of these provisions, presumably asserting they both apply to all exhibits. However,  
7 neither Mr. Link’s declaration in support of Fix’s Supplemental RJN or any other fact  
8 submitted by Fix shows Exhibit 87 is a regulation or legislative enactment or the official act of  
9 any legislative, executive, or judicial department of the United States or a state. (See Supp.  
10 RJN, unnumbered PDF p. 10, Link Decl., ¶ 13). Fix does not demonstrate Exhibit 87 qualifies  
11 for judicial notice on any basis.

12 Additionally, Fix does not authenticate Exhibit 87. Mr. Link’s declaration merely states  
13 it was “obtained by California Public Records Act request.” (*Id.*) Mr. Link does not state what  
14 public agency produced the record, to whom, or identify the request, when it was made, or who  
15 made it. Fix presents a document to the Court without establishing any foundation for it or  
16 authenticating it and requests the Court take judicial notice. To establish authenticity, the party  
17 introducing the writing must introduce “evidence sufficient to sustain a finding that it is the  
18 writing that the proponent of the evidence claims it is” or establish “such facts by any other  
19 means provided by law.” (Evid. Code, § 1400.) Fix presents no facts by any person with  
20 percipient knowledge authenticating Exhibit 87 in any way.

21 **Objection. No. 10.B (Failure to Authenticate or Show Judicial Notice Grounds):**

22 **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

23  
24 **C. Undue Confusion**

25 Evid. Code, § 352 authorizes a court to exclude evidence if its probative value is  
26 substantially outweighed by the probability that its admission will (a) necessitate undue  
27 consumption of time or (b) create substantial danger of undue prejudice, of confusing the  
28 issues. Here, Exhibit 87 contains interlineated comments in red, blue, and black text with no

1 indication of the author or authors of any of the text. Fix asserts everything shown at Exhibit  
2 87 is an email from Marina Quinonez. (Link Decl., ¶ 13). Plainly, that is false. One of the  
3 emails at Exhibit 87 is from Mr. Warma. The face of these emails does not indicate who  
4 authored any of the contents. The Exhibit presents the risk of undue prejudice and confusion,  
5 and judicial notice should not be taken.

6 **Objection. No. 10.C (Undue Confusion and Prejudice):**

7 **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

8  
9 ***D. Judicial Notice of Truth of Document Statements and Hearsay***

10 Fix improperly presents Exhibit 87 for the truth of its contents, purportedly to establish  
11 a legal conclusion about the impact of contracting with LA Family Housing to operate the  
12 Midvale Shelter, which has not occurred. (Reply, p. 10:1-4). Judicial notice may not be taken  
13 of the truth of matters stated in records judicially noticed. (*Mangini, supra*, 7 Cal.4th at p.  
14 1063.) Moreover, the statements in this document constitute inadmissible hearsay. (Evid. Code,  
15 § 1200).

16 **Objection. No. 10.D (Improper Judicial Notice of Truth of Document Statements;**  
17 **Hearsay): Sustained: \_\_\_\_ Overruled \_\_\_\_.**

18  
19 ***E. Relevance and Improper Legal Opinion***

20 Judicial notice may not be taken because the Exhibit is not relevant. (See, *Mangini,*  
21 *supra*, 7 Cal. 4th at p. 1063; Evid. Code, § 352). First and most significantly, Fix’s Reply brief  
22 misstates the contents of the cited portion of Exhibit 87. That portion of Exhibit 87 states as  
23 follows:

24 [red text]: Oh this is *absolutely* huge. LA Family Housing's head of Real  
25 Estate mentioned ACHP was a major issue at an IH site of theirs; Tricia  
26 Keane at LAHD preliminarily indicated we would need to comply. We  
27 have an 11:30am meeting on 8/3 with Tricia, Joel Launchbaugh, Jorge  
28 Alcantar? How can we put this issue to rest? Should I send correspondence  
connecting all of us with LAHD? We very much need this item to be put to  
rest, otherwise the project may not pencil out.

[black text] Not sure why LA Family Housing is involved, your site will be

1 a temporary interim housing project, built under section 12.80. Unless you  
2 have now decided to build a permanent interim housing project. I have  
attached the ordinance that lists the only requirements that must be met.

3 Contrary to Fix’s Reply brief contentions, this exchange does not state that if LA  
4 Family Housing is involved, the Midvale Shelter becomes a permanent housing project.  
5 (Reply, p. 10:1-4). Instead, the first sentence of the black text shown at Exhibit 87 (whoever  
6 authored it) contains the following thoughts: (1) Not sure why LA Family Housing is involved;  
7 (2) your site will be a temporary interim housing project built under section 12.80. The next  
8 sentence asks a question: “Unless you have now decided to build a permanent interim housing  
9 project.” The email asks whether the project then under planning was going to change from  
10 temporary to permanent. It does not state that LA Family Housing’s involvement would cause  
11 that to occur. These are distinct topics discussed by the email. Had Fix properly presented this  
12 document in support of its trial brief, the City would have been able to present the Exhibit to  
13 Ms. Quinonez and Mr. Warma for declarations explaining the contents. Because Fix withheld  
14 the document, Fix is unable to demonstrate the meaning of the email’s statements, who  
15 authored the various portions, or show the emails are relevant even to supporting the new  
16 contentions improperly asserted in Fix’s Reply brief.

17 Finally, a legal conclusion such as the effect of involving LA Family Housing may not  
18 be presented as a matter of either lay or expert testimony and a question of law may not be the  
19 subject of testimony. (*WRI Opportunity Loans II, LLC, supra*, 154 Cal.App.4th at p. 532 n. 3;  
20 *Hoover Community Hotel Development Corp. v. Thomson* (1985) 167 Cal.App.3d 1130, 1137).  
21 That issue would be one for the court to determine, had Fix asserted the contention in its trial  
22 brief. (*Summers, supra*, 69 Cal.App.4th at p. 1178 [Court decides questions of law]).

23 **Objection. No. 10.E (Relevance and Improper Legal Opinion):**

24 **Sustained: \_\_\_\_ Overruled \_\_\_\_.**

25  
26 **11. EXHIBIT 89: February 28, 2023 City Council Resolution**

27 Objection Grounds: Relevance.

28 Fix’s request for judicial notice of Exhibit 89 should be denied because it is not relevant

1 to any argument Fix makes on Reply. (See, *Mangini, supra*, 7 Cal.4th at p. 1063; Evid. Code, §  
2 352). Fix cites the February 28, 2023, resolution at Exhibit 89 for the proposition that it set  
3 aside waivers of competitive bidding required by the City Charter and Administrative Code as  
4 of September 1, 2023. Once again, Fix gets its dates mixed up while also misunderstanding the  
5 City Charter. The Reply quotes the City’s purchase order for the Midvale modular project  
6 units which has a contract date of November 30, 2023. (Reply, p. 16:6-18 quoting Exhibit B to  
7 the Declaration of Charles Wee filed by the City October 7, 2024).

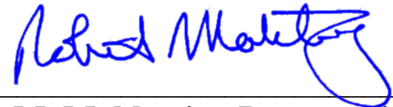
8 That contract identifies LAAC section 10.15 and says it allows competitive bidding to  
9 be set aside during a declaration of local emergency adopted by the City Council. Fix asserts  
10 that because the February 2023 resolution at Exhibit 89 provides that its competitive bidding  
11 set-aside expired before the LifeArk contract was created, the LifeArk contract could not be  
12 sole-sourced. (Reply, p. 16:6-18). Exhibit 89 is irrelevant to the Midvale Project. As the City’s  
13 trial papers documented, on July 5, 2023, the City Council adopted a new ordinance creating  
14 LAMC section 8.33 authorizing the Mayor to declare a local housing and homelessness  
15 emergency and authorizing her to set aside competitive bidding for contracts to address such a  
16 declaration of emergency. (City Trial Brief, pp. 18 & 26; Exh. 19). By ordinance, the City  
17 Council replaced the set-aside of City competitive bidding requirements provided by the  
18 February 2023 resolution at Exhibit 89 and did so before the Council and Mayor authorized  
19 sole sourcing of the LifeArk contract as part of the October 20, 2023 project approval. (City  
20 Trial Brief, p. 26 [citing the September 2023 CAO Report at Exh. 14 ¶ 10].) Fix’s request for  
21 the Court to take judicial notice of Exhibit 89 serves no relevant purpose and should be denied.

22 Moreover, Exhibit 89 has no bearing on any of the other reasons why competitive  
23 bidding of the LifeArk contract was not required by the City’s Charter unrelated to the  
24 Mayor’s waiver of any possible bidding requirements. (City Trial Brief, pp. 25-26). Exhibit 89  
25 serves no relevant purpose.

26 **Objection No. 11. (Relevance): Sustained: \_\_\_\_\_ Overruled \_\_\_\_\_.**  
27  
28

1 Dated: November 8, 2024

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

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3  
4 By:   
5 **Robert M. Mahlowitz, Deputy City Attorney**  
6 Attorney for Respondent, City of Los Angeles  
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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.

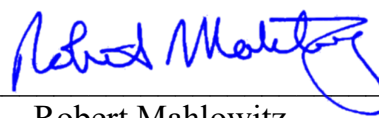
5 On November 8, 2024, I served the foregoing documents described as: **City Objections to**  
6 **Petitioner’s Supplemental Request for Judicial Notice Made in Support of Improper**  
7 **Reply Arguments** on all interested parties in this action as follows:

8 **Robert P. Silverstein**  
9 **Esther Kornfeld**  
10 **Gabby Piceno**  
11 **James Link**  
12 **THE SILVERSTEIN LAW FIRM, APC**  
13 215 North Marengo Avenue, 3rd Floor  
14 Pasadena, CA 91101-1504  
15 Tel: (626) 449-4200  
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17 [Robert@RobertSilversteinLaw.com](mailto:Robert@RobertSilversteinLaw.com),  
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19 [Gabby@RobertSilversteinLaw.com](mailto:Gabby@RobertSilversteinLaw.com)  
20 [James.S.Link@att.net](mailto:James.S.Link@att.net)

21 **FIX THE CITY, INC.**  
22 *Attorneys for Petitioners*

23 **[X] BY ELECTRONIC MAIL** – I electronically transmitted the document listed above to  
24 the email address stated above which has been confirmed for each addressee stated  
25 above. My electronic service address is Robert.Mahlowitz@lacity.org.

26 I declare that I am employed in the office of a member of the bar of this court at whose  
27 direction the service was made. I declare under penalty of perjury under the laws of the State  
28 of California that the foregoing is true and correct. Executed on November 8, 2024, at Los  
Angeles, California.

29 

30 Robert Mahlowitz