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 Superior Court of California
 County of Los Angeles

DEC 01 2016

Sherri R. Carter, Executive Officer/Clerk
 By: Judi Lara, Deputy

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 8 **SUPERIOR COURT OF CALIFORNIA**
 9 **COUNTY OF LOS ANGELES**

11 **FIX THE CITY, INC.**, a California nonprofit
 corporation,
 12
 13 **Petitioner/Plaintiff,**
 v.
 14 **CITY OF LOS ANGELES; LOS ANGELES**
CITY COUNCIL; and DOES 1 to 100, inclusive,
 15
 16 **Respondents/Defendants.**
 17 **AG-SCH 8150 SUNSET BOULEVARD**
OWNER, LP, a limited partnership; and ROES 1
to 100, inclusive.
 18
 19 **Real Parties In Interest.**
 20

Case No.:
BS166484
 Environmental Leadership CEQA Challenge
**VERIFIED PETITION FOR WRIT OF
 MANDATE AND COMPLAINT FOR
 INJUNCTIVE AND DECLARATORY RELIEF**
 (Pub. Res. Code, § 21168; Gov. Code, § 66499.37,
 Code Civ. Proc., §§ 525, 1060, 1085, 1094.5)
**CALIFORNIA ENVIRONMENTAL QUALITY
 ACT ("CEQA") ACTION**

BY FAX

1 **INTRODUCTION**

2 1. A project located at the base of Laurel Canyon, a Mountain Fire District, and within the
3 state geologist-mapped Hollywood Fault Earthquake Zone is the last place in the city to close city
4 streets and reduce escape and evacuation routes. It is the last place to rely upon false or misleading data
5 on whether fire department response time is adequate. Inexplicably, that is what Respondents and
6 Defendants City of Los Angeles and Los Angeles City Council (“Respondents”) have done with their
7 approvals of the 8150 Sunset Project.

8 2. Petitioner and Plaintiff Fix the City, Inc. (“Petitioner”) seeks relief from this Court to
9 correct Respondents’ serious abuse of discretion in approving the 8150 Sunset Project, a massive mixed-
10 use development, in violation of at least four state laws and local policies all designed to ensure the
11 protection of public safety and due process rights. In addition to violation of Los Angeles city
12 ordinances and the City Charter, state laws violated in the approval process include:

- 13 a. The California Streets and Highways Code;
- 14 b. The Subdivision Map Act;
- 15 c. The Alquist-Priolo Act; and
- 16 d. The California Environmental Quality Act.

17 3. Instead of providing objective and accurate information to the public and decision
18 makers, as required by law, staff from the Los Angeles Department of City Planning (“Planning”) acted
19 as spin doctors for the applicant by concealing information from decision makers and the public about
20 the issues Petitioner identified in its appeals that presented serious legal problems underlying the
21 project’s approvals. These are critical safety concerns. Closing a street in a fire district within an
22 earthquake zone shows a callous disregard for public safety. The last place a street should be closed is
23 where emergency equipment and fleeing residents and workers seek escape. Only *after* the project’s
24 approval was final were internal emails released that reveal that City staff had concerns about many of
25 the issues raised in Fix the City’s appeals to the City Planning Commission and the City Council,
26 including the improper vacation of a city street, improper use of a city parcel of land, failure to satisfy
27 earthquake safety requirements, and required implementation of CEQA mitigation measures to ensure
28 adequate emergency response and traffic capacity. Planning staff ignored the concerns from other
departments that the project could not be approved as presented without other discretionary approvals.

1 In their zeal, staff recommended a project to the City Council that puts public safety at risk and ignored
2 the Hollywood Community Plan’s guarantee that density would not be increased if the infrastructure,
3 emergency public services and traffic capacity were inadequate. Fix the City seeks to protect public
4 safety by enforcing these laws.

5 **PARTIES**

6 4. Petitioner and Plaintiff FIX THE CITY, INC. (“Fix the City” or “Petitioner”) is a
7 California nonprofit public benefit corporation duly incorporated under the laws of the State of
8 California. Fix the City, Inc.’s mission is to improve neighborhoods and advocate for sufficient critical
9 infrastructure throughout the City of Los Angeles. Fix the City participated in the approval process for
10 the Project, submitting written comments to the City Council. Petitioner’s members are residents and
11 taxpayers of the City of Los Angeles and are filing this action as private attorneys general.

12 5. Respondent and Defendant CITY OF LOS ANGELES is a charter city and the
13 governmental entity serving the people of the City of Los Angeles, in which the 8150 Sunset Project is
14 proposed to be located.

15 6. Respondent and Defendant LOS ANGELES CITY COUNCIL is the 15-member elected
16 body that represents the citizens of Los Angeles. The Council was the final decisionmaking body for the
17 8150 Sunset Project under CEQA, and was the body that presided over all appeals of the land use
18 approvals requires for the project.

19 7. Respondents and Defendants Does 1 through 100 are or were the agents, employees,
20 contractors, and/or entities acting under the authority of each other respondent or real party in interest,
21 and each performed acts on which this action is based within the cause and scope of such agency and/or
22 employment. Petitioners do not know the true names and capacities, whether individual, corporate, or
23 otherwise, of Does 1 through 100, inclusive, and therefore sue said respondents and defendants under
24 fictitious names. Petitioner will amend its Petition and Complaint to show their true names and
25 capacities when they have been ascertained.

26 8. Real Party in Interest AG-SCH 8150 SUNSET BOULEVARD OWNER, L.P. (“RPI”) is
27 a limited partnership formed in the State of Delaware and the applicant of record for the entitlements to
28 construct the 8150 Sunset Project. On some documents, the applicant is identified as “AG-SCH 8150
Sunset Owner, L.P.” but no such entity is registered as a limited partnership in the State of California.

1 16. Notice is hereby provided that RPI, as the entity that applied for certification as a
2 leadership project, must, if the matter goes to the Court of Appeal, make the payments required by
3 Public Resources Code section 21183, subdivision (f).

4 17. Petitioner hereby requests that Respondents prepare the administrative record, as required
5 by Los Angeles Superior Court Rule 3.232 and Public Resources Code section 21167.6(a).

6 **STATEMENT OF FACTS**

7 18. The 8150 Sunset project site is located at the base of Laurel Canyon within the
8 Hollywood Earthquake Fault Zone and a Mountain Fire District, at the highly-congested intersection of
9 Sunset Boulevard and Crescent Heights Boulevard. As approved, it will be a 333,903 square foot, 178 -
10 foot high mixed-use commercial and residential project located in the City of Los Angeles that dwarfs
11 all other structures in this area. The square footage will triple the amount currently allowed on the site.
12 The Vesting Tentative Tract 72370-CN approved on November 1, 2016 will contain 229 residential
13 units, including 30 luxury condos, 26 units affordable to Very Low Income residents, 12 Workforce
14 Income residential units, and 65,000 square feet of commercial space. The project will provide 494
15 commercial parking spaces as well as residential parking required by Los Angeles Municipal Code
16 sections 12.21 A4 and 12.22 A 25, in an underground garage. The project has been designed by noted
17 architect Frank Gehry. The project is situated on a 2.56 acre parcel that is currently zoned for
18 commercial development and contains a permanent D limitation on development that restricts floor area
19 ratio to 1 square foot of building for every square foot of lot area. This D limitation is a mitigation
20 measure that was certified by the City Council in a 1988 environmental impact report to not further
21 overburden the traffic system and public services. The project site includes two public easements for
22 public vehicular right-of-way at the northeast corner of the property over which the applicant seeks to
construct the project, without first obtaining approval for a street vacation.

23 19. A proposed Historic and Cultural Monument, the Lytton Bank Building, is located on the
24 property where the 8150 Sunset Project would be constructed. The Lytton Bank Building would be
25 demolished in order to accommodate construction of the project. The Lytton Bank Building is a 1960
26 modernist savings bank building that the Los Angeles Conservancy calls a significant example of
27 postwar era bank design in Los Angeles. The building was designed by noted architect Kurt Meyer and
28

1 contains an integrated, monumental glass and concrete screen designed by acclaimed artist Roger
2 Darricarrere. The building remains in use today as a Chase Bank.

3 20. RPI submitted a Master Land Use Application for the project in or about July 2013, and a
4 revised application in April 2016.

5 21. The State of California Geological Survey issued a new Alquist Priolo Earthquake Fault
6 Zone map for the Hollywood Fault Zone that included the project site in November 2014.

7 22. On September 12, 2013, Respondents issued a Notice of Preparation and an Initial Study
8 for the 8150 Sunset Project. The NOP solicited public comments on the scope of the Draft EIR,
9 commencing a review period that ended on October 15, 2013. 151 letters were submitted in response to
10 the Notice of Preparation, including from public entities such as the Los Angeles Police Department and
11 the City of West Hollywood, from private organizations such as the Los Angeles Conservation and the
12 Federation of Hillside and Canyon Associations, and from 102 individuals. The radius map did not
13 show that the east-bound right-turn lane from Sunset onto southbound Crescent Heights would be closed
14 to traffic and become part of the project.

15 23. On October 2, 2013, Respondents held a public scoping meeting to receive comment
16 from the public on the scope of the environmental review for the project EIR. Approximately 70
17 individuals attended the meeting. Comments received from the public raised concerns about traffic
18 generation, height of the project, protection for the Lytton Bank Building, the ability of public service
19 infrastructure to support the project, the proximity of the project to the Hollywood Fault, and
20 neighborhood compatibility of project design.

21 24. On May 16, 2014, Respondents issued a “Notice of Environmental Leadership
22 Development Project (ELDP),” stating that the applicant has elected to proceed under the provisions of
23 the Public Resources Code applicable to such projects.

24 25. On November 20, 2014, Respondents issued the Draft EIR (“DEIR”) for the 8150 Sunset
25 Project, providing for a public comment period which closed on January 20, 2015. During that
26 comment period, Respondents received 975 primarily negative comment letters on the DEIR.

27 26. The project analyzed in the DEIR included 111,339 square feet of commercial retail and
28 restaurant use, 249 apartment units (including 28 affordable housing units, and 30 luxury condos
ranging in price from \$3 to \$12 Million), a 9,134 square-foot public space at the northeast corner of the

1 project site comprising a public street and 8118 Sunset Boulevard, land owned by the City, a 34,050
2 square-foot central public plaza at the interior of the site, other public and private amenities, and 849
3 subterranean parking spaces. The total development would include up to 333,872 square feet of
4 commercial and residential space with a maximum floor area ratio of 3:1.

5 27. The DEIR analyzed the projects impacts on the environment in the following areas:
6 aesthetics; air quality; cultural resources; geology and soils; greenhouse gas emissions; land use; noise;
7 population, employment and housing; public services; transportation and circulation; and utilities and
8 service systems. The DEIR concluded that significant unavoidable impacts could occur as a result of
9 the construction of the project analyzed in the DEIR, including significant impacts to historical
10 resources, emergency response times, traffic, significant construction noise and vibration impacts, and
11 significant construction-related traffic impacts.

12 28. The DEIR evaluated eight alternatives to the proposed project. These included the no
13 project/no build alternative; existing zoning alternative; reduced height alternative; reduced density
14 alternative; bank preservation alternative; reduced height and bank preservation alternative; on-menu
15 alternative; and residential and hotel alternative. Of these eight alternatives, other than the no project
16 alternative, the DEIR concluded that the reduced height and bank preservation alternative was the
17 environmentally superior alternative. The DEIR concluded that both the bank preservation and the
18 reduced height and bank preservation alternative (Alternatives 5 and 6) would result in the fewest
19 significant unavoidable impacts and would meet most of the fifteen project objectives, only partially
20 meeting three of the objectives and fully meeting twelve of the objectives. The reduced commercial
21 uses in these alternatives meant that the alternatives would not fully satisfy the objectives to “contribute
22 to a synergy of site uses,” and would provide fewer job opportunities and reduced on-site economic
23 activity as compared to the proposed project.

24 29. Every version of the project and its alternative that were analyzed in the EIR included
25 paving over a busy city street and “merging” or “incorporating” a 9,134 SF city-owned parcel (8118
26 Sunset Boulevard) but did not describe the necessary approvals to achieve this legal and physical
27 reconfiguration. According to Los Angeles Department of Transportation studies, without removing the
28 free right turn lane from Sunset the project’s access driveways on Crescent Heights would be right-turn
only for exits. By blocking the flow of traffic around this corner, left turns exiting the property onto

1 Crescent Height were feasible. The triangular-shaped parcel was not a “traffic island” as described by
2 staff, but a private parcel of over 9,500 square feet zoned C-4 1, which had historically been occupied
3 by a night club. By calling it a traffic island, the staff misled the public and decision makers by
4 implying that the property was part of the right-of-way when it was not. Staff also ignored Petitioner’s
5 questions regarding a second right-hand turn lane easement over which the building would be
6 constructed.

7 30. On September 10, 2015, Respondents Recirculated the DEIR (RDEIR) for an additional
8 public comment period, which closed on November 9, 2015. The RDEIR included an analysis of new
9 ninth alternative, enhanced view corridor and additional underground parking alternative, which
10 proposed what became the selected 8150 Sunset Project. This project contained 65,000 square feet of
11 retail, 249 residential units (including 28 affordable housing units and 30 for-sale luxury condominium
12 units). The commercial square footage of this alternative was stated to be similar to the two
13 preservation alternatives in the DEIR. This alternative also included the 9,134 public space, a somewhat
14 smaller 27,000 square foot central plaza, and other private amenities for the residential units. The
15 alternative in the RDEIR removed driveway access from Sunset Boulevard and altered the driveway
16 configurations generally. The RDEIR maintained the DEIR’s conclusion that the reduced height and
17 bank preservation alternative was the environmentally superior alternative. The RDEIR also concluded
18 that the enhanced view corridor and additional underground parking alternative would only partially
19 satisfy the project objectives to “contribute to a synergy of uses” with commercial uses; provide job
20 opportunities; and bring commercial uses to the neighborhood. The other project objectives would be
21 fully satisfied by this new alternative. In this respect, the RDEIR’s new alternative was identical to
22 Alternatives 5 and 6 in the DEIR.

23 31. On May 13, 2016, the Final EIR (FEIR) was issued. The FEIR presented the comments
24 and responses to comments on the DEIR and RDEIR, as well as a mitigation and monitoring program.

25 32. On May 24, 2016, the Advisory Agency and Hearing Officer held a public hearing on the
26 entitlements for the 8150 Sunset Project and recommended a reduction in commercial square footage
27 from 111,339 SF to 65,000 SF, without reducing the total square footage of the project.

28 33. In June 2016, Respondents issued the Errata to the FEIR. The Errata disclosed for the
first time that one of the traffic mitigation measures proposed in the DEIR, the installation of a traffic

1 light at the intersection of Fountain Avenue and Havenhurst Drive, was not in the control of
2 Respondents. The Errata disclosed that this intersection is located in the City of West Hollywood. The
3 DEIR did not include operational traffic as a significant and unavoidable impact, because it concluded
4 that the traffic impacts of the project could be mitigated by installing a traffic light at this location. It
5 was not until the Errata was released that the public was informed that there would be significant,
6 unmitigated traffic impacts from the 8150 Sunset Project because West Hollywood did not agree to the
7 traffic signal at Havenhurst Drive and Fountain Avenue (and also opposed the scale and compatibility of
8 the project). Without this traffic mitigation measure, the project would have impacts not only on traffic,
9 but also on emergency response time, which was already inadequate prior to the project approval,
10 according to the city's Fire Department website.

11 34. On July 5, 2016, Fix the City appealed the determination of the Advisory Agency to the
12 City Planning Commission.

13 35. On July 28, 2016, the Los Angeles City Planning Commission held a public hearing on
14 the appeals of the Advisory Agency decisions and approved the project, granting a density bonus to both
15 the residential and commercial components of the project, in contravention to city policy not to grant
16 density bonuses to commercial development within a mixed use project.

17 36. On September 15, 2016, the City of Los Angeles Cultural Heritage Commission held a
18 hearing on the historical-cultural monument application for the Lytton Bank Building. The Cultural
19 Heritage Commission, on September 21, 2016, unanimously issued its motion to include the Lytton
20 Bank Building in the list of historic-cultural monuments, subject to the adoption by the Los Angeles
21 City Council.

22 37. Petitioner appealed the City Planning Commission determinations on the vesting
23 tentative tract map and the project's other entitlements to the Los Angeles City Council. Four other
24 parties filed appeals, including the City of West Hollywood.

25 38. On October 25, 2016, the Planning and Land Use Management ("PLUM") Committee of
26 the Los Angeles City Council held a hearing on the appeals of the project approvals. The project's
27 residential unit count was reduced from 249 to 229 and the height lowered to 178 feet for the taller of
28 the two towers. On the same day, the Cultural Heritage Commission's recommendation to designate the
Lytton Bank Building as a Cultural and Historic Monument was scheduled to be heard. The PLUM

1 Committee continued the hearing on the Lytton Bank Building until November 22, 2106, without any
2 objection from the representative of the 8150 Sunset project. The PLUM Committee members were
3 advised by staff that the designation of the Lytton Bank Building as a Historic and Cultural Monument
4 was entirely separate from the approvals of the 8150 Sunset Project and therefore the hearing on the
5 historic property could be held at a later date.

6 39. On October 25, 2016, the PLUM Committee voted to recommend 229 units, 26 Very
7 Low Income affordable units, 12 Workforce Housing units, reduction in height from 234 feet to 178
8 feet, and 65,000 SF retail and restaurants, in addition to a project that built over a public street to
9 incorporate city-owned property into the project. The total square footage of the project was never
10 reduced and remains in contravention of the D Limitation on the site under Los Angeles City Ordinance
11 164714, which limited the site to a Floor to Area Ratio (“FAR”) of 1:1 (111,339 square feet) as a
12 mitigation measure in the 1988 Hollywood Community Plan EIR. The fact that the D limitation was a
13 CEQA mitigation measure was not disclosed in the 8150 Sunset EIR.

14 40. On November 1, 2016, the Los Angeles City Council held a public hearing on the 8150
15 Sunset Project. The City Council voted unanimously to approve the project as modified during the
16 PLUM Committee hearing.

17 41. The Notice of Determination for the 8150 Sunset Project was posted on November 1,
18 2016.

19 42. The Administrative Record and Index were certified and posted on the City Planning
20 Website on November 7, 2016. This index is not searchable, and the documents are not Bates-stamped
21 as of November 28, 2016.

22 43. On November 22, 2016, the PLUM Committee held the continued hearing on the
23 Historic and Cultural Monument designation. RPI appeared at this hearing to strenuously object to the
24 further consideration of Historic and Cultural Monument status for the building, alleging that the
25 Council had already approved the demolition of the building when it approved the 8150 Sunset Project
26 on November 1. The PLUM Committee sent the matter to the City Council without recommendation,
27 and it is scheduled to be considered by the full City Council on December 7, 2016.
28

FIRST CAUSE OF ACTION
Violation of California Environmental Quality Act (CEQA)
(Public Resources Code, § 21168, Code of Civil Procedure section 525, 1094.5)

44. Petitioner realleges and incorporates by reference the allegations set forth in the preceding paragraphs.

45. CEQA requires environmental review and analysis prior to the approval of discretionary projects by local governments. The Legislature has declared that CEQA supports numerous state policies for “the maintenance of a quality environment for the people of this state now and in the future. . . .” (Pub. Resources Code, § 21000, subd. (a).) Moreover, the Legislature has declared that “the interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and control environmental pollution.” (*Id.*, subd. (f).) Finally, “[i]t is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.” (*Id.*, subd. (g).) Long-term protection of the environment is a fundamental criterion of CEQA. (Pub. Resources Code, § 21001, subd. (g).)

46. The basic purposes of CEQA are to objectively inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities, identify ways that environmental damage can be avoided or significantly reduced, prevent such damage by the imposition of mitigation measures or the adoption of alternative activities that avoid such damage, and disclosure to the public of the reasons for approving an activity with significant, unmitigable environmental effect. (CEQA Guidelines, Cal. Code Regs., tit. 14, § 15002(a).)

47. CEQA requires the assessment and public disclosure of potentially adverse impacts that a discretionary project, requiring public agency approval, might have on the environment. (Pub. Resources Code, §§ 21002, 21002.1.)

48. CEQA states that public agencies may not approve projects “if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” (*Id.*, § 21002.) If an agency seeks to approve a project that has

1 significant impacts that cannot be mitigated, the agency must adopt a statement of overriding
2 considerations. (Pub. Resources Code, § 21081.) The statement of overriding considerations must
3 include specific findings, supported by substantial evidence, that “[t]here is no feasible way to lesson or
4 avoid the significant effect.” (Cal. Code Regs., tit. 14, §§ 15042, 15093(b).)

5 49. The Legislature has established a variety of methods to accomplish its goals concerning
6 California’s environment. The principal method is the drafting and completion of an EIR.

7 50. An EIR is a descriptive statement that provides governmental agencies and the public
8 with detailed information about the harm that a proposed project may have on the environment, lists
9 ways in which those significant impacts may be minimized, and indicates alternatives to the proposed
10 project. (Pub. Resources Code, § 21061.)

11 51. In addition to those provisions found in the Public Resources Code, the Legislature has
12 authorized and directed the Office of Planning and Research to adopt guidelines for the implementation
13 of CEQA (Cal. Code Regs., tit. 14, § 15000 et seq.; hereinafter referred to and cited as “Guidelines”).
14 (See Pub. Resources Code, § 21083.) The Guidelines are binding on all state and local agencies,
including Respondents. (Cal. Code Regs., tit. 14, §§ 15000, 15020.)

15 52. According to the Guidelines, an EIR must be adequate, complete, and exhibit a good-
16 faith effort at full disclosure. (Cal. Code Regs., tit. 14, § 15151.) Again, as expressed in CEQA, the
17 EIR must identify the significant environmental impacts of the project, including those impacts that
18 cannot be avoided if the project is implemented, as well as significant irreversible environmental
19 changes related to implementation of the project, alternatives to the project, and measures to mitigate the
20 impacts of the project. (*Id.*, § 15126; see also *id.*, §§ 15126.4, 15126.6.)

21 53. The Guidelines establish procedures for calculating the baseline environmental
22 conditions at a proposed project site, stating that an “EIR must include a description of the physical
23 environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation
24 is published.” (Cal. Code Regs., tit. 14, § 15125, subd. (a).)

25 54. “An EIR shall describe a range of reasonable alternatives to the project . . . which would
26 feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of
27 the significant effects of the project, and evaluate the comparative merits of the alternatives.” (Cal.
28 Code Regs., tit. 14, § 15126.6, subd. (a).) The EIR’s “discussion of the alternatives shall focus on

1 alternatives to the project or its location which are capable of avoiding or substantially lessening any
2 significant effects of the project, even if these alternatives would impede to some degree the attainment
3 of the project objectives, or would be more costly” (*id.*, § 15126.6, subd. (b)), and the “EIR shall include
4 sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison
5 with the proposed project” (*id.*, § 15126.6, subd. (d)).

6 55. “Public participation is an essential part of the CEQA process.” (Cal. Code Regs., tit.
7 14, § 15201.) The public is entitled to file written comments regarding the environmental review of the
8 project (see *id.*, §§ 15087, 15202, 15203) and to testify at any public hearing concerning the EIR (see
9 *id.*, § 15202, subd. (d) [the “draft EIR should be used as a basis for discussion at a public hearing”]; see
10 also *id.*, § 15202, subd. (b) [“If an agency provides a public hearing on its decision to carry out or
11 approve a project, the agency should include environmental review as one of the subjects for the
12 hearing.”]).

13 56. An agency’s written responses to comments must provide a description of the significant
14 issues raised by the comments and, particularly when the opinion in the comments varies from that of
15 the agency, the agency must address the comments in detail and provide a good-faith reason why
16 specific comments and suggestions were not accepted. (Cal. Code Regs., tit 14, § 15088; see *id.*,
17 § 15202.)

18 57. Agencies may not undertake actions that could have a significant adverse effect on the
19 environment, or limit the choice of alternatives or mitigation measures, before complying with CEQA.
20 (Cal. Code Regs., tit. 14, § 15004(b)(2).) CEQA also requires that an agency consider the cumulative
21 effects of its actions. Where “individual projects are, or a phased project is, to be undertaken and where
22 the total undertaking comprises a project with significant environmental effect,” the agency must
23 prepare an EIR addressing the scope of the entire project, including “comment upon the cumulative
24 effect.” (*Id.*, § 15165.)

25 58. The EIR does not comply with CEQA’s mandates and requirements in several critical
26 respects.

27 59. The EIR failed to adequately disclose the scope of required approvals for the 8150 Sunset
28 Project. The project description was therefore an inadequate depiction of the project’s actual scope.
CEQA requires that discretionary approvals be disclosed to the public. The EIR failed to disclose that:

1 a. A public street would be closed and built over and “merged” with the subdivision,
2 requiring a street vacation to terminate the public vehicular easement and private
3 vehicular easements under the State Streets and Highway Code (Section 8320-25, and
4 8350-8353);

5 b. That use of city property required separate approval by the Department of
6 General Services to establish fair market value and determine if the property was surplus,
7 as mandated by the City Charter;

8 c. That public easements would be extinguished unless protested, and that would be
9 unlikely without notifying the public through a street vacation procedure, that the street
10 would be closed permanently;

11 d. That 1100 private easement owners within the 1905 Crescent Heights Tract
12 (CSHC Section 8353(b)) were never notified that the project would extinguish their
13 private vehicular easements; and

14 e. That the Bureau of Engineering would need to find that 8118 Sunset Boulevard
15 could be used as public right-of-way with the permission of the Department of General
16 Services through an ordinance.

17 60. Planning Department staff did not disclose to decision makers and the public that the site
18 had a CEQA mitigation limitation of 1:1 FAR imposed by the 1988 Hollywood Community Plan to
19 protect the community from further over-loading the traffic and public services in the plan area, and that
20 it was city policy and state law that unless traffic and public services had improved since 1988, the D
21 limitation must stand. The D limitation is more than a land-use designation; it is an environmental
22 protection that cannot be lawfully overridden by a SB 1818 density bonus.

23 61. The EIR and staff reports refer to 8118 Sunset Boulevard as a “traffic island” when it is
24 not under the jurisdiction of the Department of Public Works and not part of the public right-of-way,
25 which is required for a B permit or a revocable permit. Rather, it is a commercially-zoned property
26 owned by the City of Los Angeles and controlled by the Department of General Services. Any change
27 in those circumstances would require approval by the City Council, which was not disclosed in the EIR.
28 Staff, however, was well aware of this problem as shown in an email thread among the Department of

1 General Services Real Estate Division Title Examiners. The applicant made an inquiry about
2 purchasing the property from the City, and staff discovered it was not for sale and was not part of the
3 public right-of-way. “The street on the southwest side would have to be vacated.” (Email from Jose
4 Ramirez to David Castillo (June 11, 2015).) That was a fundamental issue in Petitioner’s appeal to
5 CPC. Since this is a heavily-trafficked street, even if the property were for sale, it could not be vacated
6 under the Streets and Highways Code. Knowing that it could not purchase the property, RPI colonized
7 City land for its project and closed a City street without a vacation proceeding. The EIR did not
8 disclose to the public that this property could not be utilized by RPI for its project without either a sale or
9 conversion of use, and thus did not satisfy CEQA’s disclosure mandates.

10 62. In the review of the EIR and appeals challenging the EIR, Planning Department staff hid
11 from decision makers the Bureau of Engineering’s assessment that “**without that land [city-owned**
12 **8118 Sunset Blvd.] as public right of way, the entire proposal has a fatal flaw**” (Email from Carl
13 Mills, Bureau of Engineering, to Luci Ibarra, Planning (June 22, 2016).) To convert the City property
14 to right-of-way would require a discretionary approval by the City Council that was never disclosed in
15 the EIR or in the City’s responses to Fix the City’s appeals. But the problem was flagged by Jim Doty,
16 of the Bureau of Engineering, as early as the NOP, on September 23, 2013. Each time the need for a
17 vacation proceeding was pointed out to the Planning Department, and presumably, the Applicant, it was
18 ignored.

19 63. The EIR contains analysis of a number of alternatives to the proposed project (which
20 itself was Alternative 9 in the RDEIR). Two of the alternatives (Alternative 5 and 6) are referred to in
21 the EIR as Preservation Alternatives, because both of these alternatives would preserve the historically
22 and culturally significant Lytton Bank Building in its current location on the site.

23 64. The DEIR concluded that both Preservation Alternatives would fully meet twelve of the
24 fifteen project objectives, and would partially meet the remaining three objectives. The three objectives
25 only partially satisfied were all related to the commercial square footage of the proposed project. The
26 project proposed in the DEIR had 111,339 square feet of commercial space, while Preservation
27 Alternatives had roughly 62,000 square feet of commercial space. Alternative 9, analyzed in the RDEIR
28 and essentially selected as the 8150 Sunset Project, has only 65,000 square feet of commercial space –
and only partially satisfies the same three project objectives as the Preservation Alternatives.

1 65. In its Findings justifying the selection of Alternative 9 over either of the Preservation
2 Alternatives, Respondents blatantly contradicted the conclusions of the DEIR with respect the ability of
3 the Preservation Alternatives to fully satisfy most of the project objectives. These conclusions are not
4 supported by substantial evidence – indeed, they are directly contradicted by Respondents’ own
5 environmental analysis.

6 66. CEQA does not permit a lead agency to approve a project with significant unmitigable
7 impacts – like the destruction of a recognized historic resource – unless alternative approaches are
8 *infeasible*. The EIR and its findings do not support the conclusion that the Preservation Alternatives are
9 infeasible.

10 67. The project approval also impermissibly violates a mitigation measure of the 1988
11 Hollywood Community Plan EIR without disclosure or proper analysis in the 8150 Sunset Project EIR.
12 The underlying zoning for the project site – which was not changed as a result of the approvals – is C4-
13 1D. The “D” limitation on this site specifically restricts any development on the site to a 1:1 floor to
14 area ratio. A D limitation is imposed pursuant to Los Angeles Municipal Code 12.32 G 4, which
15 permits the imposition of a permanent D limitation that restricts permissible construction below what
16 would normally be permissible in a zone, in order to mitigate impacts of development and create
17 development in harmony with the General Plan.

18 68. The evidence before Respondents demonstrated that the D limitation on this site was
19 imposed as a mitigation measure connected to the 1988 EIR for the Hollywood Community Plan. The
20 1988 Hollywood Community Plan EIR explained that the level of development permitted under the
21 prior 1973 Hollywood Community Plan had created significant impacts on the traffic circulation system
22 as well as on public services and infrastructure. The 1988 Hollywood Community Plan EIR specifically
23 stated that “the Proposed Plan is intended as mitigation for the effects of the Current Plan.” The D
24 limitation was proposed by ordinance during the process of conforming the zoning to the Hollywood
25 Community Plan.

26 69. The 8150 Sunset Project decimates the 1:1 FAR restriction imposed by the D limit,
27 permitting a 3:1 FAR. The EIR entirely failed to disclose the origin of the D limitation, to explain its
28 significance as a mitigation measure for the 1988 Hollywood Community Plan EIR, and to conduct any
analysis to support the removal of the mitigation measure to permit the construction of the 8150 Sunset

1 Project. A comparison of the traffic system in 1988, as shown in the 1988 HCP EIR, with the traffic in
2 the project EIR, shows traffic is worse now, not improved, and that the environmental protection of the
3 D limitation is still required.

4 70. The EIR also fails to properly disclose and mitigate impacts on traffic and lifesaving
5 public services, including fire, EMS, and police response. The EIR and staff response to Fix the City’s
6 appeal to City Planning Commission falsely reported Los Angeles Fire Department (“LAFD”) response
7 times by failing to include “travel time” with “turn out” time, as required by LAFD policies, to
8 determine if response time met the city standard of reaching a medical emergency within 5 minutes
9 percent of the time. Fix the City provided to decision makers substantial evidence from the City’s own
10 website, as well as an explanation of how LAFD calculates response time. If calculated properly to
11 include turn-out time, the difference in response time is staggering: if turn-out time is included, Station
12 41, the “first-in” station for medical emergencies to the project site, is 5 minutes and 36 seconds, not the
13 4 minutes and 20 seconds, reported in the response by staff.

14 71. The EIR also fails to disclose significant land use conflicts created by the project,
15 including the failure of the project to conform to the policies in the General Plan Framework Element.
16 Specifically, Respondents failed to make a finding in the EIR that the City’s infrastructure has sufficient
17 capacity to support the increased demand on city services that would be created by the project.

18 72. Respondents failed to recirculate the EIR after disclosing a new significant impact: that
19 the mitigation measure proposed for the significant traffic impacts at the intersection of Havenhurst
20 Drive and Fountain Avenue, was not under the control of the City of Los Angeles, and therefore that a
21 significant traffic impact was likely to result from the operation of the 8150 Sunset Project.

22 73. Finally, the EIR also failed to disclose the existence of a Responsible Agency, the City of
23 West Hollywood. Inexplicably, nowhere in the EIR is it disclosed that the jurisdictional boundary of
24 West Hollywood is immediately adjacent to the portion of the project located along Havenhurst Drive.
25 Respondents inexplicably failed to recognize that the intersection of Fountain Avenue and Havenhurst is
26 in the jurisdiction of West Hollywood, including in the DEIR, the RDEIR, *and* the FEIR a mitigation
27 measure that required Respondents to install a traffic light at that location. *Only* after the FEIR was
28 published did Respondents acknowledge that the intersection is entirely outside of Respondents’
jurisdiction and solely under the control of the City of West Hollywood. Respondents refused to

1 recirculate the EIR, even though Respondents were forced to revise their conclusions regarding the
2 feasibility of mitigating traffic impacts created by the 8150 Sunset Project.

3 74. Remarkably, while Respondents were finally paying attention to their jurisdictional
4 boundaries, Respondents failed to revise the EIR to disclose that other jurisdictional boundaries of West
5 Hollywood are implicated in the project approval. Petitioners are informed and believe, and on that
6 basis allege, that it was not until after the project was approved that the City of West Hollywood was
7 informed that the curb cuts required for the project's access driveway on Havenhurst were within the
8 City of West Hollywood, and not the City of Los Angeles. This information should have been disclosed
9 in the EIR, and should have been made clear to West Hollywood so that it recognized the authority it
10 had over an aspect of the project. The failure to disclose the necessity of approvals from the City of
11 West Hollywood was a prejudicial failure to disclose that prevented a Responsible Agency from full
12 awareness of its role in future project approvals.

13 75. In light of the above deficiencies, it was an abuse of discretion for Respondents to have
14 certified the EIR and approved the 8150 Sunset Project on the basis that the EIR adequately analyzed
15 and disclosed the environmental impacts of the 8150 Sunset Project.

16 76. Petitioner has a direct and beneficial interest in the action herein and has exhausted all
17 other available remedies.

18 77. Petitioner has a beneficial right to Respondents' performance of their respective duties
19 based on Petitioner's interest in maintaining and improving the quality of the environment in the City of
20 Los Angeles as well as the integrity of the City's local land use laws. Petitioner's members have an
21 interest in safeguarding public safety and improving the quality of life in their own city.

22 78. Petitioner has no plain, speedy, and adequate remedy at law, in that unless this Court
23 enjoins the RPI, it will develop the 8150 Sunset Project consistent with the improperly certified EIR.
24 No amount of monetary damages or other legal remedy can adequately compensate Petitioner for the
25 irreparable harm that Petitioner, its members, and the residents of the City of Los Angeles will suffer
26 from the violations of law described herein.

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

1 respects to the contrary.

2 80. Petitioner contends that the EIR did not satisfy the requirements of CEQA. Respondents
3 were repeatedly informed of these contentions and provided with substantial evidence, but proceeded to
4 certify the EIR.

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

7 **SECOND CAUSE OF ACTION**
8 **Violation of Alquist-Priolo Act**
9 **(Public Resources Code 2621.5, Code Civ. Proc., § 525, 1060, 1094.5)**

10 82. Petitioner realleges and incorporates by reference the allegations set forth in the
11 preceding paragraphs.

12 83. The Alquist-Priolo Act is a state law that is intended to avoid the significant risk of harm
13 to life and loss of property from surface fault ruptures. Public Resources Code section 2621.5 provides
14 that the purpose of the Act is "to provide policies and criteria to assist cities, counties, and state agencies
15 in the exercise of their responsibility to prohibit the location of development and structures for human
16 occupancy across the trace of active faults." While local jurisdictions can impose more stringent
17 standards, they are not permitted to impose weaker earthquake safety regulations.

18 84. The Alquist-Priolo Act applies to "any project . . . which is located within a delineated
19 earthquake fault zone, upon issuance of the official earthquake fault zones maps to affected local
20 jurisdictions." (Pub. Resources Code, § 2621.5.)

21 85. A "project" under the Alquist-Priolo Act includes "structures for human occupancy,"
22 excluding some smaller single family dwellings. (Pub. Resources Code, § 2621.6, subd. (2).)

23 86. The State Mining and Geology Board has promulgated regulations to implement the
24 Alquist-Priolo Act. Under these regulations, a structure for human occupancy is "any structure used or
25 intended for supporting or sheltering any use of occupancy, which is expected to have a human
26 occupancy rate of more than 2,000 person-hours per year." (Cal. Code. Reg., tit. 14, § 3601, subd. (e).)

27 87. The State Mining and Geology Board regulations also describe the prohibition on
28 placement of structures for human occupancy across the trace of an active surface fault: "No structure
for human occupancy . . . shall be permitted to be placed across the trace of an active fault.
Furthermore, as the area within fifty (50) feet of such active faults shall be *presumed* to be underlain by

1 active branches of that fault *unless proven otherwise* by an appropriate geologic investigation and report
2 . . . no such structures shall be permitted in this area.” (Cal. Code Reg., tit. 14, § 3603, subd. (a)
3 (emphasis added).)

4 88. The 8150 Sunset Project is located in a mapped Earthquake Fault Zone and is subject to
5 the requirements of the Alquist-Priolo Act. The project is located in the Hollywood Fault zone.

6 89. RPI conducted geologic investigation under its property, but did not investigate areas
7 more proximate to the mapped fault under Sunset Boulevard. Respondents were aware of the
8 limitations of RPI’s geologic investigation.

9 90. Under City of Los Angeles policies, in an Earthquake Fault Zone, surface faulting is
10 presumed to exist within fifty feet beyond the property boundary, if no geologic investigation is
11 conducted off-site. A city geotechnical engineer who reviewed RPI’s geologic study informed the Los
12 Angeles Department of Building and Safety that “[t]he Department policy is that the presence of an
13 active fault *must be considered to exist just beyond the property line.*”

14 91. The engineer additionally criticized the RPI’s report’s conclusion that a setback from the
15 property line was not necessary as it relied upon studies of different types of surface faults, and not one
16 like the Hollywood Fault, which is overlain by significant alluvium. The engineer concluded that
17 “[T]here are too many epistemic and aleatory uncertainties regarding the Hollywood fault to
18 warrant disregarding the required setback.”

19 92. Yet Respondents approved the 8150 Sunset Project *without the required setback*. No
20 study was ever conducted in the area 50 feet northwest of the site. No request was made or denied that
21 would have precluded testing within Sunset Boulevard. Instead, Respondents approved the project with
22 a “reinforced foundation zone,” in the area fifty feet from the site boundary toward the mapped
23 Hollywood Fault.

24 93. The Alquist-Priolo Act and its implementing regulations do not contain any exemption
25 for structures with a reinforced foundation.

26 94. The City’s instruction manual states explicitly that the state manual contains the
27 minimum requirement for seismic analysis. The state manual requires a 50 foot earthquake exclusion
28 zone in the absence of a 50-foot off-site investigation.

1 95. Respondents approved the project’s construction within fifty feet of an active surface
2 fault without any geologic study immediately outside of the site boundary, permitting the construction
3 of a structure for human occupancy within fifty feet of an area that is presumed to be underlain with
4 traces of an active surface fault, contrary to the prohibitions of the Alquist-Priolo Act.

5 96. The Planning Department’s staff report recommending the denial of Fix the City’s appeal
6 to the City Planning Commission claimed that moving habitable structure back 50 feet brought the
7 project into compliance with the 50-foot setback requirement, disregarding that the entire structure is
8 one subsurface building, and that the Alquist Priolo Act requires protection for all human occupancy,
9 not just residential use.

10 97. A writ must issue to correct Respondents’ abuse of their discretion in permitting
11 construction of a structure for human occupancy within fifty feet of an area presumed to be underlain by
12 trace of an active surface fault, in contradiction to the requirements of the Alquist-Priolo Act.

13 98. Petitioner has a direct and beneficial interest in the action herein and has exhausted all
14 other available remedies.

15 99. Petitioner has a beneficial right to Respondents’ performance of their respective duties
16 based on Petitioner’s interest in maintaining and improving the quality of the environment in the City of
17 Los Angeles as well as the integrity of the City’s local land use laws. Petitioner’s members have an
18 interest in safeguarding public safety and improving the quality of life in their own city.

19 100. Petitioner has no plain, speedy, and adequate remedy at law, in that unless this Court
20 enjoins the RPI, it will develop the 8150 Sunset Project within fifty feet of an area presumed to be
21 underlain with traces of an active surface fault. No amount of monetary damages or other legal remedy
22 can adequately compensate Petitioner for the irreparable harm that Petitioner, its members, and the
23 residents of the City of Los Angeles will suffer from the violations of law described herein.

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

28 102. Petitioner contends that the Alquist-Priolo Act prohibits the construction of any structure
for human occupancy in area that is within fifty feet of mapped surface fault without a study of the area

1 immediately offsite. Petitioner informed Respondents of this contention and Respondents disagreed in
2 their public analysis. Respondents approved the 8150 Sunset Project in spite of Petitioner’s objections.

3 103. A judicial declaration as to the legality of Respondents’ actions, as set forth above, is
4 therefore necessary and appropriate to determine the respective rights and duties of the parties.

5 **THIRD CAUSE OF ACTION**
6 **Violation of Streets and Highways Code for Failure to Vacate Street**
7 **(Streets and Highways Code, § 8320; Code Civ. Proc., § 525, 1060, 1094.5)**

8 104. Petitioner realleges and incorporates by reference the allegations set forth in the
9 preceding paragraphs.

10 105. One component of the 8150 Sunset Project is constructing-over a busy city street – the
11 east-bound turn-lane at the congested intersection of Sunset Boulevard and Crescent Heights Avenue, in
12 order to incorporate that turn lane into a vehicle-free public plaza. Currently, a free right-turn lane
13 exists whereby eastbound Sunset Boulevard traffic may turn right onto southbound Crescent Heights
14 without restriction. A 9,500-square foot triangular parcel of land located at 8118 Sunset Boulevard –
15 owned by the City – is located just to the east of the 8150 Sunset site: the free right-turn lane travels
16 along the 8118 Sunset parcel’s west side, the north side of 8118 Sunset is bound by eastbound Sunset
17 Boulevard, and the east side of 8118 Sunset is adjacent to the southbound lanes of Crescent Heights.

18 106. The turn lane is shown on the 1905 Crescent Heights Tract Map.

19 107. City staff referred to the city-owned property (8118 Sunset Boulevard) as a “traffic
20 island” when it was not part of the public right-of-way, implying that it could be converted to other uses
21 but omitting the various discretionary approvals required for such conversion.

22 108. Respondents approved the 8150 Sunset Project which eliminates the free right-turn lane
23 from the Sunset/Crescent Height intersection and “merged” the City-owned triangular parcel of land
24 into the project to create a “public” plaza that will extend across the former free right-turn lane and onto
25 the City-owned parcel at 8118 Sunset. As a result of Respondents’ approval of the 8150 Sunset Project,
26 the free right-turn lane will no longer be available for use by vehicular traffic, but will instead be
27 incorporated into a public plaza. This significantly reduces capacity for an intersection that is already at
28 Level of Service F both in the morning and evening.

109. The city property, 8118 Sunset, is not part of the right-of-way, and it is not for sale as
surplus property. Extensive internal emails indicate that a street vacation is required to vacate the public

1 vehicular easement. For instance, in one email between various real estate employees of the City: “The
2 street on the southwest side would have to be vacated. Either by separate proceedings or by a
3 subdivision. The City would have to sign the map as part owner and as an easement holder for the
4 street. The developer would have to pay for the street vacation.” (Jose Ramirez, Department of Real
5 Estate, to David Castillo, Title Examiner, Real Estate Division, Bureau of Engineering, June 11, 2015.)).
6 When appealed by Fix the City Planning Department staff claimed it could accomplish this through a B
7 permit or a revocable permit. Internal staff emails tell a very different story, that the B permit and
8 revocable permit would not be granted as the project was proposed, and that the 9,134 square foot city-
9 owned property was not part of the right-of-way and was not for sale. Staff did not communicate to the
10 public or the City Council that “without that land as public right of way, the entire proposal has a fatal
11 flaw” (Email from Carl Mills, Bureau of Engineering, to Luci Ibarra, Planning, June 22, 2016). The
12 Department of Public Works, which has sole jurisdiction over street closures and rights of way, never
13 approved of a street vacation at this location, nor did it approve building over its other vehicular
14 easement that is shown on the city’s Zimas maps submitted by staff and also by Petitioners. There is
15 nothing revocable about building a high rise structure over a public vehicular easement that is clearly
16 shown on the city’s maps.

17 110. California Streets and Highways Code section 8320 et seq. provides the procedures that a
18 municipality like Respondents must adhere to when removing a public street from vehicular use.
19 Specifically, Streets and Highways Code section 8320 requires that a local legislative body initiating the
20 vacation of a street must give public notice of the intent to vacate a street and set a hearing on the issue.
21 The law contains specific requirements for the information that must be made public in the notice.
22 Streets and Highways Code sections 8322 and 8323 contain specific publication and posting
23 requirements for the notice. Planning staff took the position that no vacation had been requested and
24 thus there was no need to vacate the public street. This was contradicted by the statements by General
25 Services Department Title Examiner Jose Ramirez in 2015 quoted above. To close a street or terminate
26 a vehicular easement, a vacation is required. That it was not requested does not relieve the city of its
27 duty to follow vacation procedures and findings.

28 111. Streets and Highways Code section 8324 establishes the required findings for a local
legislative body to vacate a street. The legislative body must find that the street to be vacated is

1 “unnecessary for present or prospective public use.” The legislative body may also adopt conditions
2 regarding the vacation of the street.

3 112. Respondents did not comply with any of these procedural or substantive requirements
4 when approving the 8150 Sunset Project, even though the approved plans call for the removal of the free
5 right-turn lane from Crescent Heights Boulevard and the elimination of vehicular use of the lane of
6 traffic. Respondents contend that the free right-turn lane is not being vacated. Likewise, they are
7 nonresponsive regarding the construction of the project over the second, parallel right-turn-lane shown
8 on the Zimas map.

9 113. The traffic study for the EIR demonstrates that at present and in the future the
10 intersection of Crescent Heights and Sunset functions at LOS F, the worst possible level of congestion
11 and delay.

12 114. The City Engineer confirmed in a meeting with members of Fix the City that the closure
13 or elimination of a street right-of-way requires a street vacation that must be a condition of approval for
14 a tract map. No street vacation request was ever submitted to the City Engineer for this project, and a
15 street vacation was not a condition of approval.

16 115. Petitioner has a direct and beneficial interest in the action herein and has exhausted all
17 other available remedies.

18 116. Petitioner has a beneficial right to Respondents’ performance of their respective duties
19 based on Petitioner’s interest in maintaining and improving the quality of the environment in the City of
20 Los Angeles as well as the integrity of the City’s local land use laws. Petitioner’s members have an
21 interest in improving the quality of life in their own city.

22 117. Petitioner has no plain, speedy, and adequate remedy at law, in that unless this Court
23 enjoins the RPI, it will develop the 8150 Sunset Project and remove the free right-turn lane from
24 Crescent Heights, eliminating vehicular use of that portion of the public right-of-way and public street.
25 No amount of monetary damages or other legal remedy can adequately compensate Petitioner for the
26 irreparable harm that Petitioner, its members, and the residents of the City of Los Angeles will suffer
27 from the violations of law described herein.

28 118. A dispute has arisen between Petitioner and Respondents, in that Petitioner believes and
contends, for the reasons set forth above, that Respondents’ actions as set forth above were unlawful and

1 invalid. Petitioner is informed and believes, and on that basis contends, that Respondents contend in all
2 respects to the contrary.

3 119. Petitioner contends that Respondents did not proceed as required by law and have
4 approved the vacation of a public street without compliance with the requirements of the California
5 Streets and Highways Code. Respondents were informed of Petitioner’s contentions, and denied that
6 the approval of the 8150 Sunset Project included a vacation of the public street.

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

9 **FOURTH CAUSE OF ACTION**
10 **Violation of Los Angeles City Charter**
11 **(Los Angeles City Charter, § 385; Code of Civ. Proc., §§ 525, 1060, 1094.5)**

12 121. Petitioner realleges and incorporates by reference the allegations set forth in the
13 preceding paragraphs.

14 122. As set forth above, the 8150 Sunset Project includes the “merger” of a City-owned parcel
15 of land at 8118 Sunset Boulevard into the project site for use as a “public” plaza that will be built,
16 controlled, and maintained by RPI or its successors in interest.

17 123. The 8118 Sunset Boulevard parcel has a lot area of 9,526 square feet and is zoned C4-1,
18 with a General Plan land use designation of Neighborhood Office Commercial. It is included on City
19 Controller Ron Galperin’s map of City-owned property as 8116 W. Sunset Boulevard. The parcel is
20 also included in the Housing Element of the General Plan as a potential site for the development of
21 affordable housing. The parcel is not part of the public right-of-way, as implied by staff references to
22 8118 Sunset as a “traffic island.” And its twin right-turn easement is never addressed by staff, despite
23 inquiries by Petitioners in their written testimony and appeals.

24 124. As a result of Respondents’ approval of the 8150 Sunset Project, the City-owned
25 property has been “merged” with the privately-owned property of RPI to create a unified project. The
26 effect of this merger is to dispose of public property without following required procedures for the
27 disposition of City-owned property. The proposal also calls for modification of the boundaries of the
28 8118 Sunset parcel so that a portion of the parcel (the eastern-most corner) is “rounded off” to improve
the new right-turn from eastbound Sunset Boulevard onto southbound Crescent Heights.

1 125. Los Angeles City Charter section 385 provides that “any real . . . property owned by the
2 City that is no longer needed may . . . be sold under terms and conditions prescribed by ordinance.” The
3 Los Angeles Administrative Code sections 7.21 et seq. establish specific procedures that must be
4 followed in order for the City to dispose of its property. Administrative Code section 7.22, subdivision
5 (a) requires the Department of General Services to appraise property, and subdivision (b) of the same
6 section requires the Bureau of Engineering to review and approve with reservation or exception of parts
7 of the property. Subdivision (d) of the same section requires the City Administrative Office to review
8 the sale of property and offer a recommendation to Council. The administrative code also contains
9 public notice requirements and provisions for bidding, as well as a process for sale without bidding
10 under specific conditions.

11 126. None of the procedural requirements in the Administrative Code were satisfied before
12 Council approved the 8150 Sunset Project, granting RPI the right to occupy and construct amenities
13 upon the City-owned land at 8118 Sunset Boulevard. The approval of the 8150 Sunset Project
14 effectively relinquished the City’s ability to utilize this property for its own purposes, or to sell the
15 property to a party willing to pay for it. The approval of the project and removal of the free right-turn
16 lane creates a beneficial condition for RPI as it prevents southbound Crescent Heights traffic from
17 interfering with motorists making left turns to depart from the Crescent Heights driveway. The project
18 approval also converted a portion of the City-owned property – the eastern-most corner – from
19 commercially zoned property to a public right-of-way by modifying the use of the parcel to permit the
20 creation of a street on that land. Conversion from private property owned by the Department of General
21 Services to public right-of-way controlled by the Bureau of Engineering requires a separate ordinance
22 by the City Council, as pointed out by Edmond Yew in his meeting with members of Fix the City on
23 September 7, 2016. Respondents’ approval of the 8150 Sunset Project effectively gifted this public land
24 from the public to RPI, contrary to requirements of the City Charter and Administrative Code.

25 127. An employee in the Bureau of Engineering who reviewed the 8150 Sunset Project in
26 June 2016 noted that the Bureau of Engineering had significant concerns about the proposed use of the
27 City property. City planning staff had proposed that the project would create the public plaza, including
28 the vacation of the public street described above, under the auspices of a “B” Permit from the Bureau of
Engineering. A “B” permit under Los Angeles Municipal Code section 62.106 “is issued for extensive

1 public works improvements, including the widening of streets and alleys, the changing of existing street
2 grade, construction of bridges, retaining walls, and the installation of sewer, storm drains, street lighting
3 and traffic signals.” (eng.lacity.org/permits/ (viewed November 17, 2016).)

4 128. The Bureau of Engineering staff stated “one thing is perfectly clear regarding the
5 proposal . . . The Bureau of Engineering cannot issue a B-permit for the improvements as presented
6 unless the ‘City-owned’ private property is relinquished or most of it has an Irrevocable Offer to
7 Dedicate recorded. . . [W]ithout that land as public right of way, the entire proposal has a fatal flaw.”
8 This information was not disclosed to the public or to the decision makers in any public document. The
9 Petitioner is informed and believes, and on that basis contends that the Department of General Services
10 has not relinquished its interest in the 8118 Sunset Boulevard property. Petitioner is informed and
11 believes, and on that basis contends, that the information in this email was not made known to the
12 decision makers prior to the approval of the 8150 Sunset Project. As a result, Petitioners’ appeals to
13 City Planning Commission and the City Council were wrongly denied. Fix the City’s objections were
14 confirmed through back-channel emails between the Department of General Services, the Department of
15 Public Works, and the Department of Planning, which were not disclosed to the public or decision
16 makers until after approval of the project.

17 129. Due to Respondents’ approval of the 8150 Sunset Project, RPI will be permitted to utilize
18 City-owned property for the creation of a project amenity that it will control, a nominally “public”
19 plaza. Respondents’ approval of the project was in violation of mandatory provisions of the Los
20 Angeles City Charter and Administrative Code regarding the disposition of City-owned property.

21 130. Petitioner has a direct and beneficial interest in the action herein and has exhausted all
22 other available remedies.

23 131. Petitioner has a beneficial right to Respondents’ performance of their respective duties
24 based on Petitioner’s interest in maintaining and improving the quality of the environment in the City of
25 Los Angeles as well as the integrity of the City’s local land use laws. Petitioner’s members have an
26 interest in improving the quality of life in their own city.

27 132. Petitioner has no plain, speedy, and adequate remedy at law, in that unless this Court
28 enjoins the RPI, RPI will be permitted to construct the improvements for the “public” plaza on 8118
Sunset Boulevard, and the property will have been disposed of without adherence to the public process

1 required by law. No amount of monetary damages or other legal remedy can adequately compensate
2 Petitioner for the irreparable harm that Petitioner, its members, and the residents of the City of Los
3 Angeles will suffer from the violations of law described herein.

4 133. A dispute has arisen between Petitioner and Respondents, in that Petitioner believes and
5 contends, for the reasons set forth above, that Respondents' actions as set forth above were unlawful and
6 invalid. Petitioner is informed and believes, and on that basis contends, that Respondents contend in all
7 respects to the contrary.

8 134. Petitioner contends that the City-owned property at 8118 Sunset Boulevard cannot be
9 merged with a privately-owned property for the creation of a unified development without Respondents
10 following procedures for the disposition of City-owned property. Respondents approved the 8150
11 Sunset Project, which includes the use of the 8118 Sunset parcel, with knowledge of Petitioner's
12 contentions on this issue, and denied that the use of 8118 Sunset effectively gifted the property to RPI
13 and simultaneously, closing a busy city street without a street vacation, as discussed above.

14 135. A judicial declaration as to the legality of Respondents' actions, as set forth above, is
15 therefore necessary and appropriate to determine the respective rights and duties of the parties.

16 **FIFTH CAUSE OF ACTION**
17 **Violation of Subdivision Map Act**
18 **(Government Code § 66499.37; Code of Civ. Proc., §§ 525, 1094.5)**

19 136. Petitioner realleges and incorporates by reference the allegations set forth in the
20 preceding paragraphs.

21 137. Under the Subdivision Map Act, Government Code sections 66474.61, the City of Los
22 Angeles shall not approve any project requiring a tentative map if it makes any of the following
23 findings: (a) That the proposed map is not consistent with applicable general and specific plans . . . (b)
24 That the design or improvement of the proposed subdivision is not consistent with applicable general
25 and specific plans. (c) That the site is not physically suitable for the type of development. (d) That the
26 site is not physically suitable for the proposed density of development. (e) That the design of the
27 subdivision or the proposed improvements are likely to cause substantial environmental damage or
28 substantial and avoidably injure fish or wildlife or their habitat. (f) That the design of the subdivision or
type of improvements is likely to cause serious public health problems. (g) That the design of the
subdivision or type of improvements will conflict with easements, acquired by the public at large, for

1 access through or use of, property within the proposed subdivision.”

2 138. Respondents abused their discretion in approving the Vesting Tentative Tract Map.
3 Respondents’ findings in support of the approval of the 8150 Sunset Project are an abuse of discretion
4 because the findings are not supported by substantial evidence. Substantial evidence before
5 Respondents at the time of the approval required the denial of the project, because several of the
6 findings requiring disapproval of the tentative tract map should have been made.

7 139. The project is not consistent with the General Plan, because, as set forth in the Seventh
8 Cause of Action below, the approval of the 8150 Sunset Project is inconsistent with policies requiring
9 adequate transportation and public services infrastructure prior to approving increased density via
10 subdivision.

11 140. The design of the proposed project is not consistent with the General Plan because the
12 General Plan contains a free right-turn lane from eastbound Sunset Boulevard onto southbound
13 Crescent Heights, and designates the 8118 Sunset parcel as a site for affordable housing. The project is
14 not consistent with the General Plan which shows the free right-turn lane on the circulation element
15 map. In addition to a street vacation, a General Plan Amendment is required to eliminate the public
16 street from the Circulation Element Map.

17 141. The proximity of the site to the mapped Hollywood Fault and the failure to study the
18 immediate off-site geology for the presence of a surface fault traces establishes that the site is not
19 physically suitable for the type of development proposed.

20 142. The D limitation, imposed as a mitigation measure for the full buildout of the 1973
21 Hollywood Community Plan, limits development to a 1:1 FAR. The proposed density is therefore
22 inappropriate for the site.

23 143. Petitioner has a direct and beneficial interest in the action herein and has exhausted all
24 other available remedies.

25 144. Petitioner has a beneficial right to Respondents’ performance of their respective duties
26 based on Petitioner’s interest in maintaining and improving the quality of the environment in the City
27 of Los Angeles as well as the integrity of the City’s local land use laws. Petitioner’s members have an
28 interest in improving the quality of life in their own city.

1 145. Petitioner has no plain, speedy, and adequate remedy at law, in that unless this Court
2 enjoins the RPI, the project will be constructed and its property subdivided consistent with the
3 improper Vesting Tentative Tract Map. No amount of monetary damages or other legal remedy can
4 adequately compensate Petitioner for the irreparable harm that Petitioner, its members, and the
5 residents of the City of Los Angeles will suffer from the violations of law described herein.

6 146. A dispute has arisen between Petitioner and Respondents, in that Petitioner believes and
7 contends, for the reasons set forth above, that Respondents' actions as set forth above were unlawful
8 and invalid. Petitioner is informed and believes, and on that basis contends, that Respondents contend
9 in all respects to the contrary.

10 147. Petitioner contends that the approval of the Vesting Tentative Tract Map was inconsistent
11 with the requirements of the Subdivision Map Act. Respondents approved the Vesting Tentative Tract
12 Map after being apprised of Petitioner's contentions.

13 148. A judicial declaration as to the legality of Respondents' actions, as set forth above, is
14 therefore necessary and appropriate to determine the respective rights and duties of the parties.

15 **SIXTH CAUSE OF ACTION**
16 **Violation of Los Angeles Municipal Code**
17 **(Code of Civil Procedure 1094.5)**

18 149. Petitioner realleges and incorporates by reference the allegations set forth in the
19 preceding paragraphs.

20 150. It was an abuse of discretion for Respondents to approve the 8150 Sunset Project because
21 Respondents have not proceeded in the manner required by law, the approval is not supported by the
22 findings, and the findings are not supported by the evidence.

23 151. One of the approvals improperly issued by Respondents was a "density bonus" under Los
24 Angeles Municipal Code section 12.22 A 25. This provision, implementing state policies set forth at
25 Government Code section 65913, allows a developer to request specific incentives to increase the size
26 of permissible construction or otherwise lower the cost of construction if the proposed project will
27 provide affordable housing in specified quantities.

28 152. Section 12.22 A 25 includes a "menu" of incentives that qualified projects may select
from. In addition to the menu of incentives, a different procedure allows for "a waiver or modification

1 of any development standard[s] that is not included on the Menu of Incentives.” (LAMC, § 12.22 A 25
2 g (3)(ii).)

3 153. Los Angeles Municipal Code section 12.22 A 25 requires that a density bonus be
4 approved *unless* “The Incentive will have a Specific Adverse Impact upon public health and safety or
5 the physical environment or on any real property that is listed in the California Register of Historical
6 Resources and for which there is no feasible method to satisfactorily mitigate or avoid the Specific
7 Adverse Impact without rendering the development unaffordable to Very Low, Low, and Moderate
8 Income households. Inconsistency with the zoning ordinance or general plan land use designation shall
9 not constitute a specific, adverse impact upon the public health or safety.”

10 154. The “menu” of incentives includes an increased Floor Area Ratio incentive which
11 provides that “in lieu of the otherwise applicable Floor Area Ration, a Floor Ratio not to exceed 3:1,
12 provided the parcel in a commercial zone in Height District 1 (including 1VL, 1L, and 1XL), and fronts
13 on a Major Highway as identified in the City’s General Plan, and (a) the Housing Development Project
14 includes the number of Restricted Affordable Units sufficient to qualify for a 35% Density Bonus, and
15 (b) 50% or more of the commercially zoned parcel is located in or within 1,500 feet of a Transit
16 Stop/Major Employment Center.” (LAMC, § 12.22 A 25 (f)(4).)

17 155. The 8150 Sunset Project is not located within 1,500 feet of a Transit Stop/Major
18 Employment Center.

19 156. Because the project was not within the required 1,500 feet of a Transit Stop/Major
20 Employment Center, the applicant sought an “off menu” incentive that was virtually identical to the on-
21 menu incentive (and cited in the hearing notice), except that it sought a 3:1 FAR for a project within
22 1,560 feet of a Transit Stop.

23 157. The approval improperly used an incentive on the “menu” when an off menu incentive
24 may be used only to modify “any development standard[s] **not** included on the menu of incentives”
25 [emphasis added].

26 158. The approval also improperly relied upon the project’s height district to permit a 3:1
27 FAR. The 3:1 FAR increase is only for projects in Height District 1, including 1VL, 1L, and 1XL. All
28 of these height districts permit a 1.5:1 FAR. The 8150 Sunset Project, however, is located in Height
District 1D, which is limited specifically to an FAR of 1:1. The 3:1 FAR therefore was not a doubling

1 of permissible density, as it would be in a 1.5:1 FAR to 3:1 FAR increase, but a *tripling* of density.

2 159. The FAR increase was also impermissibly applied to the entire project's square footage,
3 rather than just the square footage for housing use. The commercial square footage is not subject to a
4 density bonus because it does not increase the production of affordable housing. This error permitted a
5 3:1 FAR project rather than a 2:1 FAR project. The City Planning Commission unlawfully applied the
6 density bonus to the commercial portion of the project, even though prior approvals **explicitly stated**
7 **that the density bonus could not be granted to the commercial portion of a project because the**
8 **purpose of the density bonus was to increase affordable housing, not to expand commercial**
9 **development.** Staff knew of this City policy and did not disclose it to the City Planning Commission or
10 City Council. If this policy were applied to the 8150 Sunset Project, the entire project's floor to area
11 ratio would be 2:1, not 3:1.

12 160. It is a significant and prejudicial error that staff was aware of but did not inform the City
13 Planning Commission or the City Council.

14 161. The approval of the 8150 Sunset Project also failed to proceed in the manner required by
15 law for revisions to the permissible construction density on the site. Specifically, the current zoning for
16 the 8150 Sunset Project site is C4-1D. The D limitation limits development on the property to a 1:1
17 FAR.

18 162. Los Angeles Municipal Code section 12.32, subdivision (H) provides procedures for the
19 clarification of a D limitation. In order to clarify the D condition under subdivision (H), Respondents
20 must find that "(a) The request is consistent with the City Planning Commission guidelines; and (b) The
21 amendment or clarification is necessary in order to carry out the intent of the City Council in adopting
22 the T or Q Classification or D Limitation; and (c) The amendment or clarification would have only a
23 minimal effect on adjacent property and would not result in a significant or substantial deprivation of
24 the property rights of other property owners." (LAMC, § 12.32 H.5.)

25 163. The record contains no evidence that any such findings were made in connection with the
26 approval of the 8150 Sunset Project, in spite of the approval rendering the D limitation a nullity.

27 164. In lieu of clarifying the D condition, RPI could have requested a change of height district
28 pursuant to Los Angeles Municipal Code section 12.32, subdivision F. No such change was requested
by RPI or approved by Respondents.

1 165. The approval of the 8150 Sunset Project also violated other provisions in the municipal
2 code relating to the approval of the Vesting Tentative Tract Map.

3 166. The Vesting Tentative Tract Map approved for the 8150 Sunset Project did not contain
4 the information required by Los Angeles Municipal Code section 17.15. Specifically, Los Angeles
5 Municipal Code 17.15, subdivision D requires that “development inconsistent with zoning,” must
6 include the zoning inconsistency on the map. *The map may be denied or conditionally approved based*
7 *on the recipient obtaining a change in zoning.* The Vesting Tentative Tract Map did not contain any
8 indication that the zoning of the project site is inconsistent with the approved density and size of the
9 project.

10 167. Los Angeles Municipal Code section 17.05 establishes the design standards for streets
11 included on tract maps. The Vesting Tentative Tract Map includes the design for the intersection of
12 Sunset Boulevard and Crescent Heights Boulevard, making significant changes to the configuration of
13 that intersection as set forth in the Third Cause of Action above. The design of those changes does not
14 conform to the requirement of Los Angeles Municipal Code section 17.05 D.6 which provides that “[n]o
15 jogs shall be allowed in the continuity of a major or secondary highway.” The configuration of Sunset
16 Boulevard and Crescent Heights Boulevard, both “major” highways, create a jog in the roadway in
17 violation of this provision.

18 168. Los Angeles Municipal Code section 17.05 C requires that any Tentative Map conform
19 to “all other elements of the General Plan.” The street layout included on the Tentative Map does not
20 conform to the General Plan’s transportation element.

21 169. Moreover, Los Angeles Municipal Code section 12.37 A requires that the street
22 dedication “provide adequate right-turn ingress to and egress from the highway.”

23 170. Petitioner has a direct and beneficial interest in the action herein and has exhausted all
24 other available remedies.

25 171. Petitioner has a beneficial right to Respondents’ performance of their respective duties
26 based on Petitioner’s interest in maintaining and improving the quality of the environment in the City of
27 Los Angeles as well as the integrity of the City’s local land use laws. Petitioner’s members have an
28 interest in improving the quality of life in their own city.

1 172. Petitioner has no plain, speedy, and adequate remedy at law, in that unless this Court
2 enjoins the RPI, it will develop the 8150 Sunset Project consistent with the improperly certified EIR.
3 No amount of monetary damages or other legal remedy can adequately compensate Petitioner for the
4 irreparable harm that Petitioner, its members, and the residents of the City of Los Angeles will suffer
5 from the violations of law described herein.

6 173. A dispute has arisen between Petitioner and Respondents, in that Petitioner believes and
7 contends, for the reasons set forth above, that Respondents' actions as set forth above were unlawful and
8 invalid. Petitioner is informed and believes, and on that basis contends, that Respondents contend in all
9 respects to the contrary.

10 174. Petitioner contends that the approval of the project was in conflict with the above listed
11 provisions of the Los Angeles Municipal Code. Respondents were informed of these contentions and
12 approved the project in spite of them.

13 175. A judicial declaration as to the legality of Respondents' actions, as set forth above, is
14 therefore necessary and appropriate to determine the respective rights and duties of the parties.

15 **SEVENTH CAUSE OF ACTION**
16 **Violation of General Plan Policies**
17 **(Code of Civil Procedure, § 1094.5)**

18 176. Petitioner realleges and incorporates by reference the allegations set forth in the
19 preceding paragraphs.

20 177. As required by state law, the City of Los Angeles has a General Plan that governs land
21 use planning throughout the City.

22 178. One component of the City of Los Angeles General Plan is known as the Framework
23 Element. The Framework Element is intended to serve as an overarching guide to Citywide "standards,
24 goals, policies, objectives, programs, terms, definitions, and direction to guide the update of citywide
25 elements and the community plans." The Framework Element contains policies, included as mitigation
26 measures for the growth permitted in the Framework Element, that require continual assessment and
27 monitoring of infrastructure capacity and growth throughout the City. Specifically, the Framework
28 Element provides that the City must:

"Monitor population, development, and infrastructure and service capacities within the
City and each community plan area, or other pertinent service area. The results of this

1 monitoring effort will be annually reported to the City Council and shall be used in part
2 as a basis to:

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

6 b. Change or increase the development forecast within the City and/or community plan
7 area . . . when it can be demonstrated that (1) transportation improvements have been
8 implemented or funded that increase capacity and maintain the level of service, (2)
9 demand management or behavioral changes have reduced traffic volumes and maintained
10 or improved levels of service, and (3) the community character will not be significantly
11 impacted by such increases. . . .

12 c. Initiate a study to consider whether additional growth should be accommodated, when
13 75 percent of the forecast of [population growth, housing growth, employment growth, or
14 commercial growth] is attained within a community plan area. If a study is necessary,
15 determine the level of growth that should be accommodated and correlate that level with
16 the capital, facility, or service improvements and/or transportation demand reduction
17 programs that are necessary to accommodate that level.

18 d. Consider regulating the type, location, and/or timing of development, when all of the
19 preceding steps have been completed, additional infrastructure and services have been
20 provided, and there remains inadequate public infrastructure or service to support land
21 use development.” (Framework Element Policy 3.3.2.)

22 179. The Hollywood Community Plan is the land use element of the City of Los Angeles
23 General Plan applicable to the area of the City of Los Angeles in which the 8150 Sunset Project is
24 located.

25 180. The Hollywood Community Plan contains several policies related to the Framework
26 Element’s objectives and policies of permitting growth only when the infrastructure is able to support it.
27 Specifically, the Hollywood Community Plan contains policies prohibiting increases in density if public
28 services and transportation infrastructure is inadequate to support the new project.

181. The Hollywood Community Plan provides that “[n]o increase in density shall be effected
by zone change or subdivision unless it is determined that such facilities are adequate to serve the
proposed development.”

182. The Hollywood Community Plan also provides that “[n]o increase in density shall be
effected by zone change or subdivision unless it is determined that the local streets, major and secondary
highways, freeways, and public transportation available in the area of the property involved, are
adequate to serve the traffic generated.” This is a totally different question of whether the project will

1 significantly impact the traffic system, but rather, is there capacity in the system to accept any increase.
2 Furthermore, if the traffic system is inadequate, this will have a negative impact on the ability of first
3 responders to reach the project and the community which is in both a Mountain Fire District and an
4 Earthquake Fault Zone.

5 183. These policies apply to the approval of the 8150 Sunset Project because the project
6 resulted in an increase in density by subdivision. Respondents' approval of the 8150 Sunset Project was
7 an abuse of discretion because it violated the mandatory policies in the Hollywood Community Plan.

8 184. The record before Respondents contained substantial evidence demonstrating that the
9 transportation system in the area of the project is inadequate to serve the traffic generated by the 8150
10 Sunset Project. First, the project will have significant and unmitigated impacts on traffic on local
11 streets. Second, the EIR demonstrated that the traffic in the vicinity of the project is *already* at failing
12 levels. If service is already inadequate, the General Plan does not permit an increase in density. Closure
13 of the right-hand turn lane would further reduce the capacity of the street system. Petitioner also
14 demonstrated that the public services in the area are inadequate. Specifically, Petitioner presented data
15 showing that Los Angeles Fire Department response times for the first-, second-, and third-in-
16 responding stations do not meet the City's own established standards. Until these basic life safety
17 services are adequate, the General Plan does not permit an increase in density. The EIR and response to
18 the Fix the City's appeal to City Planning Commission of the VTT approval provided false response
19 times for the three stations by failing to include "turn-out" time in addition to "travel time," as the City
20 requires to calculate response time. Petitioners have provided substantial evidence from the city's
21 website showing the actually response times at all three stations are woefully substandard. Thus a
22 finding that the emergency services are adequate is not supported by substantial evidence.

23 185. In addition, the approval of the 8150 Sunset Project conflicts with the General Plan. The
24 transportation element of the General Plan reflects a free right-turn lane at the intersection of Sunset
25 Boulevard and Crescent Heights. The approval of the project did not include an amendment to the
26 General Plan to reflect the elimination of the free right-turn lane, and therefore is in conflict with the
27 General Plan.

28 186. Petitioner has a direct and beneficial interest in the action herein and has exhausted all
other available remedies.

1 187. Petitioner has a beneficial right to Respondents’ performance of their respective duties
2 based on Petitioner’s interest in maintaining and improving the quality of the environment in the City of
3 Los Angeles as well as the integrity of the City’s local land use laws. Petitioner’s members have an
4 interest in improving the quality of life in their own city.

5 188. Petitioner has no plain, speedy, and adequate remedy at law, in that unless this Court
6 enjoins the RPI, it will develop the 8150 Sunset Project in spite of its inconsistency with the policies of
7 the General Plan as set forth in the Hollywood Community Plan. No amount of monetary damages or
8 other legal remedy can adequately compensate Petitioner for the irreparable harm that Petitioner, its
9 members, and the residents of the City of Los Angeles will suffer from the violations of law described
10 herein.

11 189. A dispute has arisen between Petitioner and Respondents, in that Petitioner believes and
12 contends, for the reasons set forth above, that Respondents’ actions as set forth above were unlawful and
13 invalid. Petitioner is informed and believes, and on that basis contends, that Respondents contend in all
14 respects to the contrary.

15 190. Petitioner contends that the General Plan prohibits an increase in density by subdivision
16 if transportation infrastructure and public services infrastructure are inadequate. Petitioner also
17 contends that transportation infrastructure and public services infrastructure serving the project are
18 inadequate. Respondents approved the 8150 Sunset Project in spite of being informed of Petitioner’s
19 contentions, and stated in response to Petitioner’s arguments that infrastructure was adequate to support
20 the project.

21 191. A judicial declaration as to the legality of Respondents’ actions, as set forth above, is
22 therefore necessary and appropriate to determine the respective rights and duties of the parties.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Petitioners pray for relief as follows:

25 1. That this Court issue a peremptory writ of mandate, commanding Respondents to rescind
26 and revoke the certification of the EIR, and to rescind and revoke all of entitlements issued for the 8150
27 Sunset Project, including the Vesting Tentative Tract Map, the density bonus, the site plan review, and
28 the master conditional use permit, as well as all CEQA Findings and Statement of Overriding
Considerations made in support of these approvals;

1 2. That this Court issue a temporary restraining order, preliminary injunction,
2 administrative stay, and permanent injunction enjoining Respondents and Real Party from taking any
3 action to implement the 8150 Sunset Project, and to further enjoin Respondents and Real Party from
4 taking any action to construct the 8150 Sunset Project, including but not limited to demolition, grading,
5 and construction activities, until such time as Respondents have certified an EIR that conforms to the
6 requirements of CEQA and approved a project that conforms to all applicable legal requirements;

7 3. That this Court issue declaratory relief, declaring that:

- 8 a. Respondents' certification of the EIR was in violation of the substantive
9 and procedural requirements of CEQA;
- 10 b. Respondents' approval of the 8150 Sunset Project's construction was in
11 violation of the Alquist-Priolo Act;
- 12 c. Respondents' approval of the construction over the free right-turn lane
13 from eastbound Sunset Boulevard to southbound Crescent Heights
14 Boulevard was in violation of the Streets and Highways Code;
- 15 d. Respondents' approval of the use of 8118 Sunset Boulevard by RPI as
16 part of the 8150 Sunset Boulevard Project was contrary to City law
17 regarding the use and disposition of City-owned property;
- 18 e. Respondents' approval of the Vesting Tentative Tract Map was in
19 violation of the requirements of the Subdivision Map Act;
- 20 f. Respondents' approval of the 8150 Sunset Project violated Los Angeles
21 Municipal Code provisions related to density bonuses, tract maps, and
22 street design; and
- 23 g. Respondents' approval of the 8150 Sunset Project was in violation of the
24 General Plan of the City of Los Angeles.

24 4. That this Court award Petitioner attorneys' fees and costs pursuant to Code of Civil
25 Procedure section 1021.5; and

26 5. That this Court grant Petitioner such other, different, or further relief as the Court may
27 deem just and proper.

1 Dated: November 30, 2016

Respectfully submitted,

2 STRUMWASSER & WOOCHEER LLP
3 Fredric D. Woocher
4 Beverly Grossman Palmer

5 By: 
6 Beverly Grossman Palmer

7 *Attorneys for Petitioner/Plaintiff Fix*
8 *the City, Inc.*

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1 VERIFICATION

2 I, Laura Lake, declare:

3 I am Secretary of Fix the City, Inc. and a resident of the City of Los Angeles. I am authorized to
4 make this verification for Petitioner and Plaintiff. I have read the foregoing Verified Petition for Writ of
5 Mandate and Complaint for Injunctive and Declaratory Relief. I am informed and believe that the
6 contents thereof are true, and on that ground I allege that the matters stated therein are true.

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

9 Executed this 30th day of November, 2016, at Los Angeles, California.

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11 
12 Laura Lake, Secretary
13 Fix the City
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EXHIBIT A

STRUMWASSER & WOOCHER LLP

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† Also admitted to practice in New York and Massachusetts

‡ Also admitted to practice in Illinois. Not yet admitted in California

November 30, 2016

Holly L. Wolcott, City Clerk
City of Los Angeles
200 North Spring Street, Room 360
Los Angeles, California 90012
Via email to holly.wolcott@lacity.org
Via facsimile to 213-978-1027

Re: Notice of Intent to Commence CEQA Action
Fix the City, Inc. v. City of Los Angeles, et al.

Dear Ms. Wolcott:

This is to inform you, as an agent for the City of Los Angeles, (the “City”) and the Los Angeles City Council (the “City Council”), that Fix the City, Inc. (“Petitioner”) will be filing suit against the City and the City Council to challenge the approval of a mixed-use development project at 8150 Sunset Boulevard in the City of Los Angeles.

Please take notice under section 21167.5 of the Public Resources Code that Petitioner intends to include a cause of action under the provisions of the California Environmental Quality Act (“CEQA”) against the City and the City Council. The lawsuit will challenge, among other things, the adequacy of the project description and the rejection of feasible alternatives that would eliminate a significant impact of the proposed project. The lawsuit will allege other violations of law in addition to CEQA.

Sincerely,



Beverly Grossman Palmer

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

Re: *Fix the City v. City of Los Angeles, et al.*

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 **November 30, 2016**, I served the documents described as **LETTER DATED NOVEMBER 30, 2016 RE NOTICE OF INTENT TO COMMENCE CEQA ACTION** on all appropriate parties in this action, as listed below, by the method stated.

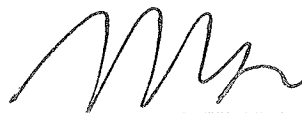
Holly L. Wolcott, City Clerk
City of Los Angeles
200 North Spring Street, Room 360
Los Angeles, California 90012
F: (213) 978-1027
T: (213) 978-1020
holly.wolcott@lacity.org

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 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 email 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).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **November 30, 2016**, at Los Angeles, California.



Mindy Lu