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*Fix the City, Inc.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

FIX THE CITY, INC., a California nonprofit corporation,

Petitioner and Plaintiff,

v.

COUNTY OF LOS ANGELES, a municipal  
corporation; LOS ANGELES COUNTY BOARD OF  
SUPERVISORS; and DOES 1 through 100, inclusive,

Respondents/Defendants.

MUSEUM ASSOCIATES, dba Los Angeles County  
Museum of Art,

Real Party in Interest.

CASE NO.

**VERIFIED PETITION FOR WRIT OF  
MANDATE AND COMPLAINT FOR  
INJUNCTIVE AND DECLARATORY  
RELIEF**

(Public Resources Code, § 21168; Code of  
Civil Procedure, §§ 526, 1085, 1097)

CALIFORNIA ENVIRONMENTAL  
QUALITY ACT (CEQA) Action

COMES NOW Petitioner and Plaintiff Fix the City, Inc., and alleges as follows:

## INTRODUCTION

1. Fix the City brings this challenge to the certification by Respondents Los Angeles County and the Los Angeles County Board of Supervisors (the County) of an Environmental Impact Report (EIR) for the replacement and reconstruction of buildings at the Los Angeles County Museum of Art (LACMA). The project approved by the County involves the demolition of certain existing structures on the LACMA campus, the construction of a new structure on the campus and across Wilshire Boulevard. The project also includes removal of 260 spaces of surface parking currently located across the street from LACMA at the intersection of Wilshire Boulevard and Spaulding Avenue, and the construction of a seven-story parking structure containing 260 spaces on three lots along Ogden Drive, south of Wilshire Boulevard. Collectively, these components will be referred to as “the Project,” for purposes of this Petition.

2. The April 9, 2019 approval of the Project and certification of the EIR allow the County and Museum Associates, the nonprofit entity that operates LACMA, to begin construction of the project, including demolition of existing structures on the LACMA site. Yet critical components of the project require the approval of the City of Los Angeles (the City), who has not yet acted to approve these aspects. Because the City is an acknowledged Responsible Agency under the California Environmental Quality Act, it will rely upon the EIR for the project when it makes its determinations about whether to approve those components over which the City has jurisdiction.

3. Specifically, the City will consider approving the construction of a seven-story parking structure, with two below grade levels and five above grade levels, on three parcels located on Ogden Street, south of Wilshire Boulevard (the Ogden garage). The Ogden garage will replace 260 spaces of surface parking presently located on Spaulding Avenue, at the corner of Wilshire Boulevard and Spaulding (the Spaulding lot). The properties on Ogden have long been designated in the City’s General Plan for the area, the Wilshire Community Plan, for *residential* development. Such development would be forever precluded if a large parking garage is built on these properties instead, a troubling outcome in light of the current housing shortage at the forefront of present-day political debate.

4. The EIR fails to properly determine the impacts from, and mitigate the impacts of, the operation of the Ogden garage. Specifically, the Ogden garage will be located in very close proximity to the future Wilshire/Fairfax metro station that is currently under construction as part of the Westside Subway Extension project. The EIR does not evaluate the high potential for use of this parking lot by Metro riders/commuters, nor does the EIR impose any mitigation measures to prevent such use. Accordingly, the EIR fails to analyze and mitigate for this impact.

5. Because the County has certified the EIR, Fix the City must now bring this challenge to its adequacy, even though Fix the City's concern is with the construction and operation of the Ogden garage, something that has not yet been approved by the City. However, it is clear that the version of the project approved by the County cannot proceed without replacing the 260 spaces at the Spaulding Lot. Action is needed now to ensure that the impacts of the Ogden garage are properly considered so that the City is not forced into approving the structure by sheer momentum of the Project's approval by the County.

## PARTIES

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

7. Respondent and Defendant COUNTY OF LOS ANGELES (the “County”) is the public governmental entity serving the people of the County of Los Angeles.

8. Respondent and Defendant LOS ANGELES COUNTY BOARD OF SUPERVISORS (the “Board”) is the elected governing body of the County of Los Angeles, a charter county in the State of California. The Board has an office in Los Angeles County.

9. Real Party in Interest MUSEUM ASSOCIATES is a California public benefit corporation organized under California law and which does business as the Los Angeles County

1 Museum of Art, manages and operates LACMA under the authority of the County of Los  
2 Angeles. In partnership with the County of Los Angeles, Museum Associates proposes to  
3 construct the Project.

4 10. Petitioner and Plaintiff is unaware of the true names and capacities of Respondent  
5 DOES 1 through 100, inclusive, and they are therefore sued by fictitious names pursuant to Code of  
6 Civil Procedure section 474. Petitioner alleges on information and belief that each such fictitiously  
7 named Respondent is responsible or liable in some manner for the events and happenings referred to  
8 herein, and Petitioner will seek leave to amend this Petition to allege their true names and capacities  
9 after the same have been ascertained.

#### 10 **JURISDICTION AND VENUE**

11 11. This Court has original jurisdiction over this matter pursuant to article VI, section 10 of  
12 the California Constitution, sections 1085 and 1094.5 of the Code of Civil Procedure, and Public  
13 Resources Code section 21168.5.

14 12. Venue is proper in the County of Los Angeles pursuant to Code of Civil Procedure  
15 section 394 in that Respondents/Defendants are government entities and/or agents of the City of Los  
16 Angeles.

17 13. On April 11, 2019, a Notice of Determination to Approve the LACMA Project was  
18 posted by the Los Angeles County Clerk Recorder. The Notice was posted until May 13, 2019, and  
19 this lawsuit was timely filed on May 13, 2019.

#### 20 **EXHAUSTION OF REMEDIES**

21 14. Fix the City has exhausted all administrative remedies by commenting on the Draft  
22 Environmental Impact Report and the Final Environmental Impact Report. The issues raised in this  
23 action by Fix the City were raised by Fix the City or other commenters during the approval process.

24 15. Petitioner provided the County with notice that it intended to commence this action on  
25 May 10, 2016. A copy of Petitioner's letter notifying the City and its proof of service is attached as  
26 Exhibit A.

27 16. Petitioner notified the Attorney General that it was commencing this litigation. Proof  
28 of service of a copy of the Verified Petition on the Attorney General is attached as Exhibit B.

## FACTUAL ALLEGATIONS

17. The EIR describes the Project: “Museum Associates proposes to construct the LACMA Building for the Permanent Collection (the Museum Building) . . . within LACMA East, over a portion of Wilshire Boulevard, and within the adjacent property owned by Museum Associates on the south side of Wilshire Boulevard at the southeast corner of Wilshire Boulevard and Spaulding Avenue (referred to as the Spaulding Lot). In addition, a new parking facility providing approximately 260 parking spaces would be developed southwest of the intersection of Ogden Drive and Wilshire Boulevard on three contiguous parcels owned by Museum Associates . . . . This new parking facility . . . would replace the existing surface parking currently on the Spaulding Lot and would provide the same number of spaces currently located on the Spaulding Lot.”

18. As set forth in the EIR, “The Museum Building would comprise one building of approximately 387,500 gross square feet. The Museum Building would replace four existing buildings within LACMA East collectively comprising approximately 392,871 gross square feet: the Ahmanson Building (approximately 164,323 square feet), the Hammer Building (approximately 63,712 square feet), the Art of the Americas Building (approximately 107,650 square feet), and the Bing Center (approximately 47,886 square feet), which contains the LACMA Café, the Dorothy Brown Auditorium (which provides 116 seats), and the Bing Theater (which provides 600 seats), and the outdoor covered areas in the Los Angeles Times Central Court (Times Central Court). Overall, the Museum Building would result in a decrease in the square footage of museum buildings by approximately 5,371 square feet and a reduction in the combined maximum theater size from 716 seats to approximately 300 seats.”

19. The EIR states that “the Ogden Parking Structure would be constructed on the Ogden Lot, which is comprised of three contiguous parcels at 715–731 S. Ogden Drive, located southwest of the intersection of Wilshire Boulevard and Ogden Drive. . . . The new parking structure would include up to five above-grade parking levels and up to two below-grade parking levels. The approximate height of the parking structure would be 55 feet, which would be consistent with the building heights in the vicinity. The Ogden Parking Structure is primarily a 55-foot-tall building plus an additional 10-foot rooftop elevator tower at the northern portion of the building which occupies

1 approximately five percent of the floor plate area and brings the maximum building height to 65 feet.  
2 The Ogden Parking Structure would also include approximately two rooftop light fixtures that extend  
3 up to 20 feet above the rooftop level. Access to the new parking structure would be provided from  
4 Ogden Drive. The hours of operation for the Ogden Parking Structure would be the same as the  
5 current hours of operation for the Pritzker Parking Garage and the Spaulding Lot.”

6 20. The properties on which the Ogden garage will be constructed are zone [Q]C4-2 CDO  
7 and [Q] C2-1 CDO.

8 21. The [Q] condition was imposed on these parcels at the time the Wilshire Community  
9 Plan was adopted in 2001, in order to *permanently* restrict their use. At the time the [Q] conditions  
10 were imposed, their intent was made clear in the EIR prepared for the Wilshire Community Plan. The  
11 lots were then occupied by surface parking lots. The City did not wish for the then-existing lots to  
12 become nonconforming uses. It was the intent of the Wilshire Community to encourage *residential*  
13 development on these properties, at such time that the properties would be developed. The parcels  
14 were given C zones, because parking lots were permitted in such zone, but were also assigned a  
15 permanent [Q] condition that provides that “The use of the property shall be limited to parking lots or  
16 residential development up to R3 densities.”

17 22. The CDO suffix stands for Community Design Overlay, and refers to the Miracle Mile  
18 Community Design Overlay. The CDO contains several policies relevant to parking:

- 19 • Integrate a parking structure into the overall design of a development through  
20 compatible materials, color and architectural defining features.
- 21 • Parking should be located underground where possible.
- 22 • Parking structures should be compatible with the main building through a consistency  
23 in building material, color and design.

24 23. The construction of the Ogden garage will require a future approval action by the City.

25 24. Planning for the Project began in earnest in November 2014, when the Board of  
26 Supervisors approved a funding concept of County bond financing and contributions from Museum  
27 Associates in the approximate aggregate amount of \$600 million to implement the Project. At that  
28 time, the Board of Supervisors also authorized the issuance of \$7.5 million in short-term lease revenue

1 notes as an advance on a portion of the \$125 million County contribution, to provide funding to  
2 Museum Associates for expenses incurred for feasibility planning studies, environmental studies and  
3 design activities on the Project.

4 25. On August 4, 2016, the County of Los Angeles gave notice that it intended to require  
5 the preparation of an EIR for a project entitled "LACMA Building for the Permanent Collection,"  
6 proposed by Museum Associates doing business as Los Angeles County Museum of Art. The Notice  
7 of Preparation announced an August 24, 2016 public scoping hearing.

8 26. The County received comments from agencies such as Metro and CalTrans as well as  
9 members of the public, such as the Miracle Mile Residents Association.

10 27. On October 26, 2017, the County published a Notice of Completion and Availability of  
11 a Draft Environmental Impact Report. The Notice announced a review period for public comment  
12 from October 26, 2017 to December 15, 2017.

13 28. The October 26 Notice also announced a public meeting to present the findings of the  
14 Draft EIR on November 7, 2017.

15 29. The County received 76 comment letters or comment forms on the Draft EIR, from  
16 government agencies, individuals, and organizations. Fix the City submitted a comment letter on the  
17 Draft EIR.

18 30. On March 22, 2019, the County published a Notice of Completion and Availability of a  
19 Final EIR for the Project.

20 31. On April 9, 2019, the Los Angeles County Board of Supervisors met to consider the  
21 approval of the Project and certification of the EIR. At that meeting, the Board of Supervisors  
22 unanimously took the following actions:

- 23 a) "Certif[ied] that the Final Environmental Impact Report for the proposed Los Angeles County  
24 Museum of Art Building for the Permanent Collection Project has been completed in  
25 compliance with the California Environmental Quality Act, and reflects the independent  
26 judgment and analysis of the County; find that the Board has reviewed and considered the  
27 information in the Final Environmental Impact Report, including comments received during  
28 the public review period, prior to approving the Los Angeles County Museum of Art Building

1 for the Permanent Collection Project; adopt the Mitigation Monitoring and Reporting Program,  
2 finding that the Los Angeles County Museum of Art Building for the Permanent Collection  
3 Project is adequately designed to ensure compliance with the mitigation measures during Los  
4 Angeles County Museum of Art Building for the Permanent Collection Project  
5 implementation; and determine that the potential significant adverse effects of the Los Angeles  
6 County Museum of Art Building for the Permanent Collection Project either have been  
7 reduced to an acceptable level, or are outweighed by specific overriding considerations of the  
8 benefits of the Los Angeles County Museum of Art Building for the Permanent Collection  
9 Project as outlined in the Environmental Findings of Fact and Statement of Overriding  
10 Considerations

- 11 b) “Approve[d] the proposed Los Angeles County Museum of Art Building for the Permanent  
12 Collection Project.
- 13 c) “Authorize[d] the demolition of Ahmanson, Hammer and Art of the Americas Buildings and  
14 the Bing Center located on the east campus of the Los Angeles County Museum of Art, the site  
15 of the new Los Angeles County Museum of Art Building for the Permanent Collection Project.
- 16 d) Delegate[d] authority to the Chief Executive Officer, or her designee, to negotiate and execute  
17 agreements between the County and Museum Associates, subject to approval as to form by  
18 County Counsel, regarding the project site, to facilitate the construction of the Los Angeles  
19 County Museum of Art Building for the Permanent Collection Project.
- 20 e) “Authorize[d] the issuance of \$117.5 million in short-term lease revenue notes as the balance  
21 of the County’s total contribution of \$125 million to the Los Angeles County Museum of Art  
22 Building for the Permanent Collection Project.
- 23 f) “Delegate[d] authority to the Chief Executive Officer, or her designee, to execute, amend, and  
24 carry out the terms of a funding agreement with Museum Associates, subject to approval as to  
25 form by County Counsel, for disbursement of the County’s remaining contribution of \$117.5  
26 million to the Los Angeles County Museum of Art Building for the Permanent Collection  
27 Project.
- 28 g) “Delegate[d] authority to the Chief Executive Officer, or her designee, to execute a funding



1 agreement with Museum Associates, subject to approval as to form by County Counsel, and  
2 carry out the terms of a funding agreement for disbursement of \$300 million of bond proceeds  
3 for the Los Angeles County Museum of Art Building for the Permanent Collection Project  
4 which will be repaid by Museum Associates.

- 5 h) “Authorize[d] the Chief Executive Officer, or her designee, to execute any additional  
6 transactional documents, subject to approval as to form by County Counsel, and take any other  
7 actions consistent with, and/or necessary for, the implementation of the proposed Los Angeles  
8 County Museum of Art Building for the Permanent Collection Project, including with respect  
9 to any land use entitlements or other permits required from the City of Los Angeles with  
10 respect to the portion of the Los Angeles County Museum of Art Building for the Permanent  
11 Collection Project spanning Wilshire Boulevard.”

#### 12 **FIRST CAUSE OF ACTION**

##### 13 **Violation of California Environmental Quality Act** 14 **(Public Resources Code § 21168, Code of Civ. Proc., § 1094.5)**

15 32. Petitioner hereby re-alleges and incorporates by reference herein the allegations in the  
16 preceding paragraphs.

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

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

7           35.     CEQA requires the assessment and public disclosure of potentially adverse impacts that  
8 a discretionary project, requiring public agency approval, might have on the environment. (Pub.  
9 Resources Code, §§ 21002, 21002.1.) CEQA states that public agencies may not approve projects “if  
10 there are feasible alternatives or feasible mitigation measures available which would substantially  
11 lessen the significant environmental effects of such projects.” (*Id.*, § 21002.) The Legislature has  
12 established a variety of methods to accomplish its goals concerning California’s environment. The  
13 principal method is the drafting and completion of an EIR.

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

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

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

1           39.     “Public participation is an essential part of the CEQA process.” (Cal. Code Regs., tit.  
2 14, § 15201.) The public is entitled to file written comments regarding the environmental review of  
3 the project (see *id.*, §§ 15087, 15202, 15203) and to testify at any public hearing concerning the EIR  
4 (see *id.*, § 15202, subd. (d) [the “draft EIR should be used as a basis for discussion at a public  
5 hearing”]; see also *id.*, § 15202, subd. (b) [“If an agency provides a public hearing on its decision to  
6 carry out or approve a project, the agency should include environmental review as one of the subjects  
7 for the hearing.”]).

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

13           41.     “Each public agency shall mitigate or avoid the significant effects on the environment  
14 of projects that it carries out or approves whenever it is feasible to do so.” (Pub. Resources Code, §  
15 21002.1, subd. (b).)

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

23           43.     Under the Guidelines, “mitigation” includes “[a]voiding the impact altogether by not  
24 taking a certain action or parts of an action,” [m]inimizing impacts by limiting the degree or  
25 magnitude of the action and its implementation,” “[r]educing or eliminating the impact over time by  
26 preservation and maintenance operations during the life of the action,” or “[c]ompensating for the  
27 impact by replacing or providing substitute resources or environments.” (Cal. Code. Regs., tit. 14, §  
28 15370.)

1           44.     “Mitigation measures must be fully enforceable through permit conditions, agreements,  
2 or other legally-binding instruments. In the case of the adoption of a plan, policy, regulation, or other  
3 public project, mitigation measures can be incorporated into the plan, policy, regulation, or project  
4 design.” (Cal. Code Regs., tit. 14, § 15126.4, subd. (a)(2).)

5           45.     “Responsible agency” means a public agency, other than the lead agency, which has  
6 responsibility for carrying out or approving a project. (Pub. Resources Code, § 21069.)

7           46.     A “responsible agency” under CEQA is any public agency that “proposes to carry out  
8 or approve a project, for which a lead agency is preparing or has prepared an EIR or negative  
9 declaration” and for which it has discretionary approval over all or part of that project. (Cal.Code  
10 Regs., tit. 14, § 15381.)

11          47.     Under Public Resources Code section 21167.2, if no action is timely filed to challenge  
12 the certification of an EIR, it is presumed to comply with CEQA for purposes of use by responsible  
13 agencies.

14          48.     The EIR for LACMA does not satisfy the requirements of CEQA to fully analyze the  
15 impacts of the Project, because it does not adequately consider the impacts of providing insufficient  
16 parking at the Ogden garage.

17          49.     As the EIR acknowledges, the 260 spaces at the Spaulding lot are either used by  
18 LACMA or covenanted to other projects, such as the Academy Museum of Motion Pictures, located  
19 on LACMA West. The EIR acknowledges that the full 260 spaces in Ogden garage are required to  
20 satisfy peak parking demand, which is determined to be midweek in the afternoons.

21          50.     The Ogden garage will be located mere feet from the portal to the under-construction  
22 subway line under Wilshire Boulevard. Metro does not intend to provide parking at stations along the  
23 new Purple line. The Ogden garage will be one of very few places that will be located so close to a  
24 station for commuters to “park and ride.”

25          51.     Respondents were informed by the Miracle Mile Residents Association that the EIR for  
26 the Westside Subway Extension project had concluded that the Wilshire/Fairfax station would have a  
27 daily parking demand of 238 spaces, and that parking in the area was inadequate to accommodate such  
28 demand.

1           52.     The comment by the Miracle Mile Residents Association raised the concern that Metro  
2 riders will take advantage of the parking structure located convenient to the station to use the train,  
3 rather than to visit the museum. Given the EIR's estimation of weekday parking demand for museum  
4 visitors and employees, use of the structure by Metro riders would quickly outstrip the supply of  
5 parking and send drivers circulating around the residential areas of the Miracle Mile to search for  
6 parking.

7           53.     The EIR glibly responded: "Similar to other parking facilities for institutional and  
8 commercial buildings in the area (e.g., Petersen Museum, 5700 Wilshire, Museum Square, etc.),  
9 LACMA parking facilities, including the Pritzker Garage and Spaulding Lot have a fee system and  
10 validation programs in place to incentivize patron parking. It is envisioned that similar measures  
11 would be implemented within the Ogden Parking Structure to discourage non-LACMA visitors from  
12 utilizing LACMA parking facilities."

13           54.     The only mitigation measure included in the EIR's mitigation and monitoring program  
14 is "Project Design Feature K-1" which requires a "Parking and Traffic Management Plan" to be  
15 implemented by Museum Associates. The plan "shall include measures to effectively manage and  
16 direct parking demand and traffic on weekday and weekends during peak attendance for the Project."  
17 The plan must be approved by Respondents and the City. The plan "strategies are anticipated to  
18 facilitate more direct routing to off-street parking lots, as well as encourage visitors and  
19 employees/staff to reduce parking demand and vehicular traffic on the adjacent streets during the peak  
20 hours by promoting carpooling and non-auto travel."

21           55.     The EIR improperly defers mitigation for parking impacts in adopting Project Design  
22 Feature K-1.

23           56.     The validation system is not a mitigation measure in the EIR, so there is no mitigation  
24 provided for the obvious problem of misuse of the parking that is necessary to accommodate  
25 LACMA's visitors, visitors to other facilities that have covenanted to use LACMA's parking, and  
26 LACMA's employees. The validation system is a revenue-generating mechanism for LACMA, not a  
27 mitigation measure.

28           57.     The EIR does not analyze the cumulative impacts of parking demand including the

1 demand from riders of the Westside Subway Expansion.

2 58. The EIR's response to comments on the parking issues was inadequate under CEQA.

3 59. The EIR does not provide a sufficiently reasoned explanation as to how it will stop  
4 patrons from violating the validation requirement by briefly visiting the museum and then taking the  
5 train or alternatively taking the train and then briefly visiting the museum.

6 60. Under Public Resources Code section 21167, subdivision (c), an action alleging that an  
7 EIR does not comply with CEQA must be filed within 30 days of the posting of the Notice of  
8 Determination. The Notice of Determination was posted on April 11, 2019, and this action is filed on  
9 the first business after 30<sup>th</sup> day, which is the last day on which the Notice of Determination is posted,  
10 May 13, 2019.

11 61. Petitioner has a direct and beneficial interest in the action herein and has exhausted all  
12 other available remedies.

13 62. Petitioner has a beneficial right to Respondents' performance of their respective duties  
14 based on Petitioner's interest in maintaining and improving the quality of the urban infrastructure in  
15 the City, as well as the interest of Petitioner's members in improving quality of life in their own city.

16 63. Respondents' actions in approving the Project and certifying its EIR have caused and  
17 threaten to cause Petitioner irreparable and substantial harm.

18 64. Petitioner has no plain, speedy, and adequate remedy at law, in that unless this Court  
19 enjoins the Real Parties, they will develop the Project consistent with the invalid and void  
20 Development Agreement and the improperly certified EIR. No amount of monetary damages or other  
21 legal remedy can adequately compensate Petitioner for the irreparable harm that Petitioner, its  
22 members, and the residents of the City of Los Angeles will suffer from the violations of law described  
23 herein.

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

28 66. Petitioner contends that the EIR does not comply with the requirements of CEQA, for

1 the reasons set forth above. Petitioner is informed and believes that in response to Petitioner having  
2 identified these issues for Respondents, Respondents have disagreed with Petitioner's contentions.

3 67. 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 **PRAYER FOR RELIEF**

6 WHEREFORE, the Petitioner and Plaintiff pray for judgment as follows:

7 1. That the Court issue a peremptory writ of mandate, requiring Respondents to set aside  
8 the EIR for the Project, including the mitigation and monitoring program, as well as all approvals  
9 adopted in support of the Project, until such time as Respondents have certified an EIR that complies  
10 with CEQA;

11 2. That this Court enjoin Respondents from taking any action to further the construction  
12 of the Project, and to enjoin Real Parties from any activity in furtherance of the construction of the  
13 Project; and that this Court enjoin Respondents to rescind, revoke, and invalidate all approvals issued  
14 in support of the Project, until such time as Respondents have certified an EIR that complies with  
15 CEQA;

16 3. That this Court issue declaratory relief that the EIR's analysis of parking impacts is  
17 inadequate and the mitigation measures for parking impacts are insufficient under CEQA;

18 4. That this Court award Petitioner and Plaintiff costs and attorneys' fees pursuant to  
19 Code of Civil Procedure section 1021.5 or other applicable law; and

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

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DATED: May 13, 2019

Respectfully submitted,  
STRUMWASSER & WOOCHEER LLP  
Fredric D. Woocher  
Beverly Grossman Palmer

By:   
Beverly Grossman Palmer

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



**VERIFICATION**

I, James O'Sullivan, declare:

I am a Director of Fix the City, Inc., and a resident of the City of Los Angeles. I am authorized to make this verification for Petitioner and Plaintiff. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF. I am informed and believe that the contents thereof are true, and on that ground I allege that the matters stated therein are true.

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

Executed this 12 day of May, 2019, at Los Angeles, California.



James O'Sullivan, Director  
Fix the City

# **EXHIBIT A**

STRUMWASSER & WOOCHELLP

ATTORNEYS AT LAW

10940 WILSHIRE BOULEVARD, SUITE 2000  
LOS ANGELES, CALIFORNIA 90024

FREDRIC D. WOOCHELL  
MICHAEL J. STRUMWASSER  
GREGORY G. LUKE †  
BRYCE A. GEE  
BEVERLY GROSSMAN PALMER  
DALE K. LARSON

TELEPHONE: (310) 576-1233  
FACSIMILE: (310) 319-0156  
[WWW.STRUMWOOCHELL.COM](http://WWW.STRUMWOOCHELL.COM)

ANDREA SHERIDAN ORDIN  
SENIOR COUNSEL

† Also admitted to practice in New York and Massachusetts

‡ Also admitted to practice in Illinois

May 10, 2019

***Via U.S. Mail and Email***

Dean C. Logan, Registrar-Recorder/County Clerk  
County of Los Angeles  
12400 Imperial Highway  
Norwalk, CA 90650  
Phone: (800) 201-8999  
Email: DLogan@rrcc.lacounty.gov

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

Dear Mr. Logan:

This is to inform you, as an agent for the County of Los Angeles (the “County”) and the Los Angeles County Board of Supervisors (the “Board”), that Fix the City, Inc. (“Petitioner”) will be filing suit against the County and the Board to challenge the April 9, 2019 action of the County certifying an Environmental Impact Report and adopting a mitigation and monitoring program pursuant to the California Environmental Quality Act (“CEQA”) for the construction of the LACMA Building for the Permanent Collection.

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 CEQA against the County and the Board. The lawsuit will challenge, among other things, the County’s decision to certify the Environmental Impact Report, without fully analyzing and mitigating the impacts of the project.

Sincerely,



Beverly Grossman Palmer

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**PROOF OF SERVICE**

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

Re: *Fix the City v. County of Los Angeles et al.*, L.A.S.C. Case No. BS161800

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 May 10, 2019 I served the foregoing document described as: **LETTER DATED MAY 10, 2019 RE: NOTICE OF INTENT TO COMMENCE CEQA ACTION** on all appropriate parties in this action, as listed below, by the method stated:

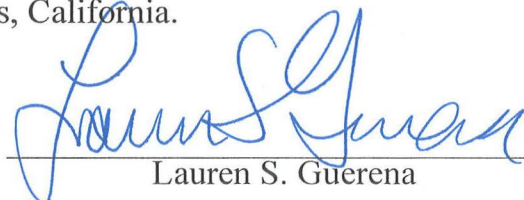
Dean C. Logan, Registrar-Recorder/County Clerk  
County of Los Angeles  
12400 Imperial Highway  
Norwalk, CA 90650  
Email: DLogan@rrcc.lacounty.gov

☒ 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 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.

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

Executed on **May 13, 2019**, at Los Angeles, California.

  
Lauren S. Guerena



## **EXHIBIT B**

STRUMWASSER & WOOCHER LLP

FREDRIC D. WOOCHER  
MICHAEL J. STRUMWASSER  
GREGORY G. LUKE †  
BRYCE A. GEE  
BEVERLY GROSSMAN PALMER  
PATRICIA T. PEI  
DALE K. LARSON

ATTORNEYS AT LAW  
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LOS ANGELES, CALIFORNIA 90024

TELEPHONE: (310) 576-1233  
FACSIMILE: (310) 319-0156  
[WWW.STRUMWOOCH.COM](http://WWW.STRUMWOOCH.COM)

† Also admitted to practice in New York and Massachusetts

May 13, 2019

*Via U.S. Mail*

Xavier Becerra  
Attorney General  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814-2919

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

Dear Attorney General Becerra:

Pursuant to Public Resources Code section 21167.5 and Code of Civil Procedure section 388, Plaintiff and Petitioner Fix the City ("Petitioner") hereby gives notice that on May 13, 2019, a verified petition for writ of mandate and complaint will be filed against Defendants and Respondents the County of Los Angeles and the Los Angeles City County Board of Supervisors (collectively, "Respondents") in Los Angeles Superior Court, Stanley Mosk Courthouse. The action challenges Respondents' failure to adhere to the requirements of the California Environmental Quality Act ("CEQA") when approving the Los Angeles County Museum of Art Building for the Permanent Collection at 5905 Wilshire Boulevard, Los Angeles, in Los Angeles County.

A copy of the Verified Petition for Writ of Mandate and Complaint for Injunctive Relief is attached to this notice. In addition, I include a copy of the notice of intent to commence action served upon Respondents, and the proof of service of that notice.

Sincerely,



Beverly Grossman Palmer



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**PROOF OF SERVICE**

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

Re: *Fix the City v. County of Los Angeles et al.*, L.A.S.C. Case No. BS161800

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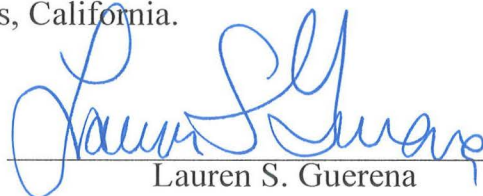
Xavier Becerra  
Attorney General  
Office of the Attorney General  
1300 I Street  
Sacramento, California 95814-2919

☐ 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.

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

Executed on **May 13, 2019**, at Los Angeles, California.

  
\_\_\_\_\_  
Lauren S. Guerna