

CARSTENS, BLACK & MINTEER LLP  
Amy Minter, SBN: 193439; [acm@cbcearthlaw.com](mailto:acm@cbcearthlaw.com)  
Michelle N. Black, SBN: 261962; [mnb@cbcearthlaw.com](mailto:mnb@cbcearthlaw.com)  
Sunjana Supekar, SBN: 328663; [sss@cbcearthlaw.com](mailto:sss@cbcearthlaw.com)  
2200 Pacific Coast Highway, Suite 318  
Hermosa Beach, CA 90254  
Tel: 310.798.2400; Fax: 310.798.2402

Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
10/28/2024 3:33 PM  
David W. Slayton,  
Executive Officer/Clerk of Court,  
By S. Bolden, Deputy Clerk

Attorneys for Petitioners  
Studio City Residents Association  
and Save LA River Open Space

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

STUDIO CITY RESIDENTS  
ASSOCIATION and SAVE LA RIVER  
OPEN SPACE,

Petitioners,  
v.

CITY OF LOS ANGELES

Respondent;

HARVARD-WESTLAKE SCHOOL;  
COUNTY OF LOS ANGELES; and DOES  
1-10,

Real Parties in Interest.

) CASE NO.: 23STCP04483  
)  
) **PETITIONERS' REPLY RE RESPONDENTS'**  
) **OPPOSITION TO PETITIONERS' JOINT**  
) **REQUEST FOR JUDICIAL NOTICE IN**  
) **SUPPORT OF JOINT OPENING BRIEF**

) Petition Filed: December 13, 2023

) Assigned For All Purposes:  
) Honorable Maurice A. Leiter  
) Department 54  
) Stanley Mosk Courthouse

) Trial Hearing  
) Date: December 10, 2024  
) Time: 9:30 a.m.

1 **I. INTRODUCTION**

2 Petitioners Studio City Residents Association and Save Weddington (collectively, “Petitioners”)  
3 hereby respond to Respondent City of Los Angeles’ unwarranted objections (“RJN Obj.”) joined by  
4 Real Party in Interest Harvard-Westlake School, to Exhibits 1, 2, 3, and 5 of Petitioners’ Request for  
5 Judicial Notice In Support of Petitioners’ Joint Opening Brief (“RJN”). For the reasons stated below,  
6 Respondent’s and Real Party’s (collectively, “Respondents”) claims that Exhibits 1, 2, 3, and 5 are  
7 improper extra-record evidence, irrelevant, or duplicative are erroneous, and they fail to sufficiently  
8 refute the propriety of taking judicial notice of these Exhibits. Thus, Petitioners respectfully request the  
9 Court grant judicial notice of Exhibits 1 through 7.

10 **II. ARGUMENT**

11 **A. Exhibits 1 and 2 Are Judicially Noticeable and Relevant.**

12 Respondents wrongly contend that Exhibits 1 and 2 are “duplicative” and irrelevant to the matter  
13 at hand. Exhibit 1 is the City’s Open Space Plan, which is the Open Space Element for the City’s  
14 General Plan. (RJN, pp. 5-6.) Exhibit 2 is the land use map from the Sherman Oaks-Studio City-Toluca  
15 Lake-Cahuenga Pass Community Plan, a component of the Land Use Element for the City’s General  
16 Plan. (Gov. Code, §65300.5; RJN, p. 7.) As explained in the RJN, the General Plan is a comprehensive,  
17 long-term planning document that outlines future development in the City of Los Angeles.<sup>1</sup> (RJN, p. 6.)  
18 In fact, a general plan is considered the “constitution for all future developments” within its jurisdiction.  
19 (*Orange Citizens for Parks & Recreation v. Superior Court* (2016) 2 Cal.5th 141, 152.) Petitioners have  
20 argued that the Project’s environmental impact report (“EIR”) fails to analyze the Project’s conflicts  
21 with the fundamental, mandatory, and clear provisions stated by Exhibits 1 and 2. (OB, pp. 30-33; Reply  
22 Brief Section II.F.) Thus, it cannot be disputed that Exhibits 1 and 2, as components of the applicable  
23 planning document with which all future development, including the Project, must be consistent  
24 (*Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of Sup’rs* (1998) 62  
25 Cal.App.4th 1332, 1336), are relevant to determining this case.

26  
27 \_\_\_\_\_  
28 <sup>1</sup> The RJN mistakenly referred to the South LA Community Plan area instead of the City of Los Angeles. Petitioners regret the error. (RJN, p. 6:12.)

1 Respondents claim that Exhibits 1 and 2 are “duplicative” and thus not proper for judicial notice.  
2 (RJN Obj., p. 8.) First, the City has not established that so-called “duplicative” evidence cannot be  
3 judicially noticed. The City makes the perplexing claim that evidence that was before the agency (thus,  
4 not extra-record evidence) is not relevant under Evidence Code section 210 because it was already  
5 considered by the agency in making its determination and has no further evidentiary value, citing  
6 *Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 570 (“*WSPA*”). *WSPA* does not  
7 support that proposition, and instead finds that extra-record evidence may not be relevant within the  
8 meaning of Evidence Code section 210 because it generally cannot be used to dispute whether a quasi-  
9 legislative decision was supported by substantial evidence, since an agency’s factual determinations are  
10 typically evaluated in light of the administrative record. (*Id.* at 9 Cal.4th 559, 570-573.) *WSPA* does not  
11 bar judicial notice of Exhibits 1 and 2, which governed the City’s determinations regarding land use  
12 consistency (AR 947 [regulatory framework for land use impacts analysis]) and should have been part of  
13 the administrative record, which was prepared by the City. (Pub. Resources Code, §21167.6, subd. (e);  
14 *County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 7 [Pub. Resources Code §21167.6, subd.  
15 (e) “contemplates that the administrative record will include pretty much everything that ever came near  
16 a proposed development *or* to the agency’s compliance with CEQA in responding to that  
17 development”]; *Golden Door Properties, LLC v. Superior Court of San Diego County* (2020) 53  
18 Cal.App.5th 733, 762-63 [“Section 21167.6 Is Mandatory and Broadly Inclusive”].) Moreover, to the  
19 extent Petitioners argue that the EIR fails as an informational document, those inquiries are governed by  
20 the de novo standard of review rather than substantial evidence in light of the whole record. (*Sierra Club*  
21 *v. County of Fresno* (2018) 6 Cal.5th 502, 512-13, 516.)

22 Respondents claim that Exhibit 1 is “duplicative” because the City’s analyses of the Project’s  
23 consistency with the Open Space Element, entitlements, and site plan review are sufficient and  
24 demonstrate Exhibit 1 was already considered by the City. (RJN Obj., pp. 8-9, citing AR 5961-63,  
25 23692-93, 23705-06.) As stated above, the fact that the City was required to consider the Open Space  
26 Plan during the administrative process demonstrates its relevance to the matter, as it clearly should have  
27 been part of the administrative record. Respondents cite several inapposite cases to claim that Exhibit 1  
28 is improperly “duplicative.” In *Bravo Vending*, the court found that the contents of a newspaper article

1 describing a city’s adoption of an ordinance during a city council hearing were not subject to judicial  
2 notice, and even if they were, the transcript of the hearing itself was already before the court. (*Bravo*  
3 *Vending v. City of Rancho Mirage* (1993) 16 Cal.App.4th 383, 406 fn. 12.) In other words, the court  
4 declined to take judicial notice of a newspaper article’s summary of a hearing, when the primary source  
5 (a hearing transcript) was already available. (*Ibid.*) This is completely distinguishable from the present  
6 case, where City claims that its self-serving statements and conclusions in the EIR’s analysis regarding  
7 the Project’s consistency with the Open Space Plan suffice instead of the primary source document  
8 itself. (RJN Obj., pp. 8-9.) Moreover, components of the General Plan—which guide development at the  
9 Project site—are much more relevant and determinative than a newspaper article summary. Further,  
10 Petitioners argue in part that the EIR fails to even consider several relevant provisions in the Open Space  
11 Plan, clearly demonstrating the EIR’s summary is insufficient to address the claim.

12 In *Onglyza*, the court declined to take judicial notice of a guideline published by the American  
13 Heart Association (“AHA”) when the requesting party failed to explain why the document was relevant  
14 to the issues on appeal and the record contained a statement by the AHA that the guideline repeated.  
15 (*Onglyza Product Cases* (2023) 90 Cal.App.5th 776, 793 fn. 11.) This differs significantly from the  
16 present case, where Petitioners have demonstrated the clear relevance of the Open Space Plan and the  
17 General Plan to adjudication of the matter. (OB, pp. 32-33; Reply Brief Section II.F.) Moreover,  
18 comparing two statements by the same private entity (the AHA) is not the same as comparing an  
19 agency’s self-serving consistency analysis with a primary document like the General Plan that  
20 establishes legally significant land use policies. Neither *Bravo Vending* nor *Onglyza* demonstrate that the  
21 Open Space Plan presented in Exhibit 1 is improper for judicial notice.

22 Respondents claim that Exhibit 2 is “duplicative” because it is included in the record at AR  
23 9831, and because the City already considered Exhibit 2 before approving the Project. As stated above,  
24 the City’s consideration of Exhibit 2 only demonstrates its relevance, not its irrelevance. Moreover,  
25 given the short, one-page length of Exhibit 2 and the fact it is already included in the record,  
26 Respondents fail to demonstrate any prejudice in taking judicial notice of Exhibit 2. Courts typically  
27 exclude duplicative or cumulative evidence under Evidence Code section 352 if its “probative value is  
28 substantially outweighed by the probability” admission will unduly consume time or create substantial

1 danger of undue prejudice, confusing the issues, or misleading a jury. (*People v. Thomas* (2012) 53  
2 Cal.4th 771, 806–07; *People v. Williams* (2009) 170 Cal.App.4th 587, 610–11.) Respondents have not  
3 and cannot make this showing, and thus Exhibit 2 is proper for judicial notice.

4 **B. Exhibits 3 and 5 Are Judicially Noticeable and Relevant.**

5 Respondents incorrectly claim that Exhibits 3 and 5 are inadmissible extra-record evidence that  
6 cannot be judicially noticed. (RJN Obj. pp. 3-4, citing *WSPA, supra*, 9 Cal.4th 559, 574-75.) However,  
7 even under *WSPA*, extra-record evidence can be admissible as “background information” or to  
8 “ascertain[] whether the agency considered all the relevant factors or fully explicated its course of  
9 conduct or grounds of decision.” (*WSPA, supra*, 9 Cal.4th 559, 579.) Moreover, documents that were  
10 considered by an agency at the time it approved a project under CEQA are not extra-record evidence but  
11 rather must be included in the administrative record. (*Golden Door Properties, LLC, supra*, 53  
12 Cal.App.5th 733, 762-63, 765-68; *County of Orange, supra*, 113 Cal.App.4th 1, 7.)

13 Exhibit 3 is a guidance document issued by the Governor’s Office of Planning and Research  
14 (“OPR”),<sup>2</sup> the same agency that issues the guidelines for the implementation of CEQA (Pub.  
15 Resources Code, §21083; Cal. Code Regs., tit. 14, §15000.), regarding AB 52 and Tribal Cultural  
16 Resources in CEQA. Exhibit 3 is not factual evidence, but rather legal guidance directed toward lead  
17 agencies regarding OPR’s interpretation of the correct CEQA procedures for participating in AB 52  
18 consultation and evaluating tribal cultural resources. (See RJN, Exhibit 3, pp. 45, 47 [internal page 3  
19 and page 5 in lower right-hand corner].) Exhibit 3 reflects a technical interpretation of CEQA by the  
20 expert agency primarily charged with its implementation and is thus entitled to a degree of  
21 deference. (See *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 12-15.)  
22 Exhibit 3 is necessary for ascertaining whether the City considered all the relevant factors in  
23 evaluating impacts to tribal cultural resources. (*WSPA, supra*, 9 Cal.4th 559, 579.) Exhibit 3 is  
24 therefore relevant within the meaning of the California Evidence Code and proper for judicial notice.

25 Exhibit 5 is Assembly Bill 1423 (“AB 1423”), which aimed to ban use of artificial turf with the  
26 presence of PFAS. Respondents concede that the Court may take judicial notice of AB 1423. (RJN Obj.,

27 \_\_\_\_\_  
28 <sup>2</sup> The Governor’s Office of Planning and Research was recently renamed the Governor’s Office of  
Land Use and Climate Innovation. (See <https://lci.ca.gov>, last visited October 25, 2024.)

1 p. 7). Despite this concession, Respondents claim that Exhibit 5 is inadmissible extra-record evidence  
2 that should have been submitted to the City prior to Project approval. (RJN Obj., p. 4.) However, the  
3 record is clear that the City considered the text of AB 1423 prior to Project approval, and thus AB 1423  
4 is not “extra-record” evidence but rather evidence that should have been included in the administrative  
5 record under CEQA’s requirements. (*Golden Door Properties, LLC, supra*, 53 Cal.App.5th 733, 762-63,  
6 765-68; *County of Orange, supra*, 113 Cal.App.4th 1, 7.) Dr. Kyla Bennett from Public Employees for  
7 Environmental Responsibility (“PEER”) described the provisions of AB 1423 and identified that the bill  
8 was pending in the legislature. (AR 24151.) The City responded to Dr. Bennett’s letter and described  
9 recent amendments to the bill, demonstrating that the bill was within the files of the City and considered  
10 by the City at the time it approved the Project. (AR 24039.) While AB 1423 was ultimately vetoed by  
11 the Governor, as Respondents even admit, compliance with AB 1423 is a legal requirement because the  
12 City’s approval was conditioned on AB 1423 compliance. (RJN Obj., p. 6; AR 231.) Respondents claim  
13 that Petitioners have failed to demonstrate the relevancy of Exhibit 5, but these facts all show that  
14 Exhibit 5 is relevant to adjudicating Petitioners’ claims that the EIR failed to adequately analyze impacts  
15 relating to artificial turf. (Evid. Code, §210.)

16       Though Respondents concede that the “bill’s statutory text and requirements,” may be  
17 judicially noticed, they object to judicial notice of the bill’s legislative findings (Section 1 of the bill  
18 text of AB 1423), as well as the Legislative Counsel’s Digest that is appended to the document.  
19 (RJN Obj., p. 7.) “An assembly bill constitutes cognizable legislative history” under Evidence Code  
20 section 451, subdivision (a), of which courts may take judicial notice. (*People ex rel. Schlesinger v.*  
21 *Sachs* (2023) 97 Cal.App.5th 800, 813.) Section 1 of AB 1423 is part of the bill’s text and thus is  
22 judicially noticeable, for the same reasons that Petitioners claim and Respondents concede the rest of  
23 AB 1423 is judicially noticeable. (RJN, p. 8; RJN Obj., p. 7.) Respondents claim that Section 1 of  
24 AB 1423 cannot be cited for the truth of the matters stated therein if such matters are reasonably in  
25 dispute. (RJN Obj., p. 7.) Respondents do not show, however, that legislative findings of AB 1423  
26 are reasonably in dispute, and Petitioners have corroborated these findings with factual data. (See  
27 OB, pp. 17-18.) In fact, Respondents’ argument is undermined by the fact that the City incorporated  
28 compliance with AB 1423 as a condition of approval for the Project. (AR 231.) Thus, Respondents

1 fail to demonstrate that Section 1 of AB 1423 cannot be judicially noticed.

2 Moreover, the Legislative Counsel’s Digest, as published legislative history, is proper for  
3 judicial notice and may be cited even without requesting judicial notice. (*Merced Irrigation Dist. v.*  
4 *Superior Court* (2017) 7 Cal.App.5th 916, 933; *Kaufman & Broad Communities, Inc. v.*  
5 *Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 35.) Thus, Exhibit 5 is relevant and proper  
6 for judicial notice.

7 **III. CONCLUSION**

8 For the reasons set forth herein, and in Petitioners’ Request for Judicial Notice in Support of  
9 Petitioners’ Joint Opening Brief, Petitioners respectfully request the Court grant judicial notice of  
10 Exhibits 1 through 7.

11 Dated: October 28, 2024

CARSTENS, BLACK & MINTEER LLP

12 By: \_\_\_\_\_

13   
14 Amy Minter  
15 Attorneys for Petitioners  
16 Studio City Residents Association and Save LA  
17 River Open Space

18 CHANNEL LAW GROUP, LLP

19 By:  /s/ Jamie T. Hall

20 Jamie T. Hall  
21 Attorneys for Petitioner  
22 Save Weddington  
23  
24  
25  
26  
27  
28

1 **PROOF OF SERVICE**

2 I am employed by Carstens, Black & Minter LLP in the County of Los Angeles, State of California.  
3 I am over the age of 18 and not a party to the within action. My business address is 2200 Pacific Coast  
4 Highway, Ste. 318, Hermosa Beach, CA. On October 28, 2024, I served the within documents:

5 **PETITIONERS’ REPLY RE RESPONDENTS’ OPPOSITION TO PETITIONERS’  
6 JOINT REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF JOINT OPENING  
7 BRIEF**

8  **VIA UNITED STATES MAIL.** I am readily familiar with this business’ practice for  
9 collection and processing of correspondence for mailing with the United States Postal Service.  
10 On the same day that correspondence is placed for collection and mailing, it is deposited in  
11 the ordinary course of business with the United States Postal Service in a sealed envelope with  
12 postage fully prepaid. I enclosed the above-referenced document(s) in a sealed envelope or  
13 package addressed to the person(s) at the address(es) as set forth below, and following  
14 ordinary business practices I placed the package for collection and mailing on the date and at  
15 the place of business set forth above.

16  **VIA OVERNIGHT DELIVERY.** I enclosed the above-referenced document(s) in an  
17 envelope or package designated by an overnight delivery carrier with delivery fees paid or  
18 provided for and addressed to the person(s) at the address(es) listed below. I placed the  
19 envelope or package for collection and overnight delivery at an office or a regularly utilized  
20 drop box of the overnight delivery carrier.

21  **VIA ONE LEGAL E-SERVICE.** By submitting an electronic version of the  
22 document(s) to One Legal, LLC, through the user interface at  
23 [www.onelegal.com](http://www.onelegal.com).

24  **VIA EMAIL OR ELECTRONIC SERVICE.** Based on a court order or an agreement of  
25 the parties to accept service by electronic transmission, I caused the above-referenced  
26 document(s) to be sent to the person(s) at the electronic address(es) listed below.

27 I declare that I am employed in the office of a member of the bar of this court whose direction the  
28 service was made. I declare under penalty of perjury under the laws of the State of California that the above is  
true and correct. Executed on October 28, 2024, at Hermosa Beach, California.

*/s/ Sarah Bloss*

\_\_\_\_\_  
Sarah Bloss



1 **SERVICE LIST**

2 *Attorneys for Respondent City of Los Angeles*

3 Hydee Feldstein Soto

4 Denise C. Mills

5 K. Lucy Atwood

6 Kathryn C. Phelan

7 Kimberly A. Huangfu

8 OFFICE OF LOS ANGELES CITY ATTORNEY

9 200 North Main Street, 701 City Hall East

10 Los Angeles, California 90012

11 [lucy.atwood@lacity.org](mailto:lucy.atwood@lacity.org)

12 [kathryn.phelan@lacity.org](mailto:kathryn.phelan@lacity.org)

13 [kimberly.huangfu@lacity.org](mailto:kimberly.huangfu@lacity.org)

14 *Attorneys for Real Parties in Interest Harvard-Westlake School*

15 Edgar Khalatian

16 Nedda Mahrou

17 Daniel Queen

18 MAYER BROWN LLP

19 333 South Grand Avenue, 47th Floor

20 Los Angeles, CA 90071-1575

21 [EKhalatian@mayerbrown.com](mailto:EKhalatian@mayerbrown.com)

22 [NMahrou@mayerbrown.com](mailto:NMahrou@mayerbrown.com)

23 [DQueen@mayerbrown.com](mailto:DQueen@mayerbrown.com)

24 *Attorneys for County of Los Angeles*

25 Laurie E. Dods, Principal Deputy County Counsel

26 OFFICE OF THE LOS ANGELES COUNTY COUNSEL

27 648 Kenneth Hahn Hall of Administration

28 500 West Temple Street

29 Los Angeles, CA 90012-2713

30 [ldods@counsel.lacounty.gov](mailto:ldods@counsel.lacounty.gov)

31 Alisha M. Winterswyk

32 BEST, BEST & KRIEGER

33 18101 Von Karman Ave., Suite 1000

34 Irvine, CA 92612

35 [Alisha.winterswyk@bbklaw.com](mailto:Alisha.winterswyk@bbklaw.com)

36 *Attorney For Save Weddington, Inc.*

37 Jamie T. Hall

38 CHANNEL LAW GROUP, LLP

39 8383 Wilshire Blvd., Suite 750

40 Beverly Hills, CA 90211

41 [Jamie.Hall@ChannellLawGroup.com](mailto:Jamie.Hall@ChannellLawGroup.com)

*Co-Counsel for Respondent*

Sabrina Teller

Nathan George

REMY MOOSE MANLEY

555 Capitol Mall, Ste. 800

Sacramento, CA 95814

[steller@rmmenvirolaw.com](mailto:steller@rmmenvirolaw.com)

[ngeorge@rmmenvirolaw.com](mailto:ngeorge@rmmenvirolaw.com)