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EXEMPT FROM FEES
GOVT. CODE § 6103

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LOS ANGELES COUNTY METROPOLITAN
TRANSPORTATION AUTHORITY

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

CITY OF CERRITOS,

Plaintiff and Petitioner,

v.

LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION
AUTHORITY, a government agency and
DOES 1 through 100, inclusive,

Defendants and Respondents.

Case No. 22STCP04277
Unlimited Jurisdiction

**RESPONDENT/DEFENDANT LOS ANGELES
COUNTY METROPOLITAN
TRANSPORTATION AUTHORITY'S
ANSWER TO PETITIONER/PLAINTIFF'S
UNVERIFIED PETITION AND COMPLAINT**

[Assigned to Hon. Mary H. Strobel,
Department 82]

Complaint Filed: December 5, 2022
Trial Date: None set

**TO THE HONORABLE COURT, ALL PARTIES, AND THEIR COUNSEL
OF RECORD:**

Respondent/Defendant Los Angeles County Metropolitan Transportation Authority (the
“MTA”), hereby answers the Petition and Complaint for: (1) Writ of Mandate (Code Civ. Proc.,

DEFENDANT/RESPONDENT MTA'S ANSWER TO PETITION AND COMPLAINT

§ 1085); and (2) Declaratory Relief (“Petition”) filed by Petitioner/Plaintiff City of Cerritos (“Petitioner”) as follows:

Pursuant to Code of Civil Procedure Sections 1085 et seq. and 431.30(d), the MTA files a general denial to said complaint and denies, generally and specifically, each and every allegation of said complaint, and the whole thereof, and denies that Petitioner is entitled to the relief requested.

AFFIRMATIVE DEFENSES

Without admitting any facts alleged in the Petition, the MTA also pleads the following separate and affirmative defenses to the Petition:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Cause of Action – All Causes of Action)

1. The Petition, and each and every cause of action alleged therein, fails to state facts sufficient to constitute a cause of action upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

(Laches – All Causes of Action)

2. The Petition, and each and every cause of action alleged therein, is barred, in whole or in part, by the doctrine of laches.

THIRD AFFIRMATIVE DEFENSE

(Unclean Hands – All Causes of Action)

3. The Petition, and each and every cause of action alleged therein, is barred, in whole or in part, by the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

(Estoppel – All Causes of Action)

4. The Petition, and each and every cause of action alleged therein, is barred, in whole or in part, by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

(Immunity – All Causes of Action)

5. The MTA is immune from liability for the acts and omissions alleged in the

Petition pursuant to the immunities set forth in the Government Code regarding claims against public entities and employees of public entities, including but not limited to Government Code §§ 815, 818.2, 818.8, 820.2, 820.4, 820.6, 820.8, 820.9, 822.2.

SIXTH AFFIRMATIVE DEFENSE

(Presumption That Official Duty Has Been Regularly Performed – All Causes of Action)

6. California Evidence Code § 664 provides a presumption that the MTA regularly performed its official duties required by law.

SEVENTH AFFIRMATIVE DEFENSE

(Good Faith – All Causes of Action)

7. At all relevant times, the MTA acted within the scope of its discretion, with due care and good faith fulfillment of its responsibilities in accordance with applicable statutes, rules, regulations, and established procedures and practices, within the bounds of reason under all circumstances known to the MTA, and with the good faith belief that its actions comported with all applicable federal and state laws.

EIGHTH AFFIRMATIVE DEFENSE

(No Violation – All Causes of Action)

8. The MTA did not violate any of the statutes and/or regulations cited, listed, or identified by Petitioner in the Petition.

NINTH AFFIRMATIVE DEFENSE

(Statutory Exemptions from Disclosure – All Causes of Action)

9. Any documents not produced that are responsive to Petitioner's CPRA requests are exempt from disclosure pursuant to one or more exemptions, including but not limited to those provided under California Government Code §§ 6254(a), (b), (c), (f), (h), (k), (p), (z), (aa), § 6255, and the deliberative process privilege recognized in *Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1342 (protecting materials reflecting or exposing deliberative or policy-making processes).

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1 **TENTH AFFIRMATIVE DEFENSE**

2 **(Private Information Protected from Disclosure – All Causes of Action)**

3 10. Any documents not produced that are responsive to Petitioner's CPRA requests
4 contain information protected from disclosure pursuant to California law, including but not
5 limited to the California Constitution, art. I, § 1.

6 **ELEVENTH AFFIRMATIVE DEFENSE**

7 **(Not Ripe for Adjudication – All Causes of Action)**

8 11. The Petition, and each and every cause alleged therein, in whole or in part, is not
9 ripe for adjudication.

10 **TWELFTH AFFIRMATIVE DEFENSE**

11 **(Official Information Privilege – All Causes of Action)**

12 12. Any documents not produced that are responsive to Petitioner's CPRA requests are
13 exempt from disclosure pursuant to the official information privilege under California Evidence
14 Code § 1040.

15 **THIRTEENTH AFFIRMATIVE DEFENSE**

16 **(Mootness – All Causes of Action)**

17 13. The Petition, and each and every cause of action alleged therein, in whole or in
18 part, is moot.

19 **FOURTEENTH AFFIRMATIVE DEFENSE**

20 **(Argumentative, Conclusory, and Contains Contentions of Law – All Causes of Action)**

21 14. The Petition, and each and every cause alleged therein, in whole or in part, is
22 argumentative, conclusory, and contains contentions of law.

23 **FIFTEENTH AFFIRMATIVE DEFENSE**

24 **(Adequate Legal Remedy – All Causes of Action)**

25 15. The Petition, and each and every cause of action alleged therein, in whole or in
26 part, seeks relief for which there is an adequate legal remedy in the ordinary course of law.

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1 SIXTEENTH AFFIRMATIVE DEFENSE

2 (No Attorneys' Fees – All Causes of Action)

3 16. The Petition, and each and every caused alleged therein, in whole or in part, fails
4 to state facts sufficient to constitute a claim for attorneys' fees.

5 SEVENTEENTH AFFIRMATIVE DEFENSE

6 (Right to Add Additional Affirmative Defenses – All Causes of Action)

7 17. The MTA reserves the right to assert additional affirmative defenses if and to the
8 extent such defenses are applicable.

9 WHEREFORE, Respondent/Defendant requests judgment as follows:

- 10 1. That Petitioner's Petition be dismissed;
11 2. That no peremptory writ of mandate shall issue;
12 3. That no injunctive or declaratory relief shall issue;
13 4. That Respondent/Defendant be awarded all its costs of suit incurred herein,
14 including reasonable attorney's fees, in accordance with California Govt. Code § 6259(d) and as
15 may be otherwise permitted by law; and
16 5. That the Court award such other and further relief as it deems just.

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18 DATED: January 9, 2023

PARKER, MILLIKEN, CLARK, O'HARA &
SAMUELIAN
A Professional Corporation

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21 

22 Gary Ganchrow

23 Attorneys for Respondent/Defendant
24 Los Angeles County Metropolitan
25 Transportation Authority
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1 **PROOF OF SERVICE**

2 City of Cerritos v. Los Angeles County Metropolitan Transportation Authority, et al.
3 Case No. 22STCP04277

4 I am employed in the County of Los Angeles, State of California. I am over the
5 age of 18 and not a party to the within action. My business address is 555 South Flower
6 Street, 30th Floor, Los Angeles, California 90071.

7 On January 9, 2023, I served the foregoing document described as
8 **RESPONDENT/DEFENDANT LOS ANGELES COUNTY METROPOLITAN**
9 **TRANSPORTATION AUTHORITY'S ANSWER TO PETITIONER/PLAINTIFF'S**
10 **UNVERIFIED PETITION AND COMPLAINT** on all interested parties:

11 Michael G. Colantuono
12 Carmen A. Brock
13 Ephraim S. Margolin
14 Colantuono, Highsmith & Whatley, PC
15 790 E. Colorado Boulevard, Suite 850
16 Pasadena, CA 91101-2109

Attorney for Plaintiff,
CITY OF CERRITOS

17 Tel: (213) 542-5700
18 Fax: (213) 542-5710
19 Emails: MColantuono@chwlaw.us;
20 CBrock@chwlaw.us;
21 EMargolin@chwlaw.us

- 22 ☒ (BY e-SERVICE / ELECTRONIC SERVICE): I caused the above-referenced
23 document to be served by electronic service through a court approved vendor, at
24 the e-mail addresses listed above.
- 25 ☒ (STATE) I declare under penalty of perjury under the laws of the State of
26 California that the above is true and correct.

27 Executed on January 9, 2023 at Los Angeles, California.

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Gabriela Paracha