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12 *Attorneys for Defendants* ERIC GARCETTI, MICHAEL N. FEUER,
13 MICHEL MOORE, and the CITY OF LOS ANGELES

14 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF LOS ANGELES**

16 TURNER’S OPERATIONS, INC. et al.,

17 Petitioners & Plaintiffs,

18 v.

19 ERIC GARCETTI et al.,

20 Respondents & Defendants.

CASE NO: 20STCP01258

**RESPONDENTS’ NOTICE OF DEMURRER
AND DEMURRERS TO FIRST AMENDED
PETITION FOR WRIT OF MANDATE
AND/OR PROHIBITION OR OTHER
APPROPRIATE RELIEF; COMPLAINT
FOR DECLARATORY AND INJUNCTIVE
RELIEF**

Hearing Date: October 1, 2020

Hearing Time: 1:30 p.m.

Department: 82

FEE EXEMPT (GOV. CODE, § 6103)

1 **TO PETITIONERS AND THEIR ATTORNEYS OF RECORD:**

2 NOTICE IS HEREBY GIVEN that on October 1, 2020 at 1:30 p.m., in Department 82 of the
3 above-entitled Court located at 111 North Hill Street, Los Angeles, California 90012, Respondents the
4 City of Los Angeles, Eric Garcetti, Michael Feuer, and Michel Moore (collectively, “Respondents”),
5 will demur, pursuant to California Code of Civil Procedure Section 430.10(e), to the first, second,
6 third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleven causes of action in Petitioners’ First
7 Amended Petition on the grounds set forth in the accompanying Demurrers.

8 The demurrer is based upon this Notice of Demurrer, the accompanying Demurrers, the
9 accompanying Memorandum of Points and Authorities in Support of the Demurrers, the
10 accompanying Declaration of Jonathan Eisenman, the accompanying Request for Judicial Notice, the
11 pleadings, papers, and files herein, and on such other and further matters as may be presented to the
12 Court at or before the hearing on this matter.

13 Respectfully submitted,

14 Dated: May 22, 2020

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16 **MICHAEL N. FEUER**, City Atty.
17 **JAMES P. CLARK**, Chief Deputy City Atty.
18 **KATHLEEN A. KENEALY**, Chief Asst. City Atty.
19 **SCOTT MARCUS**, Civil Litigation Branch Chief
20 **BLITHE S. BOCK**, Asst. City Atty.
21 **BENJAMIN F. CHAPMAN**, Deputy City Atty.
22 **JONATHAN H. EISENMAN**, Deputy City Atty.

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28 By: /s/ Jonathan H. Eisenman
 JONATHAN H. EISENMAN, Deputy City Attorney

1 **DEMURRERS**

2 Respondents the City of Los Angeles, Eric Garcetti, Michael N. Feuer, and Michel Moore
3 (collectively, “Respondents”) hereby demurrer to the First Amended Petition on each of the following
4 grounds:

5 Demurrer to First Cause of Action

6 1. Respondents generally demurrer to the entirety of Petitioners’ First Cause of Action
7 for Writ of Mandate (Violation of State Order) on the basis that it fails to state facts sufficient to
8 constitute a claim, pursuant to Cal. Code Civ. Proc. § 430.10(e).

9 Demurrer to Second Cause of Action

10 2. Respondents generally demurrer to the entirety of Petitioners’ Second Cause of
11 Action for Declaratory and Injunctive Relief (Violation of State Order) on the basis that it fails to state
12 facts sufficient to constitute a claim, pursuant to Cal. Code Civ. Proc. § 430.10(e).

13 Demurrer to Third Cause of Action

14 3. Respondents generally demurrer to the entirety of Petitioners’ Third Cause of Action
15 for Writ of Mandate (Preemption – Contradiction of State Law) on the basis that it fails to state facts
16 sufficient to constitute a claim, pursuant to Cal. Code Civ. Proc. § 430.10(e).

17 Demurrer to Fourth Cause of Action

18 4. Respondents generally demurrer to the entirety of Petitioners’ Fourth Cause of
19 Action for Declaratory and Injunctive Relief (Preemption – Contradiction of State Law) on the basis
20 that it fails to state facts sufficient to constitute a claim, pursuant to Cal. Code Civ. Proc. § 430.10(e).

21 Demurrer to Fifth Cause of Action

22 5. Respondents generally demurrer to the entirety of Petitioners’ Fifth Cause of Action
23 for Writ of Mandate (Field Preemption – Express) on the basis that it fails to state facts sufficient to
24 constitute a claim, pursuant to Cal. Code Civ. Proc. § 430.10(e).

25 Demurrer to Sixth Cause of Action

26 6. Respondents generally demurrer to the entirety of Petitioners’ Sixth Cause of Action
27 for Declaratory and Injunctive Relief (Field Preemption – Express) on the basis that it fails to state
28 facts sufficient to constitute a claim, pursuant to Cal. Code Civ. Proc. § 430.10(e).

1 Demurrer to Seventh Cause of Action

2 7. Respondents generally demurrer to the entirety of Petitioners' Seventh Cause of
3 Action for Writ of Mandate (Field Preemption – Implied) on the basis that it fails to state facts
4 sufficient to constitute a claim, pursuant to Cal. Code Civ. Proc. § 430.10(e).

5 Demurrer to Eighth Cause of Action

6 8. Respondents generally demurrer to the entirety of Petitioners' Eighth Cause of
7 Action for Declaratory and Injunctive Relief (Field Preemption – Implied) on the basis that it fails to
8 state facts sufficient to constitute a claim, pursuant to Cal. Code Civ. Proc. § 430.10(e).

9 Demurrer to Ninth Cause of Action

10 9. Respondents generally demurrer to the entirety of Petitioners' Ninth Cause of Action
11 for Declaratory and Injunctive Relief (Violation of California Constitution, Article I, Section 7(a)) on
12 the basis that it fails to state facts sufficient to constitute a claim, pursuant to Cal. Code Civ. Proc.
13 § 430.10(e).

14 Demurrer to Tenth Cause of Action

15 10. Respondents generally demurrer to the entirety of Petitioners' Tenth Cause of Action
16 for Writ of Mandate (Arbitrary and Capricious Enforcement of the City's Order) on the basis that it
17 fails to state facts sufficient to constitute a claim, pursuant to Cal. Code Civ. Proc. § 430.10(e).

18 Demurrer to Eleventh Cause of Action

19 11. Respondents generally demurrer to the entirety of Petitioners' Eleventh Cause of
20 Action for Declaratory and Injunctive Relief (Invalid Enforcement of the City's Order) on the basis
21 that it fails to state facts sufficient to constitute a claim, pursuant to Cal. Code Civ. Proc. § 430.10(e).

22 WHEREFORE, Respondents pray:

- 23 1. That Respondents' demurrer to the first, second, third, fourth, fifth, sixth, seventh,
24 eighth, ninth, tenth, and eleventh causes of action in the First Amended Petition be
25 sustained in its entirety and that the first, second, third, fourth, fifth, sixth, seventh,
26 eighth, ninth, tenth, and eleventh causes of action asserted against Respondents be
27 dismissed with prejudice and without leave to amend;

1 2. For such other and further relief as the Court deems just and proper.

2 Respectfully submitted,

3 Dated: May 22, 2020

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5 **MICHAEL N. FEUER**, City Atty.
6 **JAMES P. CLARK**, Chief Deputy City Atty.
7 **KATHLEEN A. KENEALY**, Chief Asst. City Atty.
8 **SCOTT MARCUS**, Civil Litigation Branch Chief
9 **BLITHE S. BOCK**, Asst. City Atty.
10 **BENJAMIN F. CHAPMAN**, Deputy City Atty.
11 **JONATHAN H. EISENMAN**, Deputy City Atty.

12 By: /s/ Jonathan H. Eisenman
13 **JONATHAN H. EISENMAN**, Deputy City Attorney

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PROOF OF SERVICE

Turner Operations, Inc. et al. v. Eric Garcetti, et al.

LASC Case No. 20STCP01258

I, Maria Cruz, the undersigned, say: I am over the age of 18 years and not a party to the within action or proceeding. My business address is 200 North Main Street, City Hall East, 7th Floor, Los Angeles, California 90012.

On May 22, 2020, I served the foregoing documents described as: **RESPONDENTS' NOTICE OF DEMURRER AND DEMURRERS TO FIRST AMENDED PETITION FOR WRIT OF MANDATE AND/OR PROHIBITION OR OTHER APPROPRIATE RELIEF; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** on the interested parties:

C.D. Michel
Sean A. Brady
Matthew D. Cubeiro
MICHEL & ASSOCIATES, P.C.
180 E. Ocean Blvd., Suite 200
Long Beach, CA 90802
Email: cmichel@michellawyers.com
Email: sbrady@michellawyers.com

BY MAIL – I am readily familiar with the practice of the Los Angeles City Attorney's Office for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is placed for collection and mailing. On the date referenced above, I placed a true copy of the above document(s) in a sealed envelope and placed it for collection in the proper place in our office at Los Angeles, California.

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address maria.cruz@lacity.org to the persons at the email addresses listed in the Service List

BY PERSONAL SERVICE: I placed a true copy of the above document(s) in a sealed envelope for delivery via messenger by Los Angeles City Attorney's Document Services, 200 No. Main Street, 8th Floor, City Hall East, Los Angeles, CA 90012.

BY OVERNIGHT DELIVERY: I served the documents by placing them in an envelope or package addressed to the persons listed above and providing them to UPS Courier for delivery.

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

Dated: May 22, 2020

/s/ Maria Cruz

PROOF OF SERVICE