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Attorneys for Respondents
CITY OF MONTEREY

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF MONTEREY

18 TURN DOWN THE LIGHTS,) CASE NO. M116731
19)
20 Petitioner,)
21)
22 v.)
23)
24 CITY OF MONTEREY,)
25)
26 Respondent.)
27)
28)
29)
30)
31)
32)

**RESPONDENT'S ANSWER TO
PETITION FOR WRIT OF
MANDATE**

Hearing Date: TBD
Dept.: 15

**Filing Date of Action:
March 22, 2012**

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1 Respondent CITY OF MONTEREY ("City") answers the "Petition for Peremptory Writ of
2 Mandate and to Enforce California Environmental Quality Act" ("Petition") filed by Petitioner TURN
3 DOWN THE LIGHTS ("Petitioner") in this action as follows:

4 1. Answering Paragraph 1, the City denies each and every allegation therein. The City
5 affirmatively asserts that it acted in compliance with the procedural and substantive requirements of the
6 California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), the CEQA
7 Guidelines (California Code of Regulations, title 14, section 15000 et seq.) ("CEQA Guidelines") and
8 any other applicable laws or regulations for all of its decisions with respect to the replacement of street
9 light fixtures and light bulbs.

10 2. Answering Paragraph 2, regarding Petitioner's allegations about its association and
11 membership and purposes, the City has no information or belief sufficient to enable it to answer
12 Petitioner's allegations about Petitioner and on that basis, denies the allegations therein. To the extent
13 further answer is required, the City denies each and every allegation in Paragraph 2.

14 3. Answering Paragraph 3, the City admits that it is a public entity and municipal
15 corporation located in the State of California on the Monterey Peninsula in Monterey County. In all
16 other respects, the remaining allegations in Paragraph 3 are conclusions of law rather than statements of
17 fact, and, therefore do not require a response. Except as otherwise admitted herein, the City denies each
18 and every allegation in Paragraph 3.

19 **CITY OF MONTEREY HISTORIC DISTRICT**

20 4. Answering Paragraph 4, Petitioner purports to characterize a statement on the City of
21 Monterey's website. The City of Monterey's website speaks for itself and is the best evidence of its
22 contents, and no response is required. To the extent further answer is required, the City denies each and
23 every allegation in Paragraph 4.

24 5. Answering Paragraph 5, the City admits the allegations therein.

25 6. Answering Paragraph 6, the City admits the allegations therein.

26 7. Answering Paragraph 7, the City admits that the Monterey State Historic Park is a group
27 of restored historic buildings and that Colton Hall was the site of the state's first constitutional
28 convention. Regarding Petitioner's allegations about whether the buildings included in Monterey State
29 Historic Park display the cultural diversity that guided California's transition from a remote Spanish
30 outpost in Las Californias' province to United States statehood, and other allegations regarding their
31 historical significance, the City has no information or belief sufficient to enable it to answer Petitioner's
32 allegations and on that basis, denies the allegations therein. To the extent further answer is required, the

1 City denies each and every other allegation in Paragraph 7.

2 8. Answering Paragraph 8, regarding Petitioner's statement that the buildings in Monterey
3 State Historic Park retain their heritage and preserve Californian, Spanish, Mexican and American
4 History, the City lacks information and belief sufficient to enable it to answer Petitioner's allegation
5 and on that basis, denies the allegation. The City admits that the State park includes an Interpretive
6 Center and Pacific House Museum. The City admits that the park provides tours of historic houses and
7 museums for the public. The City admits that the Secret Gardens of Monterey are part of the open air
8 museum for visitors. Except as otherwise admitted herein, the City denies each and every allegation in
9 Paragraph 8.

10 9. Answering Paragraph 9, Petitioner purports to characterize the City's Downtown Historic
11 Context Statement and Reconnaissance Survey. The Downtown Historic Context Statement and
12 Reconnaissance Survey speaks for itself and is the best evidence of its contents, and no response is
13 required. To the extent a further response is required, the City denies each and every allegation in
14 Paragraph 9.

15 10. Answering Paragraph 10, Paragraph 10 purports to be a quote from the City's 1991
16 Downtown Area Plan. The 1991 Downtown Area Plan speaks for itself and is the best evidence of its
17 contents, and no response is required. To the extent a further answer is required, the City denies each
18 and every other allegation in Paragraph 10.

19 11. Answering Paragraph 11, Paragraph 11 purports to be a quote from the City's 1991
20 Downtown Area Plan. The 1991 Downtown General Plan speaks for itself and is the best evidence of
21 its contents, and no response is required. To the extent a further answer is required, the City denies each
22 and every other allegation in Paragraph 11.

23 **FACTUAL BACKGROUND**

24 12. Answering Paragraph 12, the City admits that on or about November 25, 2009, a City
25 staff person prepared a document entitled "Project Application." The Project Name was "Light Bulb
26 Replacements." The quoted material in Paragraph 12 purports to characterize the Project Application.
27 The Project Application speaks for itself and is the best evidence of its contents, and no response is
28 required. To the extent a further response is required, the City denies each and every allegation in
29 Paragraph 12 that purports to quote from the Project Application. Regarding the remaining allegations
30 in Paragraph 12, the City lacks information and belief sufficient to enable it to answer the allegations
31 and on that basis, denies the remaining allegations in Paragraph 12. Except as otherwise admitted
32 herein, the City denies each and every allegation in Paragraph 12.

1 13. Answering Paragraph 13, the City admits that it is shown as the applicant and property
2 owner on the "Project Application" document. The remaining allegations purport to characterize the
3 content of the "Project Application." The "Project Application" speaks for itself and is the best
4 evidence of its contents, and no response is required. To the extent a further answer is required, the City
5 denies each and every other allegation in Paragraph 13.

6 14. Answering Paragraph 14, regarding the first sentence, the City admits that the Monterey
7 City Council agenda typically includes a consent calendar. The City affirmatively asserts that the
8 consent calendar is regularly noticed in the same manner as the City Council agenda and that any
9 member of the public or a City Council member may request that an item on the consent calendar be
10 pulled from that portion of the agenda and discussed separately at a City Council meeting. The City
11 denies each and every remaining allegation in Paragraph 14.

12 15. Answering Paragraph 15, the City admits the allegations therein.

13 16. Answering Paragraph 16, the City admits Petitioner's allegation that the staff report was
14 authored by the General Services Superintendent. The remaining allegation in Paragraph 16 purports to
15 be a quote from a December 1, 2009 staff report. The December 1, 2009 staff report speaks for itself
16 and is the best evidence of its contents, and no response is required. To the extent a further answer is
17 required, the City denies each and every allegation in Paragraph 16, except as admitted herein.

18 17. Answering Paragraph 17, Paragraph 17 purports to be a quote from the December 1, 2009
19 staff report. The December 1, 2009 staff report speaks for itself and is the best evidence of its contents,
20 and no response is required. To the extent a further answer is required, the City denies each and every
21 allegation in Paragraph 17.

22 18. Answering Paragraph 18, the City admits that there was no specific discussion by any
23 member of the City Council of the application for the loan prior to the Council's adoption of the
24 consent calendar. The City further affirmatively asserts that no member of the public requested that the
25 loan item be pulled from the consent calendar for full discussion.

26 19. Answering Paragraph 19, the City admits that it corresponded with the Office of Historic
27 Preservation in December 2009. The City further contends that the content of the State Historic
28 Preservation Officer's December 21, 2009, letter speaks for itself and is the best evidence of its
29 contents and no response is required. In all other respects, the remaining allegations set forth therein
30 include argument, speculation and conclusions of law rather than statements of facts and, therefore, do
31 not require a further response. To the extent a further response is required, the City denies each and
32 every allegation in Paragraph 19.

1 20. Answering Paragraph 20, the City admits the allegations therein.

2 21. Answering Paragraph 21, the City admits that the September 7, 2010 staff report was
3 authored by the General Services Superintendent. The remaining allegation in Paragraph 21 purports to
4 be a quote from the September 7, 2010 staff report. The September 7, 2010 staff report speaks for itself
5 and is the best evidence of its contents, and no response is required. To the extent a further answer is
6 required, the City denies each and every allegation in Paragraph 21, except as admitted herein.

7 22. Answering Paragraph 22, Paragraph 22 purports to be a quote from the aforementioned
8 September 7, 2010 staff report. The September 7, 2010 staff report speaks for itself and is the best
9 evidence of its contents, and no response is required. To the extent a further answer is required, the City
10 denies each and every allegation in Paragraph 22.

11 23. Answering Paragraph 23, the City contends that there was no specific discussion by any
12 member of the City Council of the appropriation of funds or of specific "energy saving projects" that
13 might be funded with the loan prior to adoption of the consent calendar. The City further affirmatively
14 asserts that no member of the public requested that the lighting contract award item be pulled from the
15 consent calendar for full discussion. To the extent a further answer is required, the City denies each and
16 every allegation therein.

17 24. Answering Paragraph 24, the City admits the allegations therein.

18 25. Answering Paragraph 25, Paragraph 25 purports to be a quote from the staff report for the
19 City Council's November 1, 2011 agenda. The November 1, 2011 staff report speaks for itself and is
20 the best evidence of its contents, and no response is required. To the extent a further answer is required,
21 the City denies each and every allegation in Paragraph 25.

22 26. Answering Paragraph 26, Paragraph 26 purports to be a quote from the November 1,
23 2011 staff report. The November 1, 2011 staff report speaks for itself and is the best evidence of its
24 contents, and no response is required. To the extent a further answer is required, the City denies each
25 and every allegation in Paragraph 26.

26 27. Answering Paragraph 27, regarding the first two sentences in Paragraph 27, the City
27 denies each and every allegation therein. The City admits that the referenced agenda item was approved
28 at the City Council meeting. Regarding the content of the agenda, staff report, minutes and the
29 resolution, those documents speak for themselves and are the best evidence of their contents, and no
30 response is required. To the extent a further answer is required, the City denies each and every
31 allegation in Paragraph 27, except as admitted herein.

32 28. Answering Paragraph 28, the first sentence in Paragraph 28 contains conclusions of law

1 rather than statements of fact, and, therefore does not require a response. Regarding the second
2 sentence, the City lacks information and belief sufficient to enable it to answer Petitioner's allegations
3 and on that basis, denies the allegations therein. To the extent a further answer is required, the City
4 denies each and every allegation in Paragraph 28.

5 29. Answering Paragraph 29, the City admits that it did not prepare an Initial Study,
6 Mitigated Negative Declaration or EIR pursuant to CEQA. The City affirmatively asserts that none of
7 these documents were required because the replacement lighting project is exempt from CEQA. The
8 second sentence contains conclusions of law rather than statements of fact, and, therefore does not
9 require a response. To the extent that an answer is required, the City denies the second sentence in
10 Paragraph 29. The City denies the third sentence in Paragraph 29. The City denies the fourth sentence
11 in Paragraph 29. Regarding the fifth sentence, the City admits that it did not conduct a public
12 demonstration or test installation of the lights, and further contends that no such demonstration or test
13 installation was required by CEQA or any other law. Except as otherwise admitted herein, the City
14 denies each and every allegation in Paragraph 29.

15 30. Answering Paragraph 30, the City admits that it began replacing streetlights in January
16 2012. The City contends that the remaining allegations in Paragraph 30 contain argument, speculation
17 and conclusions of law rather than statements of facts and, therefore, do not require a further response.
18 To the extent that a further answer is required, the City denies all allegations in Paragraph 30 except as
19 otherwise admitted herein.

20 31. Answering Paragraph 31, the City lacks information and belief sufficient to enable it to
21 answer Petitioner's allegations and on that basis, denies the allegations therein. The City contends that
22 testimony and information received by the City after its November 1, 2011 approval of the lighting
23 replacement construction award is outside the scope of the administrative record for this project and
24 therefore irrelevant.

25 32. Answering Paragraph 32, the City admits that James Bryant spoke about the new LED
26 lighting that was being installed. The City admits that Mr. Bryant asked that a different standard be
27 established for the Historic District and that he cautioned that the new lights would detract from the
28 atmosphere of the Historic District. The City further contends that testimony and information received
29 by the City after its November 1, 2011, approval of the lighting replacement construction award is
30 outside the scope of the administrative record for this project and therefore irrelevant. Regarding the
31 remaining allegations in Paragraph 32, the City lacks information and belief sufficient to enable it to
32 answer Petitioner's allegations and on that basis, denies the allegations therein. Except as otherwise

1 admitted herein, the City denies all allegations in Paragraph 32.

2 33. Answering Paragraph 33, the City admits that it filed a Notice of Exemption with the
3 County of Monterey on February 21, 2012. The City admits that, in the exemption, the City claimed
4 that the project was exempt under CEQA Guidelines, section 15302. In the remaining allegations in
5 Paragraph 33, Petitioner purports to characterize the language of the claimed exemption. CEQA
6 Guidelines section 15302 speaks for itself and is the best evidence of its contents, and no response is
7 required. To the extent a further response is required, the City denies each and every allegation in
8 Paragraph 33 except as otherwise admitted herein.

9 34. Answering Paragraph 34, regarding the first two sentences, Petitioner purports to
10 characterize the language in the City of Monterey General Plan. The City of Monterey General Plan
11 speaks for itself and is the best evidence of its contents, and no response is required. The final sentence
12 in Paragraph 34 is a conclusion of law rather than a statement of facts and, therefore, does not require a
13 further response. To the extent a further response is required, the City denies each and every allegation
14 in Paragraph 34.

15 35. Answering Paragraph 35, Paragraph 35 is a conclusion of law rather than a statement of
16 facts and, therefore, does not require a further response. To the extent a further response is required the
17 City admits that it received a faxed and mailed notice dated March 22, 2012, indicating Petitioner's
18 intent to file an action under CEQA. Except as otherwise admitted herein, the City denies each and
19 every allegation in Paragraph 35.

20 **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

21 36. Answering Paragraph 36, the City contends that the allegations set forth therein include
22 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
23 require a further response. To the extent a further response is required, the City denies each and every
24 allegation in Paragraph 36.

25 37. Answering Paragraph 37, the City contends that the allegations set forth therein include
26 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
27 require a further response. To the extent a further response is required, the City denies each and every
28 allegation in Paragraph 37.

29 38. Answering Paragraph 38, the City contends that the allegations set forth therein include
30 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
31 require a further response. To the extent a further response is required, the City denies each and every
32 allegation in Paragraph 38.

1 39. Answering Paragraph 39, the City contends that the allegations set forth therein include
2 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
3 require a further response. To the extent a further response is required, the City denies each and every
4 allegation in Paragraph 39.

5 **IMPACTS OF STREET LIGHTS**

6 40. Answering Paragraph 40, the City contends that the allegations set forth therein include
7 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
8 require a further response. To the extent a further response is required, the City denies each and every
9 allegation in Paragraph 40.

10 41. Answering Paragraph 41, the City lacks information and belief sufficient to enable it to
11 answer Petitioner's allegations and on that basis, denies the allegations therein.

12 42. Answering Paragraph 42, the City lacks information and belief sufficient to enable it to
13 answer Petitioner's allegations and on that basis, denies the allegations therein.

14 43. Answering Paragraph 43, the City lacks information and belief sufficient to enable it to
15 answer Petitioner's allegations and on that basis, denies the allegations therein.

16 44. Answering Paragraph 44, the City lacks information and belief sufficient to enable it to
17 answer Petitioner's allegations and on that basis, denies the allegations therein.

18 45. Answering Paragraph 45, regarding the first sentence, the City lacks information and
19 belief sufficient to enable it to answer Petitioner's allegations and on that basis, denies the allegations
20 therein. Regarding the second sentence in Paragraph 45, the City contends that the allegations set forth
21 therein include argument, speculation and conclusions of law rather than statements of facts and,
22 therefore, do not require a further response. To the extent a further response is required, the City denies
23 each and every allegation in Paragraph 45.

24 46. Answering Paragraph 46, the City lacks information and belief sufficient to enable it to
25 answer Petitioner's allegations and on that basis, denies the allegations therein.

26 47. Answering Paragraph 47, the City lacks information and belief sufficient to enable it to
27 answer Petitioner's allegations and on that basis, denies the allegations therein.

28 48. Answering Paragraph 48, the City lacks information and belief sufficient to enable it to
29 answer Petitioner's allegations and on that basis, denies the allegations therein.

30 49. Answering Paragraph 49, the City contends that the allegations set forth therein include
31 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
32 require a further response. To the extent a further response is required, the City denies each and every

1 allegation in Paragraph 49.

2 50. Answering Paragraph 50, the City contends that the allegations set forth therein include
3 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
4 require a further response. To the extent a further response is required, the City denies each and every
5 allegation in Paragraph 50.

6 51. Answering Paragraph 51, the City contends that the allegations set forth therein include
7 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
8 require a further response. To the extent a further response is required, the City denies each and every
9 allegation in Paragraph 51.

10 52. Answering Paragraph 52, the City contends that the allegations set forth therein include
11 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
12 require a further response. To the extent a further response is required, the City denies each and every
13 allegation in Paragraph 52.

14 **RESPONDENT'S ACTIONS**

15 **VIOLATION OF LAW**

16 53. Answering Paragraph 53, the City contends that the allegations set forth therein include
17 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
18 require a further response. To the extent a further response is required, the City denies each and every
19 allegation in Paragraph 53.

20 54. Answering Paragraph 54, the City contends that the allegations set forth therein include
21 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
22 require a further response. To the extent a further response is required, the City denies each and every
23 allegation in Paragraph 54.

24 55. Answering Paragraph 55, the City contends that the allegations set forth therein include
25 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
26 require a further response. To the extent a further response is required, the City denies each and every
27 allegation in Paragraph 55.

28 56. Answering Paragraph 56, the City contends that the allegations set forth therein include
29 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
30 require a further response. To the extent a further response is required, the City denies each and every
31 allegation in Paragraph 56.

32 57. Answering Paragraph 57, the City lacks information and belief sufficient to enable it to

1 answer Petitioner's allegations and on that basis, denies the allegations therein.

2 58. Answering Paragraph 58, the City contends that the allegations set forth therein include
3 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
4 require a further response. To the extent a further response is required, the City denies each and every
5 allegation in Paragraph 58.

6 59. Answering Paragraph 59, the City contends that the allegations set forth therein include
7 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
8 require a further response. To the extent a further response is required, the City denies each and every
9 allegation in Paragraph 59.

10 60. Answering Paragraph 60, the City lacks information and belief sufficient to enable it to
11 answer Petitioner's allegations and on that basis, denies the allegations therein.

12 61. Answering Paragraph 61, Petitioner purports to characterize CEQA and Appendix G of
13 the CEQA Guidelines. CEQA and Appendix G of the CEQA Guidelines speak for themselves and are
14 the best evidence of their contents, and no response is required. Regarding the remaining allegations in
15 Paragraph 61, the City contends that the allegations set forth therein include argument, speculation and
16 conclusions of law rather than statements of facts and, therefore, do not require a further response. To
17 the extent a further response is required, the City denies each and every allegation in 61.

18 62. Answering Paragraph 62, the City contends that the allegations set forth therein include
19 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
20 require a further response. To the extent a further response is required, the City denies each and every
21 allegation in Paragraph 62.

22 63. Answering Paragraph 63, the City contends that the allegations set forth therein include
23 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
24 require a further response. To the extent a further response is required, the City denies each and every
25 allegation in Paragraph 63.

26 64. Answering Paragraph 64, the City lacks information and belief sufficient to enable it to
27 answer Petitioner's allegations and on that basis, denies the allegations therein. The City also contends
28 that allegations set forth in Paragraph 64 include argument, speculation and conclusions of law rather
29 than statements of facts and, therefore, do not require a further response. To the extent a further response
30 is required, the City denies each and every allegation in Paragraph 64.

31 65. Answering Paragraph 65, the City lacks information and belief sufficient to enable it to
32 answer Petitioner's allegations and on that basis, denies the allegations therein.

1 66. Answering Paragraph 66, the City contends that the allegations set forth therein include
2 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
3 require a further response. Petitioner also purports to characterize the City of Monterey General Plan.
4 The City of Monterey General Plan speaks for itself and is the best evidence of its contents, and no
5 response is required. To the extent a further response is required, the City denies each and every
6 allegation in Paragraph 66.

7 67. Answering Paragraph 67, the City contends that the allegations set forth therein include
8 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
9 require a further response. Petitioner also purports to characterize the City of Monterey General Plan.
10 The City of Monterey General Plan speaks for itself and is the best evidence of its contents, and no
11 response is required. To the extent a further response is required, the City denies each and every
12 allegation in Paragraph 67.

13 68. Answering Paragraph 68, the first sentence includes argument, speculation and
14 conclusions of law rather than statements of facts and, therefore, does not require a further response.
15 Petitioner also purports to characterize the City of Monterey General Plan. The City of Monterey
16 General Plan speaks for itself and is the best evidence of its contents, and no response is required. To
17 the extent a further response is required, the City denies each and every allegation in Paragraph 68.

18 69. Answering Paragraph 69, the City admits that it encourages pedestrians and bicyclists.
19 The remaining allegations in Paragraph 69 include argument, speculation and conclusions of law rather
20 than statements of facts and, therefore, do not require a further response. To the extent a further response
21 is required, the City denies each and every allegation in Paragraph 69, except as admitted herein.

22 70. Answering Paragraph 70, the City contends that the allegations set forth therein include
23 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
24 require a further response. To the extent a further response is required, the City denies each and every
25 allegation in Paragraph 70.

26 71. Answering Paragraph 71, the City contends that the allegations set forth therein include
27 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
28 require a further response. Petitioner also purports to characterize the City of Monterey General Plan.
29 The City of Monterey General Plan speaks for itself and is the best evidence of its contents, and no
30 response is required. To the extent a further response is required, the City denies each and every
31 allegation in Paragraph 71.

32 72. Answering Paragraph 72, the City contends that the allegations set forth therein include

1 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
2 require a further response. Petitioner also purports to characterize the City of Monterey General Plan.
3 The City of Monterey General Plan speaks for itself and is the best evidence of its contents, and no
4 response is required. To the extent a further response is required, the City denies each and every
5 allegation in Paragraph 72.

6 73. Answering Paragraph 73, the City contends that the allegations set forth therein include
7 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
8 require a further response. To the extent a further response is required, the City denies each and every
9 allegation in Paragraph 73.

10 74. Answering Paragraph 74, the City lacks information and belief sufficient to enable it to
11 answer Petitioner's allegations and on that basis, denies the allegations therein.

12 75. Answering Paragraph 75, the City contends that the allegations set forth therein include
13 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
14 require a further response. To the extent a further response is required, the City denies each and every
15 allegation in Paragraph 75.

16 76. Answering Paragraph 76, the City contends that the allegations set forth therein include
17 argument, speculation and conclusions of law rather than statements of facts and, therefore, do not
18 require a further response. To the extent a further response is required, the City denies each and every
19 allegation in Paragraph 76.

20 77. Answering Paragraph 77 and subparagraphs (A) through (E), the City contends that the
21 allegations set forth therein include argument, speculation and conclusions of law rather than statements
22 of facts and, therefore, do not require a further response. To the extent a further response is required, the
23 City denies each and every allegation in Paragraph 77.

24 **ADEQUATE REMEDY**

25 78. The allegations in paragraph 78 constitute conclusions of law to which no response is
26 required. To the extent a further response is required, the City denies the allegations in paragraph 78.

27 79. The allegations in paragraph 79 constitute conclusions of law to which no response is
28 required. To the extent a further response is required, the City denies the allegations in paragraph 79.

29 **GENERAL DENIAL**

30 The City denies each and every allegation set forth in paragraphs 1 through 79 unless specifically
31 admitted above.

1 **PRAYER FOR RELIEF**

2 The City denies that Petitioner is entitled to any of the relief requested.

3 **AFFIRMATIVE DEFENSES**

4 The City hereby asserts each of the following affirmative defenses:

5 1. As a first, separate affirmative defense, the City alleges that Petitioner failed to state facts
6 sufficient to constitute a cause of action against the City.

7 2. As a second, separate affirmative defense, the City alleges that Petitioner lacks standing
8 to prosecute this action.

9 3. As a third, separate affirmative defense, the City alleges that Petitioner failed to exhaust
10 its administrative remedies, as required to maintain its causes of action.

11 4. As a fourth, separate affirmative defense, the City alleges that Petitioner is barred from
12 maintaining this action by the doctrine of laches, insofar as it has failed to comply with applicable law,
13 including but not limited to CEQA, in the filing and prosecution of this action.

14 5. As a fifth, separate affirmative defense, the City alleges that Petitioner is barred from
15 bringing this action by the applicable statutes of limitations.

16 6. As a sixth, separate affirmative defense, the City alleges that the relief Petitioner seeks, if
17 granted, would not confer a public benefit.

18 7. As a seventh, separate affirmative defense, the City alleges that the Petitioner has no
19 clear, present, and beneficial right to the relief it seeks.

20 8. As an eighth, separate affirmative defense, the City alleges that the relief Petitioner seeks,
21 if granted, would compel the City to act in a manner contrary to public policy.

22 9. As a ninth, separate affirmative defense, the City alleges that it complied fully with
23 CEQA when it approved the project.

24 10. As a tenth, separate affirmative defense, the City alleges that Petitioner cannot obtain
25 injunctive relief based on the contentions set forth in the Petition.

26 11. As an eleventh, separate affirmative defense, the City alleges that the Petition fails to
27 allege facts sufficient to state a claim for which the Court may grant relief.

28 12. The City alleges that it may have other separate and additional defenses of which it is not
29 presently aware and hereby reserves the right to raise such defenses by amendment of this Answer.

30 WHEREFORE, the City requests that the Court:

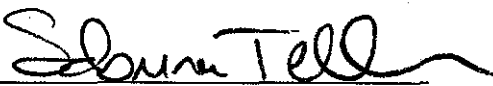
31 1. Deny Petitioner's request for a peremptory writ of mandate;

32 2. Deny Petitioner's request for injunctive relief;

- 1 3. Deny Petitioner's request for judgment;
- 2 4. Deny Petitioner's request for an order requiring Respondent to take temporary steps
- 3 regarding the lights pending a decision of this court;
- 4 5. Deny Petitioner's request for attorneys' fees and costs;
- 5 6. Award the City its costs and reasonable attorneys' fees; and
- 6 7. Grant the City such further relief as the Court deems just and proper.

7
8 Dated: November 28, 2012

Respectfully Submitted,
REMY MOOSE MANLEY, LLP

9
10
11 By: 
12 Sabrina V. Teller
13 Attorneys for Respondent
14 CITY OF MONTEREY

1 *Turn Down the Lights v. City of Monterey*
2 County of Monterey, Case No. M116731

3 **PROOF OF SERVICE**

4 I am a citizen of the United States, employed in the City and County of Sacramento. My
5 business address is 455 Capitol Mall, Suite 210, Sacramento, California 95814. I am over the age of 18
6 years and not a party to the above-entitled action.

7 I am familiar with Remy Moose Manley, LLP's practice whereby the mail is sealed, given the
8 appropriate postage and placed in a designated mail collection area. Each day's mail is collected and
9 deposited in a U.S. mailbox after the close of each day's business.

10 On November 28, 2012, I served the following:

11 **RESPONDENT'S ANSWER TO PETITION FOR WRIT OF MANDATE**

- 12 On the parties in this action by causing a true copy thereof to be placed in a sealed envelope
13 with postage thereon fully prepaid in the designated area for outgoing mail addressed as
14 follows; or
- 15 On the parties in this action by causing a true copy thereof to be delivered via Federal Express
16 to the following person(s) or their representative at the address(es) listed below; or
- 17 On the parties in this action by causing a true copy thereof to be delivered by facsimile machine
18 number (916) 443-9017 to the following person(s) or their representative at the address(es) and
19 facsimile number(s) listed below; or
- 20 On the parties in this action by causing a true copy thereof to be electronically delivered via the
21 internet to the following person(s) or representative at the address(es) listed below:

22 MICHAEL W. STAMP
23 MOLLY E. ERICKSON
24 OLGA MIKHEEVA
25 LAW OFFICES OF MICHAEL W. STAMP
26 479 Pacific Street, Suite One
27 Monterey, California 93940
28 Telephone: (831) 373-1214
29 Facsimile: (831) 373-0242
30 Email: stamp@stamplaw.com

31 I declare under penalty of perjury that the foregoing is true and correct and that this Proof of
32 Service was executed this 28th day of November, 2012, at Sacramento, California.

Rachel N. Jackson