



MICHAEL N. FEUER
CITY ATTORNEY

March 24, 2021

Gary Lee Moore, City Engineer
Department of Public Works
Bureau of Engineering
1149 South Broadway, Suite 700
Los Angeles, CA 90015

Re: Draft Ordinance Adding Section 62.104.1 to the Los Angeles
Municipal Code to Establish and Codify the New Sidewalk Repair
Program

Dear Mr. Moore:

Pursuant to City Council's request, this Office has prepared and now transmits for Council's consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance adds Section 62.104.1 to the Los Angeles Municipal Code to establish and codify a new Sidewalk Repair Program for repairs eligible for credit under the settlement agreement in the matter of *Mark Willits, et al. v. City of Los Angeles* (United States District Court Case No. CV10-05782) (*Willits Settlement*). The City Sidewalk Repair Program will streamline the approval of individual Sidewalk Repair Program Projects carried out or approved by the City.

Background and Summary of Ordinance Provisions

On April 1, 2015, the City Council approved the *Willits Settlement*, which provides that the City will spend approximately \$1.3 billion on sidewalk repairs during the 30-year compliance period of the settlement agreement. Currently, repairs of individual sidewalks required by the *Willits Settlement* are reviewed and approved on a case-by-case basis, including project-specific review for compliance with the California Environmental Quality Act (CEQA).

The ordinance establishes a new Sidewalk Repair Program to revise the way sidewalk repairs eligible for credit under the *Willits Settlement* are reviewed and

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approved, with a primary goal of streamlining the implementation of the *Willits* Settlement and eliminating, where appropriate, the need for lengthy and duplicative CEQA review.

The ordinance provides that qualifying projects are subject to a ministerial review by the City Engineer under CEQA. Projects that do not qualify under the ordinance will be subject to discretionary review under CEQA. The ordinance further authorizes the Board of Public Works to adopt a Sidewalk Repair Program Mandatory Project Features Policy and a Sidewalk Repair Program Street Tree Policy for projects to repair or reconstruct a sidewalk that are eligible for credit under the *Willits* Settlement.

CEQA Compliance

The City has prepared an Environmental Impact Report (EIR) pursuant to CEQA for the new Sidewalk Repair Program to be considered and potentially certified along with consideration of this draft ordinance, which disclosed and analyzed, at both a programmatic and project specific level, the project's reasonably foreseeable and potentially significant adverse environmental impacts.

Please review the enclosed draft ordinance and make comments, if any, directly to the City Council when this matter is considered.

Sincerely,

MICHAEL N. FEUER, City Attorney

By  for
EDWARD M. JORDAN
Assistant City Attorney

DM:TJ:ev
Transmittal

ORDINANCE NO. _____

An ordinance adding Section 62.104.1 to the Los Angeles Municipal Code to establish and codify the new Sidewalk Repair Program, a City program adopted for purposes of streamlining the approval of projects eligible for credit under the settlement agreement in the matter of *Mark Willits, et al. v. City of Los Angeles* (United States District Court Case No. CV10-05782) (*Willits Settlement*).

WHEREAS, the *Willits Settlement* provides that the City will spend approximately \$1.3 billion on sidewalk repairs during the 30-year compliance period of the settlement agreement;

WHEREAS, currently, repairs of individual sidewalks eligible for credit under the *Willits Settlement* are reviewed and approved on a case-by-case basis, including project-specific review for compliance with the California Environmental Quality Act (CEQA);

WHEREAS, the City is implementing a new Sidewalk Repair Program that will revise the environmental review and approval of sidewalk repairs eligible for credit under the *Willits Settlement*, with a primary goal of streamlining the implementation of *Willits Settlement* repairs and eliminating, where appropriate, the need for lengthy and duplicative CEQA review; and

WHEREAS, the City prepared an Environmental Impact Report (EIR) pursuant to CEQA for this new Sidewalk Repair Program which disclosed and analyzed, at both a programmatic and project specific level, the reasonably foreseeable and potentially significant adverse environmental impacts that could occur as a result of the Sidewalk Repair Program, and which was considered and certified prior to consideration of this ordinance.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Section 62.104.1 is added to Article 2 of Chapter VI of the Los Angeles Municipal Code to read as follows:

SEC. 62.104.1. SIDEWALK REPAIR PROGRAM PROJECTS.

(a) **Definitions.** The definitions provided in Section 62.00 of this Code, along with the definitions contained in this subsection, shall govern the construction, meaning, and application of words and phrases used in this section.

(1) **“Board”** shall mean the Board of Public Works or its designee.

(2) “**CEQA**” shall mean the California Environmental Quality Act, Public Resources Code Section 21000, et seq.

(3) “**City**” shall mean the City of Los Angeles.

(4) “**City Engineer**” shall mean the City Engineer or his or her designee.

(5) “**Qualifying Sidewalk Repair Project**” shall mean a Sidewalk Repair Program Project that meets all of the following requirements, as determined by the City Engineer:

(A) Construction work on the project can be completed in less than 31 non-consecutive construction days;

(B) Excavation for the project will not exceed a depth of 30 feet;

(C) The project will not cause a substantial adverse change to a known historic, tribal cultural, unique archaeological, or unique paleontological resource, as defined in CEQA or its implementing regulations at Title 14, Division 6, Chapter 3, Section 15000, et seq., of the California Code of Regulations; and

(D) The project will not require the removal of more than two trees.

(6) “**Sidewalk Repair Program**” shall mean a City program, administered by the City Engineer, to streamline the implementation of the sidewalk repairs eligible for credit under the *Willits* Settlement.

(7) “**Sidewalk Repair Program Project**” shall mean a project to repair or reconstruct a sidewalk that is eligible for credit under the *Willits* Settlement.

(8) “**Sidewalk Repair Program Mandatory Project Features Policy**” shall mean the set of required project features, adopted by the Board, for Sidewalk Repair Program Projects.

(9) “**Sidewalk Repair Program Street Tree Policy**” shall mean the street tree policy for Sidewalk Repair Program Projects, adopted by the Board, for Sidewalk Repair Program Projects.

(10) “**Sidewalk Repair Incentive Program**” shall mean the limited reimbursement incentive program, defined in LAMC Section 62.104(a).

(11) “*Willits Settlement*” shall mean the settlement agreement entered into by the City in the matter of *Mark Willits, et al. v. City of Los Angeles* (United States District Court Case No. CV10-05782 CBM (RZX)) and approved by the City Council on April 1, 2015.

(b) Notwithstanding any other provision of this Code or any other City ordinance to the contrary (except for the City of Los Angeles Cultural Heritage Ordinance, City of Los Angeles Administrative Code Section 22.171 et seq.), a Sidewalk Repair Project undertaken by the City or by a participant in the Sidewalk Repair Incentive Program may be approved consistent with the following:

(1) A Qualifying Sidewalk Repair Project may be approved by the City Engineer and the approval shall be ministerial under CEQA.

(2) A non-Qualifying Sidewalk Repair Project that requires the removal of no more than two trees may be approved by the City Engineer and the approval shall be discretionary under CEQA.

(3) A non-Qualifying Sidewalk Repair Project that requires the removal of three or more trees may be approved by the Board and the approval shall be discretionary under CEQA.

(c) For all Sidewalk Repair Program Projects undertaken by the City or by a participant in the Sidewalk Repair Incentive Program that are approved pursuant to this Section, approval shall be conditioned upon compliance with the Sidewalk Repair Program Mandatory Project Features Policy and with the Sidewalk Repair Program Street Tree Policy.

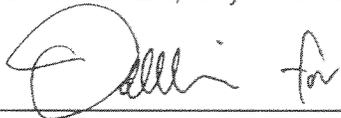
(d) The Board shall adopt a Sidewalk Repair Program Street Tree Policy that shall set forth the City policy for the retention, removal, and replacement of trees potentially impacted by Sidewalk Repair Program Projects. The proposed Sidewalk Repair Program Street Tree Policy shall be submitted to the City Council for consideration and shall become final upon approval by the Council. Amendments to the Sidewalk Repair Program Street Tree Policy shall be subject to Council approval.

(e) The Board shall adopt a Sidewalk Repair Program Mandatory Project Features Policy that shall set forth specific requirements for Sidewalk Repair Program Projects. The proposed Sidewalk Repair Program Mandatory Project Features Policy shall be submitted to the City Council for consideration and shall become final upon approval by the Council. Amendments to the Sidewalk Repair Program Mandatory Project Features Policy shall be subject to City Council approval.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
EDWARD M. JORDAN
Assistant City Attorney

Date 3/23/2021

File No. 141-0163-S3

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____