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May 22, 2025

BPW-2025-0309

The Honorable City Council
Room No. 395
City Hall

SIDEWALK REPAIR PROGRAM – ENVIRONMENTAL IMPACT REPORT STATE CLEARINGHOUSE NO. 2017071063

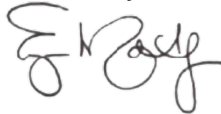
As recommended in the accompanying report of the City Engineer, which this Board has adopted, the Board of Public Works recommends that the City Council:

1. RECOMMEND that the Council REQUEST the City Attorney to prepare an ordinance to reinstate Ordinance No. 187,106, adding Section 62.104.1 of Article 2 of Chapter VI of the LAMC for reconsideration; and,
2. RECOMMEND that the Council, concurrent with the consideration of the reinstatement of Ordinance No. 187,106 when transmitted by the City Attorney, in accordance with the CEQA regarding the Project:
 - a. REVIEW and CONSIDER the information contained in the Project's REIR, consisting of the DREIR and the FREIR, the Project's 2021 EIR, comprised of the DEIR and the FEIR, and any other information in the record of proceedings (Transmittal No. 1); and certify that the REIR and 2021 EIR were completed in compliance with the CEQA; that potentially significant environmental effects of the Project have been disclosed and evaluated in compliance with the May 21, 2024 CEQA; and that the REIR and 2021 EIR reflect and express the City of Los Angeles' (City)'s independent judgment and analysis as the CEQA Lead Agency.
 - b. ADOPT the Project's CEQA Findings, including the Statement of Overriding Considerations in Section VII of the CEQA Findings (Transmittal No. 5), and the Project's Supplemental CEQA Findings (Transmittal No. 6).



- c. SPECIFY that the documents constituting the record of proceedings in this matter are located at the Office of the City Clerk, 200 North Spring Street, 3rd Floor, Los Angeles, CA 90012; the Board of Public Works Commission, 200 North Spring Street, 3rd Floor, Los Angeles, CA 90012; the Department of Public Works, Bureau of Engineering, 1149 South Broadway, Suite 600, Los Angeles, CA 90015; and any other relevant City department.
- d. APPROVE the Project's Street Tree Policy (Transmittal No. 2) and the Project's Mandatory Project Features Policy (Transmittal No. 3).
- e. PRESENT and ADOPT the accompanying ordinance to add 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).

Sincerely,



ELYSE MATSON,
Executive Officer, Board of Public Works

EM:lc



Department of Public Works

Bureau of Engineering
Report No. 3

May 21, 2024
CD Nos. All

ADOPTED BY THE BOARD
PUBLIC WORKS OF THE CITY
of Los Angeles California

MAY 21 2025


Executive Officer
Board of Public Works

AND REFERRED TO THE CITY COUNCIL

**SIDEWALK REPAIR PROGRAM: RECOMMENDED BOARD ACTIONS AND RECOMMENDATIONS
FOR CITY COUNCIL ACTION ON ENVIRONMENTAL IMPACT REPORT STATE CLEARINGHOUSE
No. 2017071063 AND SIDEWALK REPAIR PROGRAM PROJECT**

RECOMMENDING THE BOARD OF PUBLIC WORKS (BOARD):

In accordance with the California Environmental Quality Act (CEQA) regarding the Sidewalk Repair Program (Project), review, consider, adopt, and forward this report and transmittals to the Los Angeles City Council (Council) with the following recommended Board actions and further recommendations for Council actions:

1. REVIEW and CONSIDER the information contained in the Project's Recirculated Portions of the Environmental Impact Report (REIR), consisting of the Draft REIR (DREIR) and the Final REIR (FREIR), the Project's Environmental Impact Report (2021 EIR) comprised of the Draft EIR (DEIR) and the Final EIR (FEIR), and any other information in the record of proceedings (Transmittal No. 1).
2. APPROVE the Project, the Project's Street Tree Policy (Transmittal No. 2), and the Project's Mandatory Project Features Policy (Transmittal No. 3), with consideration of the Project's proposed ordinance [Los Angeles Municipal Code (LAMC) 62.104.1] (Transmittal No. 4), and forward the Project's Street Tree Policy and Mandatory Project Features Policy to the Council for final consideration and approval.
3. RECOMMEND that the Council REQUEST the City Attorney to prepare an ordinance to re-instate Ordinance No. 187,106 adding Section 62.104.1 of Article 2 of Chapter VI of the LAMC for reconsideration.
4. RECOMMEND that the Council, concurrent with the consideration of the re-instatement of Ordinance No. 187,106 when transmitted by the City Attorney, in accordance with the CEQA regarding the Project:
 - A. REVIEW and CONSIDER the information contained in the Project's Recirculated Portions of the Environmental Impact Report (REIR), consisting of the Draft REIR (DREIR) and the Final REIR (FREIR), the Project's 2021 EIR, comprised of the Draft EIR (DEIR) and the Final EIR (FEIR), and any other information in the record of proceedings (Transmittal No. 1); and certify that the REIR and 2021 EIR were completed in compliance with the CEQA; that potentially significant environmental effects of the Project have been disclosed and evaluated in compliance with the

CEQA; and that the REIR and 2021 EIR reflect and express the City of Los Angeles' (City)'s independent judgment and analysis as the CEQA Lead Agency.

- B. ADOPT the Project's CEQA Findings, including the Statement of Overriding Considerations in Section VII of the CEQA Findings (Transmittal No. 5), and the Project's Supplemental CEQA Findings (Transmittal No. 6).
- C. SPECIFY that the documents constituting the record of proceedings in this matter are located at the Office of the City Clerk, 200 North Spring Street, 3rd Floor, Los Angeles, CA 90012; the Board of Public Works Commission, 200 North Spring Street, 3rd Floor, Los Angeles, CA 90012; the Department of Public Works, Bureau of Engineering, 1149 South Broadway, Suite 600, Los Angeles, CA 90015; and any other relevant City department.
- D. APPROVE the Project's Street Tree Policy (Transmittal No. 2) and the Project's Mandatory Project Features Policy (Transmittal No. 3).
- E. PRESENT and ADOPT the accompanying ordinance to add 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).

TRANSMITTALS

- 1. Project REIR, including the DREIR, dated June 2024, and the FREIR, dated January 2025; and the 2021 EIR, including the DEIR, dated December 2019, and the FEIR, dated April 2021 (State Clearinghouse No. 2017071063). <https://sidewalks.lacity.org/environmental-impact-report>.
- 2. Project Street Tree Policy.
- 3. Project Mandatory Project Features Policy.
- 4. Ordinance No. 187,106 to add LAMC 62.104.1 (currently repealed).
- 5. Project CEQA Findings, including Statement of Overriding Considerations, dated April 2021.
- 6. Project Supplemental CEQA Findings, dated March 2025.

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DISCUSSION

Background

Between December 2006 and March 2011, three separate lawsuits against the City were filed in which the plaintiffs alleged various claims arising under state and federal accessibility laws and involving the alleged conditions of existing City sidewalks. While the City did not admit any wrongdoing and affirmatively denied all of the allegations made by the plaintiff groups, during the pendency of the three lawsuits, the parties entered into the *Willits* Settlement Agreement (*Willits* Settlement).

The Council approved the terms of the *Willits* Settlement in April 2015, and Judge Consuelo Marshall of the Federal District Court approved the Settlement in August 2016. The *Willits* Settlement provides that the City will expend approximately \$1.3 billion on sidewalk repairs during the agreement's 30-year compliance period. The total amount of funding is broken down into annual commitments specified in 5-year increments. For example, the City shall expend \$31 million per year for the first five years of the compliance period, increasing every five years up to \$63 million per year in the final five years of the compliance period.

Following the District Court's final approval of the *Willits* Settlement, the City Administrative Officer released a report that recommended consideration of new sidewalk repair policies for a City program that: (1) is permanent and ongoing, (2) is consistent with the *Willits* Settlement, (3) shares responsibility for maintenance and repair with adjacent property owners, and (4) ensures accessibility in areas with the most significant safety hazards. The *Willits* Settlement defines pedestrian facilities as "any sidewalk, intersection, crosswalk, street, curb, curb ramp, walkway, pedestrian right-of-way, pedestrian undercrossing, pedestrian overcrossing, or other pedestrian pathway or walkway of any kind that is, in whole or in part, owned, controlled, or maintained by or otherwise within the responsibility of the City of Los Angeles."

Currently, individual sidewalk projects under the *Willits* Settlement are reviewed on a case-by-case basis under the CEQA. The CEQA Guidelines, Sections 15300 to 15333, identify classes of projects that are categorically exempt from provisions of the CEQA because they do not ordinarily result in a significant effect on the environment. Individual sidewalk repairs typically fit the definition of a Class 1 existing facility repair and maintenance, as identified under the CEQA Guidelines, Section 15301(c). However, the 2021 EIR was prepared because, the Project consists of a new proposed ordinance that revises the manner in which implementation of sidewalk repairs under the *Willits* Settlement will be implemented.

The 2021 EIR was certified on June 22, 2021, but subsequently challenged by United Neighborhoods for Los Angeles and Angelenos for Trees, resulting in a 2023 judgment in favor of the petitioners on limited grounds and decertification of the 2021 EIR. The REIR addresses the legal defects in the 2021 EIR identified by the court so that the City may reconsider the Project for approval. The DREIR was recirculated pursuant to CEQA Guidelines Section 15088.5. The REIR is in addition to the 2021 EIR.

The Environmental Impact Report process, as defined by the CEQA, requires preparation of an objective, full-disclosure document to: (a) inform agency decision makers and the general public of the direct and indirect environmental effects of a proposed project, (b) identify, where feasible, mitigation measures to reduce or eliminate any identified significant adverse impacts, and (c) identify and evaluate alternatives to the proposed project that might lessen or avoid some or all of the identified significant impacts of the project.

Project Objectives

- The fundamental Project objective is to ensure the continued and efficient compliance with the requirements of the *Willits* Settlement, while amending the existing program for sidewalk and curb ramp improvements within the City, in accordance with the applicable accessibility requirements, including those required by the Americans with Disabilities Act.

The following additional Project objectives have also been identified:

- Retain existing street trees that are the cause of sidewalk barriers to the extent feasible, provided the sidewalk improvements would not result in street tree mortality or compromise public safety.
- If the removal of one or more street trees is required, ensure compliance with the City's replacement requirements adopted to ensure no net street tree canopy loss at the end of the Project implementation period.
- Identify the criteria and process for ministerial approval of future sidewalk improvements and street tree removals and replacements, with the goal of avoiding the need to undertake individualized environmental review of every repair of every City sidewalk or of every street tree removal and replacement, and the potential legal challenge to each such approval; thereby streamlining the *Willits* Settlement implementation and providing certainty to the City and its disability community.

Project Description

The Project is a Citywide program intended to modify the manner in which sidewalk repair projects are undertaken pursuant to the City's obligations under the *Willits* Settlement,

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which includes various City actions that will provide improved access to persons with mobility disabilities in accordance with local, state, and federal accessibility requirements. The Project includes a proposed ordinance that will guide the construction of future sidewalk repairs; curb ramp repairs; crosswalk paving; street tree retention, removal and replacement; canopy pruning; root pruning; and applicable utility work for 30 years within the City. The proposed new ordinance (LAMC 62.104.1) (Transmittal No. 4), to be transmitted separately by the City Attorney after requested by the Council (which is one of the actions recommended to the Board), revises the way sidewalk repairs pursuant to the *Willits* Settlement are reviewed and approved, and is intended generally to improve and streamline the implementation process. The proposed requested ordinance would be identical to the original ordinance (Ordinance No. 187,106) approved by the Council in 2021 along with the 2021 EIR, which were vacated as a result of the 2023 court judgment. The primary components of the ordinance include:

- Specific parameters to enable most sidewalk repairs to proceed as ministerial approvals, not subject to further environmental review applicable to discretionary actions.
- A streamlined discretionary approval process for sidewalk repair projects falling outside the specific parameters allowed for a ministerial sidewalk repair approval.
- A streamlined discretionary approval process for sidewalk repair projects involving the proposed removal of three or more street trees.
- A revised Street Tree Retention, Removal and Replacement Policy establishing a 2:1 street tree replacement to removal ratio requirement for the first 10 years (starting from July 2017), a 3:1 ratio for years 11 to 21, and a 2:1 ratio for the last nine years of the 30-year program (Project Street Tree Policy, which will be adopted with the ordinance) (Transmittal No. 2).
- Mandatory Project Design Features (PDFs) generally consisting of regulatory compliance measures and standard construction conditions and procedures (The Sidewalk Repair Program Mandatory Project Features Policy, which will be adopted with the ordinance) (Transmittal No. 3).

The new ordinance would enable, notwithstanding anything in the City code to the contrary (except for the City Cultural Heritage Ordinance, Los Angeles Administrative Code (LAAC) Section 22.171), all sidewalk repair projects under the *Willits* Settlement to be

subject to ministerial approval by the City Engineer or designee, so long as the individual project meets the following specified parameters:

- (1) The sidewalk repair lasts no more than 30 non-consecutive construction days in duration and requiring an excavation depth of no greater than 30 feet;
- (2) It would not cause a substantial adverse change to the significance of a known historic, tribal cultural, unique archaeological, or unique paleontological resource, as those terms are defined by the CEQA; and
- (3) It involves the removal of two or fewer street trees.

If the individual project does not meet all the specific parameters listed above, it would be subject to (notwithstanding anything in the City code to the contrary, except for the Cultural Heritage Ordinance, LAAC Section 22.171), discretionary approval by the City Engineer or designee, unless it involves the removal of three or more trees in which case the discretionary approval would be made by the Board (note: the Board approval process was added to the Project after the DEIR in response to comments).

For these discretionary approvals, the REIR and the 2021 EIR would serve as programmatic analysis of the impacts, and further project-level environmental review would be performed as necessary, depending on whether the individual project is within the scope of the REIR and 2021 EIR pursuant to CEQA Guidelines, Section 15168, or if any applicable exemptions are appropriate.

Environmental Review

Scoping

A Notice of Preparation (NOP) and Initial Study were circulated from July 27, 2017 to September 15, 2017. During this extended 45-day review period, the lead agency requested comments on the scope and content of the environmental information to be included in the DEIR. Copies of the NOP and Initial Study were made available for review at 35 library locations and mailed to more than 500 governmental and agency stakeholders. Six digital announcements, to approximately 567 email addresses comprised of community residents, stakeholders, and interested constituents from the NOP and Initial Study process, public agencies, non-profit groups, etc., were sent during the public review period. Electronic advertisements on the public meetings and the Project were placed in Facebook, EmpowerLA, Los Angeles Sentinel, La Opinión (digital), and the Los Angeles Times (digital). Public notices were printed in the Los Angeles Times, Daily Breeze, and La Opinión newspapers. Sidewalk Division staff attended 11 neighborhood council meetings, prior to the end of the scoping period, to invite stakeholders to comment on the NOP and attend the scoping meetings. All 15 City Council Offices were contacted to post announcements about the environmental review process via their communications channels, and nine council offices posted announcements.

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Three public scoping meetings were held to obtain input on the NOP and Initial Study and the scope and contents of the EIR.

DEIR

The DEIR (included in Transmittal No. 1) was released on December 26, 2019, and was circulated for 157 days for public and agency review and comment. A Notice of Availability and Notice of Completion for the DEIR were mailed to interested parties and posted with the County of Los Angeles Clerk's Office and the Governor's Office of Planning and Research, State Clearinghouse on December 26, 2019. A notice regarding the public review period and time and location for seven public meetings on the DEIR was published in the Los Angeles Times and La Opinión. The DEIR was made available at 15 Council District Offices, 30 Branch Libraries, BOE's Office and was also available at BOE's sidewalk repair website, at <https://sidewalks.lacity.org/>.

Seven public meetings were held during the period between January 29, 2020, and February 15, 2020, to solicit comments on the DEIR. In addition to the comments received at the public meetings, approximately 300 comment letters or emails on the DEIR were received from agencies and individuals. Copies of comments received and responses from the City are included in the FEIR.

FEIR and Response to Comments

The City completed the FEIR for the Project in April 2021. The FEIR includes a summary of the comments received on the DEIR during the public review period, responses to comments received, corrections and additions to the DEIR, and FEIR appendices. The City determined that the revisions made to the DEIR did not create any new or substantially more severe significant environmental impacts that would require recirculation pursuant to CEQA Guidelines Section 15088.5. The 2021 EIR was certified, and the Project was approved by the Council on June 22, 2021.

The most prevalent topics and issues from the comment letters, and the FEIR's responses, are summarized below:

- Changes in the street tree canopy from the removal of trees under the Project. The DEIR's conservatively-projected removal of 12,860 street trees over 30 years. The Project's Street Tree Policy, including an increase in replacement ratio from 2:1 to 3:1 for years 11 to 21, would reestablish canopy through planting of 30,404 street

trees by the end of the Project, including a net gain of approximately 17,544 street trees from the baseline. The replacement street tree canopy is also expected to continue to increase further for an additional 15 years after the last replacement street trees are planted, such that the Project would result in an overall gain in total street tree canopy cover above the baseline, by Year 45.

- Street tree canopy modeling comments. The DEIR's expert technical modeling of tree canopy-related impacts was prepared by biological technical experts and reviewed by other technical experts and expert City staff. The model was well supported by substantial evidence, including the use of average street tree canopy size based on actual City project data and well-established databases, a 15-year maturation rate of replacement trees, an 8 percent static mortality rate based on direct experience and confirmed by actual data, and tree removal and canopy calculations confirmed by actual data.
- Other environmental impacts including shading, greenhouse gases (GHG), and sustainability. These impacts were thoroughly analyzed in the DEIR, including the use of a project-specific threshold on shading that the Project did not exceed above what is required under state law and City guidelines; expert GHG analysis using the U.S. Forest Service calculator that showed the carbon sequestration of the replacement trees would result in less than significant GHG, energy, and heat island impacts and a net benefit beyond 30 years; and a comprehensive sustainability consistency analysis, including consistency with the Los Angeles Green New Deal (which was released after the Project's NOP).
- Project's streamlined the CEQA and approval process. The Project's approach of combining project-level and programmatic analysis in the 2021 EIR for the Project is consistent with the CEQA statute and guidelines. Comments raising due process are legal issues and/or conclusions that do not pertain to the adequacy of the CEQA analysis. In any event, due process is generally not implicated in sidewalk repair reviews and approvals because they are not adjudicatory in nature and there is no individual property interest in sidewalks.
- Public notification procedures, particularly with tree removals. Public notification and due process are not CEQA issues, and due process is generally not implicated in sidewalk repairs. However, in response to the comments, the Project's notification procedures were modified such that the existing tree removal notification requirements were retained, including notice to the affected Council Office, the Department of Neighborhood Empowerment, and the Community Forest Advisory Committee, as well as a 30-day posting notice and the entry of the project on the Bureau of Street Services Street Tree Removal Notification System for the proposed removal of three or more trees. In addition, the Project already included

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an existing enhancement to current notification procedures with a 7-day posting notice for the removal of two or fewer street trees.

- Alternatives analysis under the CEQA. The DEIR thoroughly analyzed a number of alternatives, including four in detail. The alternatives analysis is further addressed below.

CEQA Litigation and Court Ruling

Following certification of the 2021 EIR and approval of the Project, United Neighborhoods for Los Angeles and Angelenos for Trees filed a lawsuit challenging the 2021 EIR (Case No. 21STCP02401) (*United Neighborhoods*). The Los Angeles County Superior Court (Court) issued its order, denying in part and granting in part the petition for writ of mandate, on January 17, 2023. A judgment was entered on March 14, 2023, and a peremptory writ of mandate was issued, commanding the City to decertify the 2021 EIR, rescind the Project's CEQA findings, and rescind and set aside the ordinance, Street Tree Policy, and Mandatory Project Features Policy associated for the Project, all of which was subsequently done by the City. The Court evaluated the 2021 EIR and arguments made by the petitioners, and specifically upheld the following facets of the 2021 EIR:

- Analysis of recreational impacts
- Responses to comments
- Description of the *Willits* Settlement
- Consultation with the California Department of Fish and Wildlife.

However, the Court found the following to be deficient in the 2021 EIR:

- The decision to evaluate only special-status species under Impact BIO-1 was not supported by substantial evidence, and the threshold and analysis were therefore impermissibly narrow.
- The 2021 EIR's analyses of short-term impacts on the tree canopy, as well as related impacts on foraging habitat for both special-status and non-special-status species, were inadequate.

- The Court disagreed with the City's interpretation of the threshold of significance from the *L.A. CEQA Thresholds Guide*, used for the analysis of Impact BIO-2. Consequently, it held that the 2021 EIR's analysis under Impact BIO-2 should not have been limited to impacts within locally designated natural habitat or plant communities. The opinion states that the 2021 EIR should consider whether native trees that were not planted would be affected by the Project and whether black walnut trees are "rare" and therefore subject to analysis, whether planted or not.
- The 2021 EIR's summary of the projections approach failed to adequately describe the cumulative context of the Project with respect to tree impacts. This includes failing to incorporate by reference or summarize some projections the City sought to use to establish the cumulative context.
- The 2021 EIR's analysis of the cumulative aesthetic and biological impacts of the Project together with other projects improperly evaluated only the Project's impacts.

All other aspects of the biological impacts and cumulative impacts not found to be deficient were upheld. In addition, all other aspects of the 2021 EIR were not challenged. The court's complete decision is attached as Appendix B of the DREIR.

DREIR

The REIR, consisting of the DREIR and FREIR, addresses the legal defects in the 2021 EIR identified by the court so that the City may reconsider the Project for approval. Portions of the 2021 EIR were recirculated via the DREIR pursuant to CEQA Guidelines Section 15088.5. The REIR is in addition to the 2021 EIR. The DREIR was available for public review for 48 days between June 6, 2024, and July 23, 2024. The Notice of Availability of the DREIR was published in the Los Angeles Times, filed with the Los Angeles County Clerk and State Clearinghouse, mailed to approximately 644 stakeholders including residents, businesses, and public and regulatory agencies that requested notification or made public comments on the DEIR, and delivered by electronic mail to 2,200 stakeholders.

When an EIR has been certified and decertified pursuant to a court order, prior to the revisions, recirculation is still undertaken to give the public the opportunity to review and comment on the proposed revisions (see, for example, *lone Land, Air, & Water Defense Alliance, LLC v. County of Amador* [2019], 33 Cal. App. 5th 165, 169 [*lone Valley*]). As noted in *lone Valley*, "If the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified" (CEQA Guidelines Section 15088.5[c]).

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The DREIR contained all revisions made to the 2021 EIR. The City requested that reviewers limit their comments to the revised chapters or portions of the 2021 EIR (CEQA Guidelines Section 15088.5[f][2]). The DREIR revised only the portions of the 2021 EIR that were invalidated by *United Neighborhoods*. As more fully identified in Sections 1.3 and 1.5 of the DREIR, this is limited to:

- Impacts on non-special-status species and common bird species.
- Short-term impacts on special-status species and common species.
- Impacts on naturally occurring trees and individual trees not contained within a locally designated natural habitat or plant community.
- Cumulative impacts on aesthetics.
- Cumulative impacts on biological resources.

The analysis contained in the DREIR determined that the proposed Project would have less-than-significant impacts related to short-term impacts on special-status species and common species, naturally occurring trees, individual trees not contained within a locally designated natural habitat or plan community, cumulative aesthetic impacts, and cumulative impacts on biological resources. The analysis contained in the DREIR did not identify any significant and unavoidable environmental impacts.

FREIR

The City completed the FREIR for the Project and published it on January 28, 2025, to provide an opportunity for review of the document by the public or by commenting agencies prior to approval of the Project. The Notice of Completion was filed with the Los Angeles County Clerk and State Clearinghouse. The FREIR includes a summary of the comments received on the DREIR during the public review period, responses to comments received, and any revisions, clarifications, and corrections to the DREIR. During the 48-day public review period, 31 comment submissions were received in the form of electronic mail, letters, or direct input on the Project's website (<https://sidewalks.lacity.org>).

To minimize duplication and provide a comprehensive discussion, a set of Master Responses was prepared for the most prevalent topics and issues that emerged from the body of comments received on the DREIR. As appropriate, individual comments refer to a

Master Response. A Master Response may provide more information than other comments; conversely, where warranted, the Master Response is referenced and accompanied by a tailored response in individual comments. These issues are summarized by subject area, as follows:

- Comments that are outside the scope of the DREIR
- Tree canopy and selection of replacement trees
- Habitat for species
- Cumulative projects and impacts

CEQA Findings

As set forth in detail in the 2021 EIR, including Chapter 3 of the DEIR; as summarized in the Executive Summary of the DEIR; as discussed in the REIR, including Chapters 2 and 3 of the DREIR; and in the CEQA Findings (Transmittal No. 5) and Supplemental CEQA Findings (Transmittal No. 6), the 2021 EIR and REIR found that for most individual sidewalk repairs under the Project, and for the Project cumulatively, the environmental impacts of the Project would be less than significant. In very rare circumstances where the significance of a cultural or tribal cultural resource cannot be maintained and in certain instances near sensitive noise receptors that are inherent in this type of construction on pedestrian facilities, the impacts would be significant and unavoidable despite imposition of the Project's PDFs. The impacts are summarized below:

Less than significant impacts, without any required mitigation, for the following resource areas:

- Aesthetics (except rare projects that would impact known cultural and tribal cultural resources, including cumulative impacts discussed in the 2021 EIR and the REIR)
- Air Quality
- Biological Resources, including the following as discussed in the REIR:
 - Impacts on non-special-status species and common bird species,
 - Short-term impacts on special-status species and common species,
 - Impacts on naturally occurring trees and individual trees not contained within a locally designated natural habitat or plant community,
 - Cumulative impacts on biological resources.

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- Cultural Resources (except rare projects that would impact known cultural resources, including cumulative impacts)
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Public Services
- Recreation
- Transportation/Traffic
- Tribal Cultural Resources (except rare projects that would impact known tribal cultural resources, including cumulative impacts)
- Utilities and Service Systems
- Wildfire Hazards

Significant and Unavoidable Adverse Impacts, with no feasible mitigation, for the following resource areas:

- Aesthetics (rare projects only) - Significant and unavoidable adverse impacts to aesthetics, including cumulative impacts, would occur where the Secretary of the Interior's Standards (SOI Standards) for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings cannot be fully implemented and a historic resource is demolished, destroyed, or damaged in such a way that its integrity and importance is impacted.

- Cultural Resources (rare projects only) - Significant and unavoidable adverse impacts to historical, archeological, and paleontological resources, including cumulative impacts, would occur in Scenario 3 construction projects where despite the implementation of SOI Standards, archaeological treatment plans (ATPs), and paleontological management treatment plans, the significance of the historical, archaeological, and/or paleontological resource cannot be maintained.
- Noise - Significant and unavoidable adverse impacts related to construction noise and construction vibration, including cumulative impacts, would occur in instances where: a 10-foot distance for commercial sensitive receptors and a 20-foot distance for residential sensitive uses cannot be maintained from the construction noise source; an 8-foot distance cannot be maintained from the closest occupied space façade of the closest sensitive receptor; and/or a 23-foot distance cannot be maintained from the vibratory equipment to the nearest occupied space of a sensitive receptor.
- Tribal Cultural Resources (rare projects only) - Significant and unavoidable adverse impacts to tribal cultural resources, including cumulative impacts, would occur in construction projects where despite the implementation of SOI Standards and ATPs, the significance of the tribal cultural resource cannot be maintained.

The CEQA Findings: No feasible mitigation is available to render the significant and unavoidable effects less than significant, despite the imposition of the Street Tree Policy and Mandatory Project Features Policy. The effects, therefore, remain significant and unavoidable. The City concludes, however, that the Project's benefits outweigh its significant and unavoidable impacts, as set forth in the Statement of Overriding Considerations below.

Consistency with the current Southern California Association of Governments (SCAG) 2024-2050 Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) (also known as Connect SoCal 2024) and Programmatic EIR (PEIR)

At the time of writing the DREIR, the SCAG's 2024-2050 RTP/SCS had not been adopted nor had the SCAG 2024-2050 RTP/SCS PEIR been certified. Thus, analysis of the 2016-2040 RTP/SCS and the 2020-2045 RTP/SCS was included in the DREIR. Analysis of the 2024-2050 RTP/SCS and PEIR were not included in the DREIR. On April 4, 2024, the SCAG's Regional Council adopted the 2024-2050 RTP/SCS. The documents are available for review at: <https://scag.ca.gov/connect-socal>. CARB has not yet accepted the SCAG's determination that the 2024-2050 RTP/SCS would meet the region's GHG emissions reduction targets. As such, an analysis of the Project's consistency with the 2024-2050 RTP/SCS in addition to the 2020-2045 RTP/SCS is also included herein for completeness.

Consistent with the conclusions in the REIR regarding the 2020-2045 and 2016-2040

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RTP/SCS, overall, the nature of the Project, including the improvements for pedestrian access and mobility, would be consistent with SCAG's vision of creating "complete streets" to design streets to support safety, comfort, and mobility for all road users in the 2024-2025 RTP/SCS. Sidewalk repair is a component of developing a complete street network. Additionally, the 2024-2050 RTP/SCS does not include policies or planning objectives specific to street tree removal. The 2024-2050 RTP/SCS PEIR does not include an estimate of the number of street trees that would be removed with implementation of 2024-2050 RTP/SCS. As such, the Project would be consistent with the 2024-2050 RTP/SCS's goals, policies, and benefits for maintaining a state of good repair of the existing sidewalks and supporting an improved multimodal network.

The DREIR analyzes the proposed Project would have the potential to result in cumulatively considerable impacts on aesthetics and biological resources in combination with the plans and programs within the greater Los Angeles region. The 2024-2050 RTP/SCS PEIR determined impacts on aesthetic and biological resources resulting from the implementation of the 2024-2050 RTP/SCS to be significant and unavoidable. Regarding aesthetics impacts, the PEIR found construction of transportation projects and facilities that involve modifications such as safety improvements in existing highway and roadway facilities would generally not significantly impact the visual environment. Additionally, the PEIR found that such biological impacts would be less than significant for transportation projects that are contained within the alignments of existing transportation corridors where sidewalk repairs would occur, even without a limitation on the number of trees removed, and not in conversion of natural habitats where greater impacts would occur. Based on the evaluation, the DREIR concludes that, while some plans indicate that overall changes to the aesthetics and biological resources related to tree removals could be significant, the Project's contribution would not be cumulatively considerable.

Project Alternatives

In accordance with the CEQA Guidelines, alternatives to the proposed Project were considered in the 2021 EIR to foster informed decision-making and public participation. According to the CEQA Guidelines Section 15126.6(a), an EIR "shall describe a range of reasonable alternatives to the proposed project, or to the location of the proposed project, which would feasibly attain most of the basic objectives of the proposed project, but would avoid or substantially lessen any of the significant effects of the proposed project, and evaluate the comparative merits of the alternatives." The CEQA Guidelines state that an EIR need not consider every conceivable alternative or consider the alternatives that are infeasible. As set forth in detail in the 2021 EIR, including Chapter 5 of the DEIR and as summarized in the Executive Summary of the DEIR, and in the CEQA Findings (Transmittal No. 5), a total of nine project alternatives were identified during the 2021 EIR

process. Of these nine alternatives, four alternatives to the Project, including the required No Project Alternative, were considered and further analyzed by the City. The other alternatives were eliminated from further consideration and were not subject to detailed analysis in the 2021 EIR because they failed to meet most of the Project objectives, are infeasible, and/or do not avoid any significant environmental effects of the Project.

The alternatives that were considered with further analysis were the following:

- No Project Alternative: Sidewalk repairs throughout the City would continue to be undertaken pursuant to the City's obligations under the Willits Settlement Agreement using existing ordinances and policies. Under the No Project Alternative, impacts to aesthetics, biological resources, energy, and greenhouse gas emissions were analyzed to be greater than the Project, without the benefit of the increased street tree replacement ratio.

Finding: Sidewalk repairs and street tree removals would still occur; however, the projects would be approved and implemented at a slower rate compared to the Project due to the need for case-by-case approval under existing policies. As a result of the continuation of the existing 2:1 replacement ratio, street tree canopy would not reach net canopy at the end of the project implementation period.

Therefore, the No Project Alternative is undesirable, infeasible, and should be rejected because it fails to meet the fundamental Project objective of ensuring the continued and efficient compliance with the requirements of the *Willits* Settlement, and fails to meet the Project objectives of ensuring no net street tree canopy loss at the end of the project implementation period and avoiding the need to undertake individualized environmental review of every repair to provide certainty to the City and the disabled community in *Willits* Settlement implementation.

- Alternative 1: Ordinance to repair sidewalks and avoid removal of any street trees. This alternative would involve an alternative ordinance to implement repair of sidewalks and avoid removal of any street trees. Under Alternative 1, while the nature of sidewalk repair construction activities would generally be similar to that of the Project, there would be less construction activities, no street tree replacements, and no operational impacts. Under Alternative 1, impacts to aesthetics, air quality, biological resources, energy, greenhouse gas emissions, noise, public services, transportation, and utilities were analyzed to be comparatively less than the Project, but not to the extent that any of significance determinations would change. Impacts to land use were analyzed to be greater than the Project, as net street tree canopy at the end of the project implementation period would not be reached.

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Finding: Less sidewalk repairs are likely to be completed on an annual basis during the 30-year project term without the streamlined process of the Project. The slower progress of sidewalk repairs would impede the important social factors associated with efficiently and continually repairing sidewalks for safe use by persons with mobility challenges and providing these citizens with certainty. Further, as a result of the continuation of the existing 2:1 replacement ratio, street tree canopy would not reach net canopy at the end of the project implementation period. Therefore, Alternative 1 is undesirable, infeasible, and should be rejected because it fails to meet the fundamental Project objective of ensuring the continued and efficient compliance with the requirements of the *Willits* Settlement, and fails to meet the Project objectives of ensuring no net street tree canopy loss at the end of the project implementation period and avoiding the need to undertake individualized environmental review of every repair to provide certainty to the City and the disabled community in *Willits* Settlement implementation.

- Alternative 2: Ordinance to exclude sidewalk repairs and street tree removals within 23 feet of the nearest occupied space façade of a sensitive use (residential or commercial). Under this alternative, sidewalk repair projects that are within 23 feet of the nearest occupied façade of the closest sensitive receptor (commercial or residential) would continue to be evaluated on a case-by-case basis, as under existing conditions. It is anticipated that even with the occasional exclusion of specific sidewalk repair sites under Alternative 2, a comparable amount of sidewalk repairs would ultimately occur under this alternative each year, and cumulatively, because funds would be re-directed to those remaining sidewalk repair segments located at least 23 feet from the nearest occupied space façade of a sensitive use. Under Alternative 2, impacts to noise were analyzed to be less than significant and less than the Project.

Finding: Given the large geographic scope of the project area (the entire City), the large number of repair projects to be undertaken, the proximity of sidewalks to adjacent structures, and the number of sensitive receptors in the project area, Alternative 2 would result in a large number of repair projects requiring individualized CEQA review. Further, the slower progress of sidewalk repairs would impede the important social factors associated with efficiently and continually repairing sidewalks for safe use by persons with mobility challenges and providing these citizens with certainty. Therefore, Alternative 2 is undesirable, infeasible, and should be rejected because it fails to meet the fundamental Project objective of ensuring the continued and efficient compliance with the requirements of the *Willits* Settlement; would partially fail to meet the Project objective of

avoiding the need to undertake individualized environmental review of every repair to provide certainty to the City and the disabled community in *Willits* Settlement implementation; and would result in only slightly fewer impacts on the environment with regard to noise only than the Project.

- Alternative 3: Ordinance will exclude sidewalk repair projects that have the potential to affect known historic, tribal cultural, unique archaeological, or unique paleontological resources; such projects would proceed as discretionary projects under existing codes and policies. It is anticipated that even with the occasional exclusion of specific sidewalk repair sites under this alternative, a comparable amount of sidewalk repairs would ultimately occur under Alternative 3 each year, and cumulatively, because funds would be re-directed to those remaining sidewalk repair segments that lack potential to substantially and adversely affect known historic, tribal cultural, unique archaeological, or unique paleontological resources. Under Alternative 3, impacts to cultural resources and tribal cultural resources were analyzed to be less than significant and less than the Project.

Finding: Although it cannot be said with certainty the exact number of individual sidewalk repair projects that would be excluded from the ordinance under Alternative 3, given the large geographic scope of the project area (the entire City), as well as the known presence of historic, tribal cultural, unique archaeological, or unique paleontological resources in the project area, it can be assumed that such circumstances would be encountered at some point during the project term. Further, the slower progress of sidewalk repairs would impede the important social factors associated with efficiently and continually repairing sidewalks for safe use by persons with mobility challenges and providing these citizens with certainty. Therefore, Alternative 3 is undesirable, infeasible, and should be rejected because it fails to meet the fundamental Project objective of ensuring the continued and efficient compliance with the requirements of the *Willits* Settlement; would partially fail to meet the Project objective of avoiding the need to undertake individualized environmental review of every repair to provide certainty to the City and the disabled community in *Willits* Settlement implementation; and would result in only slightly fewer impacts on the environment with regard to cultural resources and tribal cultural resources only than the Project.

Of the alternatives considered, Alternative 1 is the environmentally superior alternative due to the implementation of an ordinance that would streamline sidewalk repairs and avoid all street tree removals. However, as set forth above, Alternative 1 is undesirable, infeasible, and should be rejected because it fails to meet the fundamental Project objective of ensuring the continued and efficient compliance with the requirements of the *Willits* Settlement, and fails to meet the Project objectives of ensuring no net street tree canopy loss at the end of the Project implementation period and avoiding the need to

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undertake individualized environmental review of every repair to provide certainty to the City and the disabled community in *Willits* Settlement implementation.

Statement of Overriding Considerations

As set forth in the preceding sections, the City's approval of the Project will result in significant unavoidable effects relating to aesthetics, cultural resources, noise, and tribal cultural resources, including cumulative impacts, in certain limited instances. Despite the occurrence of these significant effects, however, the City, in accordance with the CEQA Guidelines Section 15093, chooses to approve the Project because, in the City's view, the economic, social, and other benefits that the project will produce will render the significant effects acceptable. The following statement identifies the specific reasons why, in the City's judgment, the benefits of the Project as approved, outweigh its unavoidable significant effects. Any one of these reasons is sufficient to justify approval of the Project.

1. The Project is consistent with the City's goal to ensure the continued compliance with the terms of the *Willits* Settlement, while amending the existing program for sidewalk and curb ramp improvements within the City, in accordance with the applicable accessibility requirements.

As discussed in Section 2.3 of the DEIR, the fundamental objective of the Project is to "ensure the continued and efficient compliance with the requirements of the *Willits* Settlement while amending the existing program for sidewalk and curb ramp improvements within the City, in accordance with the applicable accessibility requirements, including those required by the Americans with Disabilities Act." The *Willits* Settlement obligates the City to expend \$31 million per year (increasing after year five to maintain present value) on sidewalk repairs to ensure compliance with accessibility laws. As discussed in the DEIR, including in Sections 2.2.2.3 and 2.4.3.2, the City currently reviews sidewalk repairs on a case-by-case basis under various ordinances and codes, including access requests, the rebate program, and approvals for removal of street trees. This process can be slow, tedious, and subject the City to lawsuits, as a result of the individual environmental review. Accordingly, due to the substantial number of repairs to be made, the potential number of approval processes, and the obligation under the *Willits* Settlement to perform a minimum number of repairs per year, the City seeks a more efficient process to ensure timely compliance with all its obligations.

2. The Project will enable efficient and high-quality repairs of City sidewalks, and help ensure sidewalks remain in compliance with Federal and State accessibility laws in order to provide access to important public facilities for persons with disabilities.

For the reasons as set forth in Statement of Overriding Considerations No. 1 above, the Project's streamlined process will enable more efficient implementation of sidewalk repairs, which would help ensure access to important pedestrian facilities to persons with disabilities and the general public. In addition, as discussed in Section 2.3 of the DEIR, one of the Project objectives is to identify criteria that would provide certainty to the City and the disability community in *Willits* Settlement implementation of sidewalk repairs. The express incorporation of applicable PDFs, as described in Chapter 3 of the DEIR and summarized in Section ES.3 of the DEIR, which generally consists of regulatory compliance measures and standard construction conditions, procedures, and best practices, would help ensure high-quality sidewalk repairs in the most efficient manner.

3. The Project will establish a new, more efficient ministerial approval process for certain individual sidewalk repair projects and associated street tree removals, thereby enabling the City to undertake more sidewalk repairs and fulfill its obligations under the *Willits* Settlement more efficiently.

For the reasons set forth in the Statement of Overriding Considerations Nos. 1 and 2 above, the Project's more efficient, streamlined process would enable the City to undertake more high-quality sidewalk repairs and fulfill its obligations under the *Willits* Settlement more efficiently. In addition, as discussed in Section 2.3 of the DEIR, one of the Project objectives is to "identify the criteria and process for ministerial approval of future sidewalk improvements and street tree removals and replacements, with the goal of avoiding the need to undertake individualized environmental review of every repair of every City sidewalk or of every street tree removal and replacement and the potential legal challenge to each such approval; thereby streamlining the *Willits* Settlement implementation and providing certainty to the City and its disability community." As discussed in Section 2.5.2 of the DEIR (as modified by the FEIR), the Project would include an ordinance that would set up a ministerial approval process by the City Engineer or designee for routine sidewalk repairs that were analyzed not to result in any unacceptable impacts.

4. The Project will ensure no net loss of the City's existing street tree canopy.

As set forth in Section 2.3 of the DEIR, one of the Project objectives is to "ensure compliance with the City's replacement requirements adopted to ensure no net street tree canopy loss at the end of the Project implementation period." As discussed in Section 2.5.2 and 2.5.4 of the DEIR, the Project would include the adoption of a Revised Street Tree Retention, Removal and Replacement Policy (Street Tree Policy). The Street Tree Policy would establish a 2:1 street tree replacement to removal ratio requirement for the first 10 years (starting from July 2017), a 3:1 ratio for years 11 to

21, and a 2:1 ratio for the last nine years of the 30-year program. With implementation of the Street Tree Policy in the Project, along with the benefits from the Project of a more efficient, streamlined process including certain ministerial approvals, as set forth in the Statement of Overriding Considerations Nos. 1-3 above, the increased replacement ratios in the Street Tree Policy would result in no net street tree canopy loss at the end of the Project implementation period.

5. The Project will ensure efficient repair of sidewalks which play an integral role in providing access to transit, economic districts, residential housing and other activities in the City.

For the reasons set forth in Statement of Overriding Considerations Nos. 1 and 3 above, the Project's more efficient, streamlined process including certain ministerial approvals would enable the City to undertake more high-quality sidewalk repairs and fulfill its obligations under the *Willits* Settlement more efficiently. In addition, the Project's intent to undertake more efficient sidewalk repairs would further the City's long-term sustainability goals, including repairing sidewalks that play an important role in providing access to activities such as transit, economic districts, and residential housing; and furthering multi-modal facilities, high quality pedestrian access for a safe and comfortable walking environment, and improve the built environment for all modes of travel, including pedestrian, for all users including people with disabilities.

Project Schedule

Implementation of the Project would be over a 30-year period. Individual sidewalk projects in compliance with the *Willits* Settlement commenced on July 1, 2017. The 30-year compliance period will continue to June 30, 2047. The above recommended actions are necessary steps in revising the way these sidewalk repairs are reviewed and approved.

FISCAL IMPACT STATEMENT

Funding for this Project is expected to be similar to the ongoing individual sidewalk repair projects, which are currently provided by the Sidewalk Repair Fund, Measure R Traffic Relief and Rail Expansion Fund, Road Maintenance and Rehabilitation Program Special Fund, and the City's Proprietary Departments.

Expenditures associated with the implementation of this Project will continue to be identified as additional funding is allocated in future annual budgets.

Report No. 3

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(MEM VCA JSdIV AM PS)

Report reviewed by:

BOE (ADM and SWD)

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Environmental Management Division

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MEM/LR/RL/04-2025-0046_EMD.pnc

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Respectfully submitted,


for

Ted Allen, PE
City Engineer

All environmental documents for the Sidewalk Repair Program can be found at this link: <https://sidewalks.lacity.gov/environmental-impact-report>

2021 Draft Environmental Impact Report (DEIR)

2021 Final Environmental Impact Report (FEIR)

2024 Draft Recirculated Portions of the EIR (DREIR)

2025 Final Recirculated Portions of the EIR (FREIR)

LAMC 62.104.1 Sidewalk Repair Program Street Tree Policy

All sidewalk repair or construction activities undertaken pursuant to Sidewalk Repair Program, for work 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), whether eligible for ministerial or discretionary approval, shall be subject to compliance with this Sidewalk Repair Program Street Tree Policy (Policy). All references in this Policy to applicable laws and guidelines shall refer to the current applicable law or guideline in place at the time of the sidewalk repair project approval.

I. Street Tree Root Pruning

One of the objectives of root pruning is to ensure that roots are pruned as a means to retain a mature street tree whose roots have already damaged a sidewalk. The City shall adhere to root-pruning standards and guidelines discussed below for street tree species being considered for root pruning or are subject to root pruning for sidewalk repair. Root pruning may be limited to the sidewalk-adjacent side of the planting area where the street tree is planted.

All street tree root pruning shall adhere to City root-pruning standards that comply with the International Society of Arboriculture (ISA) *Tree Pruning Guidelines*; the American National Standards Institute (ANSI) *Trees, Shrubs, and Other Woody Plants Maintenance Standard Practices* (ANSI A300); and tree care industry best management practices. Prior to root pruning, City arborists and engineers shall make a determination as to whether root pruning will affect the structural integrity and health that may cause a street tree to become unstable and therefore a public safety hazard. If a determination is made that street tree mortality and instability such that a public safety hazard would occur, then the City shall proceed to street tree removal (see Section III).

II. Street Tree Canopy Pruning

Canopy pruning may be necessary to comply with accessibility requirements if the street tree canopy obstructs the pedestrian access route. A minimum clearance of 80" is currently, and shall remain, required above all sidewalks per applicable codes, including the Building Code.

All street tree canopy pruning shall be performed in accordance with the following:

1. Certified UFD Street Tree Supervisor: (a) A Certified UFD Street Tree Supervisor shall hold the credential of Certified Arborist by ISA; (b) Street tree canopy pruning shall be performed or as directed by a Certified UFD Street Tree Supervisor; (c) The arborist responsible for the street tree canopy pruning shall hold a valid C61/D49 state contractor's license or the credential of Certified Arborist by ISA; and (d) Local references for the arborist shall be provided upon request.
2. Proper Pruning Cuts: (a) All pruning cuts shall be made in branch tissue just outside the branch bark ridge and collar, without causing injury to the street tree; (b) No flush-cuts

shall be made; (c) No stubs shall be left in the street tree; and (d) Cuts shall have no ripping or tearing of the bark.

3. Proper Canopy Thinning: (a) not more than 25 percent of the street tree's foliage shall be removed; (b) sufficient branch structure should remain in the interior of the street tree; and (c) foliage shall be removed in a manner that leaves the street tree in symmetrical balance.
4. Proper Crown Raising: Street trees shall be maintained to conform to LAMC Section 56.08.
5. Correcting Defects: Remove dead, diseased, damaged, broken or crossing limbs, and perform crown restoration on previously topped or severely pruned street trees.
6. Topping Cuts: No topping cuts shall be made.
7. Inspection: All pre- and post-pruning street tree inspections shall be conducted as directed by a Certified UFD Street Tree Supervisor.
8. Legal Requirements: All street tree canopy pruning shall occur in compliance with applicable provisions of State and Federal law, including the *Migratory Bird Treaty Act* and California Fish and Game Code.

III. Street Tree Removal Criteria

The UFD Chief Forester is the designated officer for purposes of ensuring sidewalk repair projects comply with this Policy. Prior to approval of a sidewalk repair project requiring the removal of a street tree, each removal shall be evaluated by UFD to determine whether any of the following criteria are met, in accordance with the ANSI A300 Standards. Only those street trees which meet one or more of the following criteria may be removed:

1. The street tree is dead, diseased, or unable to be retained by root pruning due to concern of tree condition and in the interest of public safety (see also Section I above), canopy pruning, and/or the criteria below.
2. The street tree exhibits crown dieback in excess of 50 percent.
3. The street tree exhibits a defoliated crown of 50 percent or greater.
4. The street tree exhibits signs of *Xylella* or other severe pest infestations (e.g., crown dieback, cankers, exudates).

For all sidewalk repair projects requiring the removal of a street tree which meets one or more of the above criteria, repairs shall be made in accordance with the following:

Street Tree Wells: Street tree wells shall be enlarged to 4 feet by 6 feet or as needed and roots shall be pruned as necessary, while still maintaining applicable accessibility requirements.

Sidewalk Ramping: In public rights-of-way where continuous planting strips (parkways) exist with street trees, the reconstructed sidewalk may be placed on top of the root plate (ramped). Ramping requires enough linear space on each side of the highest point of the ramp to allow for a slope of no more than 5% and cross-slopes of 2%. Utilization of ramping may void the sidewalk warranty.

Sidewalk Minimizing: In public rights-of-way where continuous planting strips (parkways) exist with street trees, sidewalks may be reduced in width to allow more root growth area and root pruning, as necessary, if the remaining sidewalk width will still comply with applicable ADA accessibility requirements.

Meandering Sidewalk: In some locations, it may be possible to meander the sidewalk repair project around an existing street tree to allow additional room for root growth; however, if meandering requires an additional sidewalk dedication or easement, this would be beyond the scope of this Policy.

Private Property Trees: Private Property trees are required to be maintained by the property owner. No root pruning or removal of private property trees causing damage to the sidewalk shall occur as a part of sidewalk repair activities.

IV. Street Tree Planting Specifications

The following replacement ratios shall apply for street tree removals. For purposes of determining the applicable replacement ratio, Year 1 shall be regarded as commencing on July 1, 2017 and lasting through June 30, 2018.

Year	Replacement to Removal Ratio
1-10	2:1
11-21	3:1
22-30	2:1

Considerations for Street Tree Selection and Planting Location

Site Climate: Climate and soil types shall be considered for purposes of determining the most appropriate replacement street tree species for a specific location.

Right Tree, Right Place: Species selection shall consider size of growing space (parkway/tree well) size and uniformity along blocks and street segments. In general, street tree species selection at a given location shall be determined by the predominant street tree species on a block.

Site Selection: The specific location for the planting of a replacement street tree shall be determined by a Certified UFD Street Tree Supervisor. The following areas shall be considered for street tree planting, in order of priority:

1. The location of the removed street tree;
2. Either side of the same street/block;
3. The immediate street to the north, south, east, or west of the removed street tree location;
4. The neighborhood/community in which street tree removal(s) occurred (within 0.25 mile); and
5. Historically low-canopy areas or areas with a high index rating of “heat island” or in areas of the City with poor air quality as determined by the South Coast Air Quality Management District, the California Office of Environmental Health Hazard Assessment, or the California EPA.

Street Tree Selection Guide: The current guide lists 150 street tree species that may be considered for planting in the City.

Street Tree Planting Standards: Street trees shall be planted according to the specifications put forth in BOE Standard Plan(s) S-450-3, S-455-2, and S-456-2.

Street Tree Size: The standard street tree stock replacement size is a 24-inch box.

Street Tree Root Control Barriers (RCB): RCBs are required to be installed on street tree plantings per Standard Plan S-456-2.

V. Public Notification Criteria

For individual projects involving the proposed removal of two or fewer street trees, a 7-day notice shall be posted on the street tree to be removed. An informational notice shall be given to the respective City Council Office where the street tree to be removed resides, Department of Neighborhood Empowerment (DONE), and Community Forest Advisory Committee (CFAC). The informational notice shall include the date and reason for the removal, location and species of the planted or replanted street tree(s), location and species of the replacement street tree to be planted, and a contact name with associated phone number and email.

For individual projects involving the proposed removal of three or more street trees, a 30-day notice shall be posted on the street tree to be removed. An informational notice shall also be given to the respective City Council Office where the street tree to be removed resides, DONE, and CFAC. The informational notice shall include the date and reason for the removal, location and species of the street tree(s), and a contact name with associated phone number and email. The address and project name involved in the proposed removal of street trees shall also be placed on the Bureau of Street Services Street Tree Removal Notification System.

VI. Street Tree Maintenance and Monitoring Requirements

Site Protection: Any person in charge of repair, alteration, or removal of any sidewalk or ancillary structure in any street, sidewalk, parkway, alley, or other public right-of-way shall protect any street tree, shrub, or plant in the vicinity of such repair work with sufficient guards or protectors as to prevent injury to said street tree, shrub, or plant arising out of or by reason of said repair alteration or removal.

Waste Disposal: All green waste generated by the repair of sidewalks or retention, removal, and replacement of street tree(s) as part of the Sidewalk Repair Program shall remain separated from other waste to ensure its ability to be composted, mulched or disposed of in accordance with title 14 of the California Code of Regulations governing compost quality.

Monitoring: For the first three years of planting, replacement street trees shall be maintained and monitored for growth under the direction of UFD through visual inspections at the time when street trees are manually watered 33 times per year for three years. Young street trees that do not survive in the first 3 years must be replaced at a 1:1 ratio. The young street trees must be able to withstand slight to moderate drought or other stress.

Approved by the Board of Public Works: _____

Approved by the City Council: _____

LAMC 62.104.1

Sidewalk Repair Program Mandatory Project Features Policy

All sidewalk repair or construction activities undertaken pursuant to Sidewalk Repair Program 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), whether eligible for ministerial or discretionary approval, shall be subject to compliance with following requirements in this Sidewalk Repair Mandatory Project Features Policy (Policy). All references in this Policy to applicable laws and guidelines shall refer to the current applicable law or guideline in place at the time of the sidewalk repair project approval.

I. Biological Resources

1. Pursuant to the Migratory Bird Treaty Act (MTBA) and California Fish and Game Code, street tree removal activities should take place outside of the nesting bird season (February 1 to September 1), and the removal of mature street trees should therefore be scheduled to occur between September 2 and January 31 to the extent feasible. Street tree removal activities may occur during nesting bird season in accordance with Section I.3 and other applicable requirements in this Policy.
2. All replacement street trees shall be planted within 1 year of removal.
3. Pursuant to the MBTA and California Fish and Game Code, prior to being removed, all street trees shall be surveyed for the presence of nesting birds/bats/raptors by a qualified biologist (or qualified arborist) within 3 days prior to any street tree removal. If any active nests are detected, the area shall be flagged, and a minimum 250-foot non-disturbance buffer established and a minimum 500-foot buffer for raptors. A modification to this buffer requirement may be allowed with consultation by the United States Fish and Wildlife Service and/or the California Department of Fish and Wildlife, if the nesting cycle has been completed or the monitoring biologist determines that the nest has failed. Project sites shall be resurveyed if there is a lapse in construction activities for more than 7 days. A nesting bird survey shall be submitted at the conclusion of the site survey.
4. All street tree removal work shall be performed under the direction of an Urban Forestry Division (UFD) Tree Supervisor who is also an International Society of Arboriculture (ISA) Certified Arborist.
5. Replacement street trees shall be monitored and those street trees which do not survive in the first 3 years shall be replaced at a 1:1 ratio.
6. For construction activities in or near an Environmentally Sensitive Habitat Area (ESHA) pursuant to the Coastal Act, a 50-foot buffer strip for all activities in or near an ESHA, as measured from the outer limit of riparian vegetation or, if the waters are estuarian, a minimum of 100 feet from the outer limit of estuarian vegetation, shall be

required in new development to protect the habitat value of riparian areas where the opportunity exists.

II. Cultural Resources

1. Prior to approval, the construction site shall be assessed to determine whether a substantial adverse change would occur to the significance of a known historic, tribal cultural, unique archaeological, and/or unique paleontological resource.
 - A. Where it is determined that the proposed sidewalk repair would cause a substantial adverse change to the significance of a known historic resource, the Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be followed.
 - B. Where it is determined that the proposed sidewalk repair would cause a substantial adverse change to the significance of a known unique archaeological resource, an archaeological treatment plan (ATP) that ensures the long-term protection and proper treatment of archaeological resources of significance shall be prepared. The ATP shall include a monitoring plan, research design, and data recovery plan. The ATP shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, California Office of Historic Preservation's (OHP) *Archaeological Resources Management Report*, Recommended Contents and Format (1989), and the *Guidelines for Archaeological Research Design* (1991); and shall also consider the Advisory Council on Historic Preservation's publication *Treatment of Archaeological Properties: A Handbook*. The ATP shall also be consistent with the Department of the Interior's Guidelines for Federal Agency Responsibility under Section 110 of the National Historic Preservation Act.
 - C. Where it is determined that the sidewalk repair project would cause a substantial adverse change to the significance of a known unique paleontological resource, a qualified paleontologist shall be retained to develop a Paleontological Management Treatment Plan (PMTP). The selection of the paleontologist and the development of the PMTP shall be subject to approval by the Vertebrate Paleontology Section of the Natural History Museum of Los Angeles County to comply with paleontological requirements, as appropriate.
2. Pursuant to Section 6-3.2, "Archaeological and Paleontological Discoveries" of the Standard Specifications for Public Works Construction (Greenbook), and the City of Los Angeles Department of Public Works Additions and Amendments to the Standard Specifications for Public Works Construction (Brownbook) if, during

construction activities, an unexpected discovery is made of items of archaeological or paleontological interest, excavation in the area of discovery shall immediately cease and shall not continue until ordered by the City Engineer.

III. Geology and Soils

1. Where excavation will be greater than 5 feet to accommodate existing underground utilities, a Shoring Plan per Section 7-10.4.2.2, "Shoring Plan" of the Standard Specifications for Public Works Construction (Greenbook), and the City of Los Angeles Department of Public Works Additions and Amendments to the Standard Specifications for Public Works Construction (Brownbook) shall be prepared.

IV. Hazardous Materials

1. Prior to approval, a database search pursuant to California Government Code Section 65962.5 shall be conducted to identify applicability of any regulatory requirements or hazardous material risks associated with the project site or the adjacent sites.
2. In the event of spills, leaks, or other contamination, the protocols contained with the *Hazardous Materials Incident Contingency Plan* published by the California Office of Emergency Services shall be followed.
3. For sidewalk repair projects located within a public right-of-way and containing contaminated soil, all repair and construction work shall be in accordance with the BOE Master Specification Section No. 02310 *Earthwork* Subsection No. 3.3, *Contaminated Soils*.
4. For sidewalk repair projects located on a public right-of-way and containing contaminated ground water, all repair and construction work shall be in accordance with BOE Master Specification Section No. 02235, *Dewatering*.

V. Hydrology and Water Quality

1. Pursuant to Section 308-4.9.5, "Watering" of the Standard Specifications for Public Works Construction (Greenbook), and the City of Los Angeles Department of Public Works Additions and Amendments to the Standard Specifications for Public Works Construction (Brownbook), all planted areas shall be kept moist during the establishment period. When a permanent irrigation system is not available, a temporary system shall be used to provide adequate watering during the establishment period without erosion detrimental to planting.

VI. Noise

1. As feasible during construction, a 10-foot distance between construction equipment and a commercial use sensitive receptor should be maintained, and a

20-foot distance between construction equipment and residential sensitive receptor should be maintained.

2. As feasible during construction, the following best management practices (BMPs) for noise should be implemented:
 - A. Unnecessary idling of internal combustion engines should be prohibited.
 - B. All equipment should be kept in good repair with all worn, loose and unbalanced machine parts to be replaced.
 - C. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from neighboring houses.
 - D. Construction should occur in the daytime hours, as allowable by LAMC Section 41.40 - Construction Noise.
 - E. Notify all adjacent property owners and land users of the construction length, duration, and hours of noise and vibration producing construction activities, in writing.
 - F. Provide and make available contact information for Sidewalk Repair concerns, on construction activities, prior to and on-site during construction.
3. As feasible during construction, the following BMPs for vibration should be implemented:
 - A. Use lower powered equipment or techniques such as concrete saws instead of jack hammers.
 - B. Minimize the time of use of vibration generating equipment.
 - C. Notify all adjacent property owners and land users of the construction length, duration, and hours of noise and vibration producing construction activities, in writing.
 - D. Provide and make available contact information for Sidewalk Repair concerns, on construction activities, prior to and on-site during construction.

VII. Transportation and Traffic

1. All work shall be in full compliance with the Work Area Traffic Control Handbook (WATCH) manual, including the requirement of flaggers in Section 9 (Flagger

Temporary Traffic Control) for lane closures during street tree removal or any other construction activity that disrupts the flow of vehicles, pedestrians, or bicyclists.

2. When construction occurs at an intersection, stopping sight distance shall be maintained for vehicles and bicyclists approaching the intersection, in compliance with the WATCH manual, Flagger Temporary Traffic Control.
3. All adjacent property owners shall be notified of any upcoming construction. Signage shall also be posted in advance of construction, notifying the public of any construction-related lane closures or parking restrictions, in accordance with Section 7-10, “Public Convenience and Safety” of the Standard Specifications for Public Works Construction (Greenbook), and the City of Los Angeles Department of Public Works Additions and Amendments to the Standard Specifications for Public Works Construction (Brownbook).
4. Temporary accessibility-compliant access shall be provided and signage shall be used, where needed, to direct pedestrians to alternative pedestrian routes or through the use of a temporary walkway, physically separated from vehicle traffic, to provide a more direct detour, in accordance with Section 7-10, “Public Convenience and Safety” of the Standard Specifications for Public Works Construction (Greenbook), and the City of Los Angeles Department of Public Works Additions and Amendments to the Standard Specifications for Public Works Construction (Brownbook).
5. If construction requires a temporary closure of an on-street bicycle facility, signage shall be placed to inform drivers and bicyclists of the upcoming bicycle facility closure, indicating a shared lane ahead in accordance with the WATCH manual, Bicycle Considerations.
6. If construction requires a temporary closure of an existing transit facility (e.g., bus stop), coordinating with the affected transit provider shall occur to ensure users are informed of the temporary stop relocations.
7. Per Section 7-8.4, “Storage of Equipment and Materials” of the Standard Specifications for Public Works Construction (Greenbook), and the City of Los Angeles Department of Public Works Additions and Amendments to the Standard Specifications for Public Works Construction (Brownbook), a permit from the Bureau of Street Services shall be obtained before any construction materials or equipment are stored in the public right-of way if necessary. All storage of equipment and materials shall be done under approved pollution prevention and erosion control plan as required by California Construction Permit Order No. 2009-009-DWQ.
8. Truck trips shall be coordinated to arrive and depart at off-peak commute times to the extent feasible, in accordance with Los Angeles Municipal Code (LAMC) Section 62.61.

9. Any sidewalk repair activities involving signal disruption shall be coordinated with the Los Angeles Department of Transportation and the Los Angeles Police Department to identify and implement temporary traffic control needs per Section 307-5, "Temporary Street Lighting and Traffic Signal Systems" of the Standard Specifications for Public Works Construction (Greenbook), and the City of Los Angeles Department of Public Works Additions and Amendments to the Standard Specifications for Public Works Construction (Brownbook).

VIII. Wildfire Hazards

1. Compliance with applicable LAMC Fire Code Section 57 et seq. for construction sites on, adjacent to, or in the immediate vicinity of a Very High Fire Hazard Severity Zone (VHFHSZ) as designated through LAMC Sections 57.4908.1.1 through 57.4908.1.3 and identified on City maintained databases shall be required.
2. No person shall travel or trespass upon any firebreak or fire road, as provided in Section 57.4908.8.2 of the LAMC.
3. Pursuant to LAMC Section 57.4908.5 open flame shall be prohibited upon any road, street, or fire road with the VHFHSZ.
4. No smoking shall be allowed where conditions are such as to make smoking a hazard and in spaces where flammable or combustible materials are stored or handled, as provided in Section 310.2 of the California Fire Code. Further, it shall be unlawful for any person to light, ignite or smoke any cigar, cigarette, tobacco in a pipe or other form of smoldering substance within the VHFHSZ, as provided in LAMC Section 57.4908.6. Also, open flame upon any road, street, or fire road within the VHFHSZ shall be prohibited.
5. No person, except one authorized and acting within the scope of his official duties, shall remove, deface, mar, mutilate, or change the position of any sign, installed by the Chief pursuant to this article, designating "CLOSED AREA," "NO SMOKING," "NO OPEN FIRES," "RESTRICTED ENTRY," or other sign or device installed to give warning and to regulate persons' actions within the VHFHSZ, as provided in Section 57.4908.9.1.
6. Pursuant to Ordinance No. 185789, all sidewalk repair projects shall occur in compliance with all applicable requirements for brush clearing activities in the VHFHSZ including, but not limited to:
 - A. Use of metal cutting blades for grass or brush clearance shall be limited to those which are nonferrous/non-sparking.
 - B. Brush clearance shall not be done on red flag days, when fire weather conditions are at their peak.

- C. Individuals engaged in brush clearance operations shall not engage in any other activities during their actual clearance of grass or brush.
- D. Individuals engaged in grass or brush clearance operations shall use an appropriate extinguishing agent immediately to extinguish a fire.
- E. All fires, regardless of size, shall be reported immediately via the 9-1-1 system to the Fire Department.
- F. An approved fire extinguisher, or a pressurized garden hose with attached nozzle shall be within 10 feet of any grass or brush clearance operation, to quickly extinguish a small fire before it burns out of control.
- G. Where a gasoline container is present at the site of the grass or brush clearance operation, a minimum 4A 60 BC dry chemical fire extinguisher shall be within 10 feet of the brush clearance operation.
- H. A cell phone capable of dialing 9-1-1 shall be charged and readily accessible to the grass or brush clearance operation.
- I. A safety strap shall be used at all times for any tool or appliance with hot exhaust. Hot exhaust shall not come in contact with any brush, grass, flash fuels, or other flammable material

Approved by the Board of Public Works: _____

Approved by the City Council: _____

ORDINANCE NO. 187106

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. 14-0163-S3

M:\GENERAL COUNSEL DIVISION\ORDINANCES AND REPORTS\ORDINANCES - FINAL YELLOW\AMC 52.104.1 - Sidewalk Repair Program Ordinance.docx

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 June 22, 2021

Approved 06/28/2021

Published Date: 07-02-21
Ordinance Effective Date: 08-02-21

CEQA FINDINGS

**City of Los Angeles, Department of Public Works
Bureau of Engineering, Environmental Management Group
Sidewalk Repair Program
Los Angeles County, California**

SCH #2017071063

The following Findings are presented to comply with the California Environmental Quality Act (CEQA) and the Guidelines for Implementation of the CEQA (Title 14 California Code of Regulations, Chapter 3, Section 150000 et seq.) or State “CEQA Guidelines.” The Environmental Impact Report (EIR) for the Sidewalk Repair Program is the main source of the information herein. The proposed Sidewalk Repair Program (Project) is a Citywide program to modify the manner in which sidewalk repair projects are undertaken pursuant to the City of Los Angeles’ (City) obligations under the *Willits* Settlement Agreement (Settlement) (*Mark Willits, et al. v. City of Los Angeles* (United States District Court Case No. CV10-05782), which includes various City actions that will provide improved access to persons with mobility disabilities in accordance with local, state, and federal accessibility requirements. The Project includes a proposed Ordinance that will guide the construction of future sidewalk repairs; curb ramp repairs; crosswalk paving; street tree retention, removal, and replacement; canopy pruning; root pruning; and applicable utility work for 30 years within the City.

Section 15091 of the State *CEQA Guidelines* states that “No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.”

(See also Pub. Resources Code, §§21081, 21081.5.)

Section I PROJECT DESCRIPTION describes the project location, the background of the Project, a summary of the Project components, and the project objectives.

Section II ENVIRONMENTAL PROCESS describes the public participation process for the Project.

Section III RECORD OF PROCEEDINGS describes the custodian and location of the documents upon which these Findings are based.

Section IV FINDINGS REQUIRED UNDER CEQA describes the findings required to be made by the decisionmaker in order to certify the EIR and approve the Project.

Section V PROJECT IMPACTS describes the impacts associated with the Project and the specific findings required for the impacts to certify the EIR and approve the Project.

Section VI ALTERNATIVES describes alternatives developed and considered for the Project and the specific findings required to certify the EIR and approve the Project.

Section VII STATEMENT OF OVERRIDING CONSIDERATIONS describes the findings required to be made by the decisionmaker for any significant, unavoidable impacts from the Project.

Section VIII OTHER CEQA CONSIDERATIONS describes additional issues raised during the responses to comments and the preparation of the Final EIR (FEIR).

I. PROJECT DESCRIPTION

A. Project Location

The City, located within Los Angeles County, covers approximately 467 square miles. The City maintains approximately 9,000 miles of sidewalks. In Fiscal Year 2017-2018, the first year of the compliance period, the City completed 24.4 miles of sidewalk repair.

B. Background

Between December 2006 and March 2011, three separate lawsuits against the City were filed in which the plaintiffs alleged various claims arising under state and federal accessibility laws and involving the alleged conditions of existing City sidewalks. While the City did not admit any wrongdoing and affirmatively denied all of the allegations made by the plaintiff groups, during the pendency of the three lawsuits, the parties entered into the *Willits*.

The City Council approved the terms of the *Willits* Settlement in April 2015, and Judge Consuelo Marshall of the Federal District Court approved the Settlement in August 2016. Generally speaking, the *Willits* Settlement provides that the City will expend approximately \$1.3 billion on sidewalk repairs during the agreement's 30-year compliance period. Repair activities covered by the *Willits* Settlement encompass:

- Installation of missing curb ramps;
- Repair of damage caused by street tree roots to sidewalk or walkway surface so that the sidewalk or walkway surfaces are made accessible to and usable by persons with mobility disabilities;
- Upgrading of existing curb ramps;
- Repair of broken and/or uneven pavement in the pedestrian rights of way deeper or wider than ½ inch;

- Repair of vertical or horizontal displacement or upheaval of the sidewalk or crosswalk surface greater than ½ inch;
- Correction of non-compliant cross-slopes in sidewalks or sections of sidewalks;
- Removal of protruding and overhanging objects and/or obstructions that narrow pedestrian rights of way to less than 4 feet of accessible width;
- Widening of pedestrian rights of way and sections thereof to provide 4 feet of accessible width;
- Providing 4 feet of clearance to the entrances of public bus shelters;
- Repair of excessive gutter slopes at the bottom of curb ramps leading into crosswalks;
- Elimination of curb ramp lips on curb ramps;
- Installation of accessible street tree grates, or other compliant remediation, where such grates are missing from street tree wells;
- Installation of missing utility covers where such covers are missing from sidewalks, crosswalks or pathways; and
- Remediating other conditions as appropriate for improving pedestrian access and complying with the Settlement.

C. Proposed Project – Summary of New Ordinance and Primary Components

The Project includes the proposed adoption of a new ordinance (LAMC 62.104.1) that revises the way sidewalk repairs pursuant to the *Willits* Settlement are reviewed and approved and is intended generally to improve and streamline the implementation process. The primary components of the ordinance include:

- Specific parameters to enable certain sidewalk repairs to proceed as ministerial approvals, not subject to further environmental review applicable to discretionary actions;
- A streamlined discretionary approval process for sidewalk repair projects falling outside the specific parameters allowed for a ministerial sidewalk repair approval;
- A streamlined discretionary approval process for sidewalk repair projects involving the proposed removal of three or more street trees;
- A revised Street Tree Retention, Removal and Replacement Policy establishing a 2:1 street tree replacement to removal ratio requirement for the first 10 years (starting from July 2017), a 3:1 ratio for years 11 to 21, and a 2:1 ratio for the last 9 years of the 30-year program (The Sidewalk Repair Program Street Tree Policy, which will be adopted with the ordinance); and
- Mandatory Project Design Features (PDFs) generally consisting of regulatory compliance measures and standard construction conditions and procedures (The Sidewalk Repair Program Mandatory Project Features Policy, which will be adopted with the ordinance).

The new ordinance would enable, notwithstanding anything in the City code to the contrary (except for the City of Los Angeles Cultural Heritage Ordinance, City of Los Angeles Administrative Code (LAAC) Section 22.171), all sidewalk repair projects under the *Willits*

Settlement to be subject to ministerial approval by the City Engineer or designee, so long as the individual project meets the following specified parameters:

- (1) The sidewalk repair lasts no more than 30 non-consecutive construction days in duration and requiring excavation depth of no greater than 30 feet;
- (2) It would not cause a substantial adverse change to significance of a known historic, tribal cultural, unique archaeological, or unique paleontological resource, as those terms are defined by CEQA; and
- (3) It involves the removal of two or fewer trees.

If the individual project does not meet all the specific parameters listed above, it would be subject to (notwithstanding anything in the City code to the contrary, except for the Cultural Heritage Ordinance, LAAC Section 22.171), discretionary approval by the City Engineer or designee, unless it involves the removal of three or more trees in which case the discretionary approval would be made by the Board of Public Works.

For these discretionary approvals, this EIR would serve as programmatic analysis of the impacts, and further project-level environmental review would be performed as necessary depending on whether the project is within the scope of the EIR pursuant to CEQA Guidelines Section 15168, or if any applicable exemptions are appropriate.

D. Project Objectives

CEQA requires that an EIR include a statement of objectives sought by the project, and that the objectives include the underlying purpose of the project. These objectives help the lead agency determine the alternatives to evaluate in the EIR (see CEQA Guidelines Section 15124(a)). The fundamental and underlying purpose of the Project is to ensure the City's timely and efficient compliance with the *Willits* Settlement, including by streamlining review of future sidewalk repair projects consistent with applicable accessibility standards. The following is a list of objectives for the Project that support the underlying purpose, including the fundamental project objective which is to:

- Ensure the continued and efficient compliance with the requirements of the *Willits* Settlement while amending the existing program for sidewalk and curb ramp improvements within the City, in accordance with the applicable accessibility requirements, including those required by the Americans with Disabilities Act.

The following additional project objectives were also identified:

- Retain existing street trees that are the cause of sidewalk barriers to the extent feasible, provided the sidewalk improvements would not result in street tree mortality or compromise public safety.
- If the removal of one or more street trees is required, ensure compliance with the City's replacement requirements adopted to ensure no net street tree canopy loss at the end of the Project implementation period.
- Identify the criteria and process for ministerial approval of future sidewalk improvements and street tree removals and replacements, with the goal of avoiding the need to undertake individualized environmental review of every repair of every City sidewalk or of every street tree removal and replacement and the potential legal challenge to each

such approval; thereby streamlining the *Willits* Settlement implementation and providing certainty to the City and its disability community.

II. ENVIRONMENTAL REVIEW PROCESS

In accordance with Public Resources Code section 21153 and CEQA Guidelines section 15082, the City issued a Notice of Availability (NOA) of the Draft EIR (DEIR) for the Sidewalk Repair Project on December 26, 2019. Consistent with the requirements of Sections 15087 and 15105 of the CEQA Guidelines, the DEIR was submitted to the State Clearinghouse, Office of Planning and Research and was circulated for public review commencing on December 26, 2019 and ending on February 24, 2020 for a period of 60 days. In response to requests from the public, however, the DEIR public review period was extended twice through May 31, 2020 for a total 157 days. The DEIR was also made online at <https://sidewalks.lacity.org/>.

In addition to making the environmental review documents available online, a total of seven public meetings were held at the dates, times, and locations below to inform the public of the Project, the availability of the DEIR, and to encourage public input/comments.

Date	Time	Location	Address
January 29, 2020	5:00–7:00 p.m.	Sunland – Tujunga Branch Library	7771 Foothill Boulevard Tujunga, CA 91042
January 30, 2020	6:00–8:00 p.m.	Watts Senior Citizen Center	1657 E. Century Boulevard Los Angeles, CA 90002
February 5, 2020	6:00–8:00 p.m.	Lafayette Multipurpose Community Center	625 S Lafayette Park Place Los Angeles, CA 90057
February 6, 2020	6:00–8:00 p.m.	Reseda Recreation Center	18411 Victory Boulevard Reseda, CA 91335
February 12, 2020	6:00–8:00 p.m.	Westchester Senior Citizen Center	8740 Lincoln Boulevard Los Angeles, CA 90045
February 13, 2020	6:00–8:00 p.m.	Normandale Recreation Center	22400 Halldale Avenue Torrance, CA 90501
February 15, 2020	10:00 a.m.– 12:00 p.m.	Robert Louis Stevenson Branch Library	803 Spence Street Los Angeles, CA 90023

III. RECORD OF PROCEEDINGS

The documents and other materials that constitute the agency’s record of proceedings or administrative record on which these CEQA Findings are based are located at the Office of the City Clerk, 200 North Spring Street, 3rd Floor, Los Angeles, CA; the Board of Public Works Commission, 200 North Spring Street, 3rd Floor, Los Angeles, CA; the Bureau of Engineering, 1149 S. Broadway, Suite 600, Los Angeles CA; and any other relevant City department. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e).

The City has relied on all of the documents listed above in reaching its decisions on the Project, even if not every document was formally presented to the City as part of the files generated in connection with the Project. Without exception, any documents set forth above not found in the Project files fall into one of the two categories below.

First, many of them reflect prior planning or legislative decisions with which City Council decisionmakers were aware in approving the Project. (See *City of Santa Cruz v. Local Agency Formation Commission* (1978) 76 Cal.App.3d 381, 391-392; *Dominey v. Department of Personnel Administration* (1988) 205 Cal.App.3d 729, 738, fn. 6.)

The second category are other documents that influenced the expert advice provided to the City's staff or the environmental consultants who prepared the EIR, who then provided advice to the final decisionmakers. For that reason, such documents form part of the underlying factual basis for the City's decisions relating to the approval of the Project. (See Pub. Resources Code, § 21167.6, subd. (e)(10); *Browning-Ferris Industries v. City Council of City of San Jose* (1986) 181 Cal.App.3d 852, 866; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 153, 155.)

IV. FINDINGS REQUIRED UNDER CEQA

Public Resources Code section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” The same statute provides that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to provide that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in Public Resources Code section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. For each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding reaching one or more of three permissible conclusions.

The first such finding is that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

The second permissible finding is that such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

The third potential conclusion is that specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers,

make infeasible the mitigation measures or project alternatives identified in the FEIR. (See CEQA Guidelines, § 15091, subd (a); see also Pub. Resources Code, § 21081, subd. (a).)

“‘Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors.” (CEQA Guidelines, § 15364.) The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506-1509 [upholding CEQA findings rejecting alternatives in reliance on applicant’s project objectives]; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal. App. 4th 957, 1001 (CNPS) [“an alternative ‘may be found infeasible on the ground it is inconsistent with the project objectives as long as the finding is supported by substantial evidence in the record’”], quoting *Kostka & Zischke, Practice Under the Cal. Environmental Quality Act* [Cont.Ed.Bar 2d ed. 2009] (*Kostka & Zischke*), § 17.309, p. 825); *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1165, 1166 (*Bay-Delta*) [“feasibility is strongly linked to achievement of each of the primary program objectives”; “a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal”].)

Moreover, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.” (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417 (*City of Del Mar*); see also *CNPS, supra*, 177 Cal. App. 4th at p. 1001 [after weighing “‘economic, environmental, social, and technological factors,’ ... ‘an agency may conclude that a mitigation measure or alternative is impractical or undesirable from a policy standpoint and reject it as infeasible on that ground’”] quoting *Kostka & Zischke, supra*, § 17.29, p. 824.)

For the purposes of these Findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. In contrast, the term “substantially lessen” refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less than significant level.

CEQA requires that the lead agency adopt feasible mitigation measures or, in some instances, feasible alternatives, to substantially lessen or avoid significant environmental impacts that would otherwise occur. With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons that the agency found that the project’s benefits outweigh its unavoidable adverse environmental effects. The Statement of Overriding Considerations for this Project is included herein in Section VII.

The findings provided in this document are based upon substantial evidence in the entire record before the City. The references set forth in these findings to certain pages or sections of the environmental documents for the Project are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings. These findings do not attempt to describe the full analysis of each environmental impact contained in the FEIR, its appendices,

and additional documents in the case files for the Project. Instead, a full explanation of these environmental findings and conclusions can be found in the FEIR and those documents, and these findings hereby incorporate by reference and adopt the discussion and analysis in the FEIR, its appendices, and additional documents in the case files for the Project supporting the determination regarding the Project's impacts. In making these findings, the determinations and conclusions of the FEIR relating to environmental impacts are hereby ratified, adopted, and incorporated in these findings, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings. In the event these findings inadvertently omit or inaccurately reflect facts stated in the FEIR due to a clerical error, such statements are nevertheless hereby adopted and incorporated in the findings below by reference, and the language set forth in the FEIR shall control.

V. PROJECT IMPACTS

Key, integral elements expressly incorporated into the Project as Policies to be adopted along with the proposed ordinance include: (1) the Revised Street Tree Retention, Removal and Replacement Policy for the Sidewalk Repair Program (the Sidewalk Repair Program Street Tree Policy), which includes establishing a 2:1 street tree replacement to removal ratio requirement for the first 10 years (starting from July 2017), a 3:1 ratio for years 11 to 21, and a 2:1 ratio for the last 9 years of the 30-year program; and (2) PDFs (the Sidewalk Repair Program Mandatory Project Features Policy), which generally consist of regulatory compliance measures and standard construction conditions and procedures to ensure that impacts would be less than significant or reduced to the extent feasible.

Analysis in the FEIR assumes three construction scenarios. General construction requirements are the same for all three scenarios, with Construction Scenario 1 representing the most frequent type of sidewalk repairs and Construction Scenario 2 representing a less frequent type. Under Construction Scenarios 1 and 2, nearly all environmental impacts would be less than significant, with the exception of noise, depending on the proximity of sensitive receptors. Construction Scenario 3 includes projects that will require some form of additional environmental review and discretionary approval in the future and which could result in additional significant and unavoidable impacts to aesthetics, cultural resources, and tribal cultural resources. This third construction scenario is anticipated to occur infrequently as explained in the FEIR but is nevertheless considered programmatically.

A. Significant Adverse Impacts Mitigated to Less than Significant Levels Under CEQA

The City, having reviewed and considered the information contained in the FEIR, and the Project as designed and proposed for approval, did not find any significant adverse impacts (from construction or implementation of the Project) able to be avoided or reduced through implementation of feasible mitigation measures pursuant to Public Resources Code section 21081 and CEQA Guidelines section 15091(a)(1).

B. Significant and Unavoidable Adverse Impacts under CEQA

The City, having reviewed and considered the information contained in the FEIR and the record of proceedings, and, pursuant to Public Resources Code section 21081 and CEQA Guidelines sections 15093 and 15091(a)(3), adopts the following findings regarding the significant and unavoidable effects of the Project.

The following significant and unavoidable effects of the Project impacts were found to occur mostly under Construction Scenario 3, except for the noise impacts that may occur under any construction scenario, depending on the proximity of sensitive receptors. The below findings are appropriate because there are no feasible mitigation measures available that would reduce the identified effects to below a level of significance. “Feasible” is defined in section 15364 of the CEQA Guidelines to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” Section 15019(a)(3) of the CEQA Guidelines also provide that “other” considerations may form the basis for a finding of infeasibility.

1. Aesthetics

Significant Adverse Environmental Impacts:

In the City, there are a limited number of known historic resources that may be impacted by sidewalk repairs, which contribute to the overall cultural history of the neighborhood and city. While all Project construction activities involving historic resources would be subject to Secretary of the Interior (SOI) Standards to preserve the integrity of the historical resources in the public right-of-way (ROW), alteration of known historic resources for Project activities would be considered a significant impact where SOI Standards cannot feasibly be implemented.

The continuation of such activities under the Project has the potential to alter the visual landscape of a community or neighborhood through the removal of street trees and other sidewalk repair activity. In the rare instances where the integrity of the cultural resource cannot be maintained, there will be a significant impact in the aesthetics or in the visual character due to the Project (Construction Impacts AES-3 and AES-4).

Finding:

The City did not identify any feasible mitigation is available to render the effects less than significant. Complete avoidance of known historic resources is not feasible under circumstances where a sidewalk requires repairs under the Project but is within close proximity to a known historic resource because such repairs are essential to the primary objective of the Project. The effects therefore remain significant and unavoidable. The City concludes, however, that the Project’s benefits outweigh its significant and unavoidable impacts, as set forth in Section VII, Statement of Overriding Considerations.

Statement of Facts:

There may be a few sidewalk and curb ramp repair sites where potentially significant impacts to aesthetics and visual character would occur under the rare Construction Scenario 3. This would mean that the historic resource is demolished, destroy, or damaged in such a way that its integrity and importance is impacted, despite the implementation of design features and any feasible mitigation. In these rare instances, the impacts on aesthetics would be significant and unavoidable.

Demolition and/or material alteration of a significant cultural resource would be considered significant and unavoidable where implementation of mandatory PDF-CUL-1 through PDF-CUL-5, included as components of the Project, related to assessment, SOI Standards, archaeological treatment plans, and paleontological management treatment plans would not

maintain the significance of the cultural resource. No other feasible mitigation measures have been identified at this time.

2. Cultural Resources

Significant Adverse Environmental Impacts:

Demolition and/or material alteration of a significant historical resource would be considered significant and unavoidable where implementation of the SOI Standards in mandatory PDF-CUL-2, included as a component of the Project, consisting of, as applicable, recordation, demolition monitoring, salvaging, and other measures, may still result in a significant impact to historical resources.

In the rare instances where a sidewalk repair project would impact the integrity and significance of a significant historical resource, the Project would have a potentially significant adverse impact (Construction Impacts CUL-1 to CUL4). The likelihood of this occurring is minimal, as observed under the existing individual sidewalk repair projects. However rare the occurrence would be, it is still a loss of a significant historical resource under the Project.

During construction activities to be continued under the Project, it is possible archeological resources could be uncovered, such as buried artifacts or features. In instances where the Project impacts the integrity and significance of a unique archaeological resource, the Project would have a potentially significant adverse impact. The likelihood of this occurring is minimal, as observed under prior sidewalk repair activities. However rare the occurrence would be, it is still a loss of a significant archaeological resource and therefore, is considered a significant impact of the Project.

Construction activities in areas with Older Alluvium or paleontologically sensitive surface bedrock units could, in rare instances, cause impacts on undisturbed paleontological resources, loss or damage of significant paleontological resources. In instances where the paleontological resources have been damaged, destroyed, or demolished, or where the integrity of a character defining feature and significance of a known paleontological resource is altered, the Project would significantly impact cultural resources under CEQA. The likelihood of this occurring is minimal, as observed under prior sidewalk repairs. However, rare occurrence of loss of a paleontological resource is considered a potentially significant impact of the Project.

Finding:

The City did not identify any feasible mitigation is available to render the effects less than significant. Complete avoidance of significant cultural resources is not feasible under circumstances where a sidewalk requires repairs under the Project but is within close proximity to a cultural resource because such repairs are essential to the primary objective of the Project. The effects therefore remain significant and unavoidable. The City concludes, however, that the Project's benefits outweigh its significant and unavoidable impacts, as set forth in Section VII, Statement of Overriding Considerations.

Statement of Facts:

There may be significant and unavoidable adverse impacts to significant historical resources, archaeological, and paleontological resources under the rare Construction Scenario 3. These significant and unavoidable impacts would occur even with implementation of mandatory PDF-CUL-1 through PDF-CUL-5, included as components of the Project, related to assessment, SOI

Standards, Archaeological Treatment Plans, and Paleontological Management Treatment. No other feasible mitigation measures have been identified at this time.

3. Noise

Significant Adverse Environmental Impacts:

Impacts would be potentially significant where a 10-foot distance for commercial sensitive uses and a 20-foot distance for residential sensitive uses cannot be maintained from the construction noise source, even with implementation of mandatory construction noise BMPs, included as a component of the Project (Construction Impacts NOI-2 and NOI-3).

Construction activity can result in varying degrees of vibration, depending on the equipment and methods employed, and may result in impacts to building structures. All construction activities would occur on and adjacent to public sidewalks, which are generally greater than 8 feet from the nearest structure façade. Impacts would be significant, however, where the distance from the construction vibration source to the building foundation of the nearest structure is less than 8 feet.

Construction activities associated with the Project would include various types of vibratory equipment, and may result in impacts in terms of human annoyance. Impacts would be significant where the distance from the construction vibration source to the nearest occupied space of a sensitive use is less than 23 feet.

Finding:

The City did not identify any feasible mitigation is available to render the effects less than significant. Complete avoidance of construction work within close proximity to commercial and residential sensitive uses is not feasible under circumstances where a sidewalk requires repairs under the Project but is within close proximity these uses because such repairs are essential to the primary objective of the Project. The effects therefore remain significant and unavoidable. The City concludes, however, that the Project's benefits outweigh its significant and unavoidable impacts, as set forth in Section VII, Statement of Overriding Considerations.

Statement of Facts:

Pursuant to mandatory PDF-NOI-2 and PDF-NOI-3, included as components of the Project, the Project is already requiring best management practices for construction noise impacts and vibration impacts, respectively, where feasible. Despite these PDFs, there may be significant and unavoidable adverse impacts related to construction noise and construction vibration in the limited instances where: a 10-foot distance for commercial sensitive receptors and a 20-foot distance for residential sensitive uses cannot be maintained from the construction noise source; an 8-foot distance cannot be maintained from the closest occupied space façade of the closest sensitive receptor; or a 23-foot distance cannot be maintained from the vibratory equipment to the nearest occupied space of a sensitive receptor.

4. Tribal Cultural Resources

Significant Adverse Environmental Impacts:

While tribal cultural resources (TCRs) may be found throughout the city, there is no database of such resources and identification of TCRs is not a simple or straightforward process. The City has conducted AB 52 consultation with the Gabrieleño Band of Mission Indians—Kizh Nation.

The consultation was concluded when the City, acting in good faith and after reasonable effort, concluded that mutual agreement could not be reached as to whether a significant effect exists and/or any measures to mitigate or avoid a significant effect to TCRs.

Because construction activities would occur throughout the City on existing sidewalks with ground that has previously been disturbed, it is unlikely that native fill and undisturbed TCRs will be involved. However, there may be rare instances during construction where, after the assessment of TCRs in mandatory PDF-CUL-1 and even with the implementation of mandatory PDF-CUL-2 of the SOI Standards for the Treatment of Historic Properties and mandatory PDF-CUL-3 of archaeological treatment plans, all included as components of the Project, the integrity and significance of TCRs cannot be maintained, such impacts would be significant (Construction Impact TCR-1).

Finding:

The City did not identify any feasible mitigation is available to render the effects less than significant. Complete avoidance of TCRs is not feasible under circumstances where a sidewalk requires repairs under the Project but is within close proximity to TCRs because such repairs are essential to the primary objective of the Project. The effects therefore remain significant and unavoidable. The City concludes, however, that the Project's benefits outweigh its significant and unavoidable impacts, as set forth in Section VII, Statement of Overriding Considerations.

Statement of Facts:

There exists a rare chance that an adverse change to the significance of a TCR would occur under the rare Construction Scenario 3. Due to significant historical and/or unique archaeological impacts, there would be a significant unavoidable adverse impact, even with the implementation of PDFs.

5. Cumulative Impacts

Significant Adverse Environmental Impacts:

Aesthetics:

The Project would have the potential to result in a cumulatively considerable impact on aesthetics under the rare Construction Scenario 3 if, in combination with the growth projections in adopted local, regional, or statewide plans and programs within the greater Los Angeles region, it would result in substantial damage or degradation of a designated scenic vista or state scenic highway; substantial damage or degradation of recognized or valued views—including natural views of topography, mountains, oceans, or man-made visual features—in City-adopted land use plans; substantial damage or degradation of existing features or elements that contribute to the existing visual character or image of a neighborhood, community, or localized area through removal, alteration, or demolition of street trees; substantial damage to visual landscape, including but not limited to street trees, utility poles, or historic structures within public right-of-way; or a substantial loss of shading as a result of street tree retention, removal or replacement. Since individual sidewalk repair projects would result in a significant and unavoidable impact, the Project would also have a cumulatively considerable contribution to a cumulatively significant aesthetic impact.

Cultural Resources:

The Project would have the potential to result in a cumulatively considerable impact on cultural resources under the rare Construction Scenario 3, if, in combination with the growth projections in adopted local, regional, or statewide plans and programs within the greater Los Angeles region, it would result in: demolition or relocation of a significant historical resource such that its integrity and significance cannot be maintained; conversion, rehabilitation, or alteration of a significant historical resource that does not conform to the SOI's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; disturbance, damage, or degradation of an archaeological resource, or its setting, that is found to be important; permanent loss of, or loss of access to, a paleontological resource of regional or statewide significance; or disturbance of human remains, including remains interred outside of formal cemeteries. Implementation of mandatory PDF-CUL-1 through PDF-CUL-4, included as components of the Project, would require an assessment of the cultural significance, implementation of repairs and replacements in accordance with the SOI's Standards, preparation of an Archaeological Treatment Plan, and/or preparation of a Paleontological Management Treatment Plan, as necessary. Although these PDFs would reduce and minimize the cumulative contribution of the Project, a few individual sidewalk repair projects may still result in a significant unavoidable impact. The Project would result in a cumulatively considerable contribution to a cumulatively significant and unavoidable cultural resources impact.

Tribal Cultural Resources:

The Project would have the potential to result in a cumulatively considerable impact on tribal cultural resources under the rare Construction Scenario 3, if, in combination with the growth projections in adopted local, regional, or statewide plans and programs within the greater Los Angeles region, it would cause a substantial adverse change in the significance of a tribal cultural resource. TCRs in the region are protected by state and regional laws. Cumulative growth and development within the region, as well as implementation of the 2016 RTP/SCS strategies, have the potential to result in the loss or disturbance of historical and archaeological resources, including TCRs (County of Los Angeles 2014, SCAG 2015). Although these potential impacts are normally addressed on a project-specific basis through the formal consultation process, some projects are unable to fully avoid or fully mitigate potential impacts. Impacts related to the loss and/or disturbance of known or unknown archaeological sites (including TCRs) within the greater Los Angeles area, such that the significance of such resources would be materially impaired, are considered to be cumulatively significant (City of Los Angeles 1995, County of Los Angeles 2014, SCAG 2015). Even with the incorporation of mandatory PDF-CUL-1 through PDF-CUL-3 and PDF-CUL-5, included as components of the Project, to manage unforeseen circumstances, such as the unexpected discovery of TCRs, impacts could nonetheless still occur. Through the consultation process with area tribes, mutual agreement could not be reached as to whether a significant effect exists and/or any measures to mitigate or avoid a significant effect on TCRs. Therefore, the Project would result in a cumulatively considerable contribution to a significant cumulative impact on TCRs.

Finding:

The City did not identify any feasible mitigation is available to render these cumulative effects less than significant, nor were any feasible measures identified by commenters (see above findings 1, 2, and 4). The cumulative effects therefore remain significant and unavoidable. The

City concludes, however, that the Project's benefits outweigh its significant and unavoidable impacts, as set forth in Section VII, Statement of Overriding Considerations.

Statement of Facts:

Despite the implementation of PDFs for the categories of aesthetics, cultural resources, and tribal cultural resources, the Project has potential to cause significant and unavoidable cumulative impacts on these resource areas.

VI. ALTERNATIVES

Public Resources Code section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" This statutory command is known as the "substantive mandate" of CEQA. (See *Mountain Lion Foundation v. Fish & Game Commission* (1997) 16 Cal.4th 105, 134.) Public Resources Code section 21002 also states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects."

Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. Although an EIR must evaluate this range of potentially feasible alternatives, an alternative may ultimately be deemed by the lead agency to be "infeasible" if it fails to fully promote the lead agency's underlying goals and objectives with respect to the project. As the Court of Appeal explained in *City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417, "'feasibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (See also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal. App. 4th 957, 1001.) Thus, even if a project alternative will avoid or substantially lessen any of the significant environmental effects of the project, the decisionmakers may reject the alternative if they determine that specific considerations make the alternative infeasible.

Under CEQA Guidelines section 15126.6, the alternatives to be discussed in detail in an EIR should be able to "feasibly attain most of the basic objectives of the project." For this reason, the objectives described in Section I.D, *supra*, provided the framework for defining possible alternatives. (See *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1166.)

Based on the requirements of CEQA Guidelines section 15126.6, the Project objectives, and community input, a total of nine project alternatives were identified during the EIR process. Of these nine alternatives, four alternatives to the Project - the required No Project Alternative, Alternative 1, Alternative 2, and Alternative 3 - were considered by the City. For information on the infeasibility of the six rejected alternatives, see Section VI.C below. Consistent with Section

IV above, the findings regarding the alternatives is based on the FEIR and the entire record of proceedings, including technical memoranda (see BOE 2021).

A. Alternatives to the Project Considered and Analyzed, and the Feasibility of the Alternative-Effectiveness in Meeting Project Objectives

The No Project Alternative and Alternatives 1 to 3 were considered in the EIR but ultimately determined to be infeasible for the following reasons. For more information, refer to Section 5.2 of the DEIR and Section 3.1.2 of the FEIR.

1. No Project Alternative

Under this alternative, sidewalk repairs throughout the City would continue to be undertaken pursuant to the City's obligations under the *Willits* Settlement Agreement using existing ordinances and policies. It is anticipated that slightly fewer sidewalks would be repaired than under the Project. Removal and replacement of street trees will continue to occur in accordance with the existing Street Tree Removal Permit and Tree Replacement Condition Policies adopted by the Board of Public Works in June 2015, at a 2:1 ratio.

Impacts as compared to the Project:

Under the No Project Alternative, impacts to aesthetics, biological resources, energy, and greenhouse gas emissions were analyzed to be greater than the Project. All other impacts under the No Project Alternative would have similar impacts when compared with the Project.

Aesthetics:

The long-term effects under the No Project Alternative would differ, as street tree replacement would continue to be at a 2:1 replacement to removal ratio. As demonstrated in Appendix B and Section 3.1 of the DEIR, this replacement would not result in a net gain or neutral canopy by the end of the Project, and would therefore result in greater impacts to visual resources and loss of shading. The impacts would remain less than significant, but the No Project Alternative would not achieve the same level of net aesthetic benefit as the Project with respect to the mature street tree canopy.

Biological Resources:

The No Project Alternative would continue to replace street trees at a 2:1 ratio in accordance with the existing policy and would not adopt or implement the new proposed street tree replacement policy. Thus, while the No Project Alternative would eventually achieve a net neutral canopy, and would not result in significant impacts, this alternative would take a longer time to achieve net neutral and would not achieve the same level of benefit as the Project in terms of special species and habitat impacts.

Energy:

Under the No Project Alternative, with the continued implementation of the existing street tree replacement policy at a 2:1 ratio, the street tree canopy would be replenished over time and

eventually result in a net neutral size. However, it would take longer to reach net neutral size with a 2:1 replacement ratio compared to the Project. Impacts related to electricity consumption would be less than significant, but the No Project Alternative would not achieve the same level of benefit as the Project.

Greenhouse Gas Emissions:

Under the No Project Alternative, the case-by-case approvals under existing codes and policies result in a slightly decreased amount of sidewalk repair than under the Project. This would result in less annual GHG emissions from fuel combustion associated with heavy-duty construction equipment, vehicle trips, material deliveries, and trips by haul, water, and concrete trucks; and the number of vehicles used to conduct site assessments, inspections, and street tree watering would be slightly less under this alternative compared to the Project. However, overall long-term carbon sequestration levels under the No Project Alternative would be slightly lower than those of the Project because the existing street tree removal and replacement policies would continue with the 2:1 replacement to removal ratio. Fewer street trees in the absence of a new street tree ratio would result in less carbon dioxide and GHG absorption, which the leaves provide. Impacts would be less than significant, but overall the No Project Alternative would not achieve the same level of benefit as the Project with regard to GHG impacts.

The Feasibility of the No Project Alternative and Effectiveness in Meeting Project Objectives:

Under the No Project Alternative, sidewalk repairs and street tree removals would still occur; however, the projects would be approved and implemented at a slower rate compared to the Project due to the need for case-by-case approval under existing policies. Additionally, the need for case-by-case discretionary review and approval of each sidewalk repair and tree removal project, as opposed to a ministerial approval process, would likely result in additional individualized environmental review and administrative and legal challenges from project opponents or individually affected property owners, leading to additional delays in implementation of repairs pursuant to *Willits* Settlement and additional staff and economic burdens to the City in its efforts to defend these challenges. As a result of the need for case-by-case approval under the No Project Alternative, fewer sidewalk repairs would occur than under the Project, thereby severely compromising the efficiency and continuity of compliance with the *Willits* Settlement, in contravention of the fundamental Project objective. The slower progress of sidewalk repairs also would impede the important social factors associated with efficiently and continually repairing sidewalks for safe use by persons with mobility challenges and providing these citizens with certainty. Finally, as a result of the continuation of the existing 2:1 replacement ratio, street tree canopy would not reach net canopy at the end of the project implementation period. As such, the No Project Alternative does not support the additional objective of ensuring compliance with adopted street tree replacement criteria.

Therefore, the No Project Alternative is undesirable, infeasible, and should be rejected because it fails to meet the fundamental project objective of ensuring the continued and efficient compliance with the requirements of the *Willits* Settlement, and fails to meet the project objectives of ensuring no net street tree canopy loss at the end of the project implementation period and avoiding the need to undertake individualized environmental review of every repair to provide certainty to the City and the disabled community in *Willits* Settlement implementation,

thus impeding important social factors associated with the Project. It also will likely create additional financial and staff burdens for the City.

2. Alternative 1: Ordinance to repair sidewalks and avoid removal of any street trees.

This alternative would involve an alternative ordinance to implement repair of sidewalks and avoid removal of any street trees. Under this alternative, *Willits* Settlement funding would be used to repair only those sidewalks that do not involve street tree removals. No changes related to the proposed new Street Tree Retention, Removal and Replacement Policy would occur.

Impacts as compared to the Project:

Under Alternative 1, while the nature of sidewalk repair construction activities would generally be similar to that of the Project, no street tree removals or replacements would occur. Therefore, due to fewer sidewalks being repaired under this alternative, the amount of annual construction activities Citywide would be less compared to the Project. Because there would be no street tree removals under this alternative, no street tree replacements would need to occur; therefore, no operational activities described would occur, such as continued replacement street tree monitoring and watering.

Under Alternative 1, impacts to aesthetics, air quality, biological resources, energy, greenhouse gas emissions, noise, public services, transportation, and utilities were analyzed to be comparatively less than the Project, but not to the extent that any of significance determinations would change. Impacts to land use were analyzed to be greater than the Project. All other impacts under the Alternative 1 would have similar impacts when compared with the Project.

Aesthetics:

Because no street trees would be removed, Alternative 1 would avoid aesthetic impacts on culturally-significant features that may be impacted from the removal of trees under the rare Construction Scenario 3, but as under the Project, individual projects under this alternative would result in a significant impact on aesthetic or visual character in instances where the integrity of a cultural resource cannot be maintained for sidewalk repair construction not related to the removal of trees. While Alternative 1 would result in greater aesthetic impacts to visual resources and loss of shading due to lesser future street canopy without the increased replacement ratio, overall Alternative 1 would result in slightly less aesthetic impacts than the Project's rare Construction Scenario 3.

Air Quality:

Under Alternative 1, as a result of the lesser amount of annual construction activities and maintenance watering, the associated air pollutant emissions would be less compared to the Project and would be less than significant as with the Project.

Biological Resources:

With the avoidance of street tree removal, Alternative 1 would have a reduced short-term impact relative to the Project that is associated with the removal of nesting and foraging habitat provided

by the street tree canopy. Because trees would not be removed, no replacements would occur at an increased ratio, and thus the street tree canopy over time would be reduced compared to the Project (which has 2:1 and 3:1 replacement ratios). Therefore, while Alternative 1 would not achieve the same level of long-term biological benefit as the Project, it would result in slightly less short-term biological impacts and would result in less than significant biological impacts as with the Project.

Cultural Resources:

Due to fewer sidewalks being repaired under Alternative 1, the amount of annual construction activities Citywide would be less compared to the Project. In addition, as no street tree removals would occur, street trees that are culturally-significant would not be removed as might have occurred rarely under the Project for Construction Scenario 3. However, where culturally-significant resources may be impacted by sidewalk repair not related to the removal of trees, significant cultural resources impacts would still occur under Alternative 1.

Energy:

With no street trees being removed, unlike the Project, Alternative 1 would not indirectly increase electricity consumption related with such removals and potential urban heat island effects from the loss of trees. However, the benefits from more street trees being planted under the Project for each street tree removed (at 2:1 or 3:1 replacement ratio) that would result in ongoing reduction of the existing urban heat island effect would not be realized under this alternative. Due to fewer sidewalks being repaired under this alternative than under the Project, the related use of heavy-duty construction equipment, worker trips to and from construction sites, material delivery and disposal trips, and loading demolition debris into trucks, all of which lead to transportation fuel consumption, would also be less. Overall, there would be a less than significant impact related to electricity and transportation fuel consumption with Alternative 1 and overall slightly less net impacts, and impacts would be less than significant as with the Project.

Greenhouse Gas Emissions:

Due to fewer sidewalks being repaired under Alternative 1, the amount of annual construction activities Citywide would be less compared to the Project. Accordingly, the associated annual GHG emissions from fuel combustion associated with heavy-duty construction equipment, vehicle trips, material deliveries, and trips by haul, water, and concrete trucks; and the number of vehicles used to conduct site assessments, inspections, and street tree watering would be the less under this alternative compared to the Project. Carbon sequestration under Alternative 1 would likely be greater in the short term due to no street trees being removed and all mature street trees being maintained; however, the increase in the number of street trees in the street tree canopy that would occur under the Project that would ultimately result in a net positive gain in carbon sequestration in future years beyond the Project's horizon would not be realized under Alternative 1. GHG impacts would be less than significant but Alternative 1 would not achieve the same level of overall benefit as the Project.

Land Use:

Like under the Project, implementation of Alternative 1 would generally be within the public ROW and would not change or affect the adjacent and surrounding land uses. Unlike the Project, Alternative 1 would not remove any street trees or include the Revised Street Tree Retention, Removal and Replacement Policy. Therefore, this alternative would not replace trees at a higher ratio, and hence would not realize the same benefit to the street tree canopy by year 30.

With Alternative 1, not all sidewalks that may need to be repaired would receive repairs where street tree removal would be necessary in order to make such repairs, and this may not further applicable objectives and policies of the General Plan and Framework Element, sidewalk repairs would help accommodate the needs of people with disabilities as well as the need for high-quality, safe pedestrian access on all sidewalks. Where applicable, Alternative 1 would be consistent with the applicable sidewalk, infrastructure, mobility, and sustainability policies (minus established street tree policies) identified in Mobility Plan 2035, an element of the General Plan and the Framework Element. Therefore, while implementation of this alternative would not conflict with existing land use plans, policies, or regulations of agencies with jurisdiction over the Project area, it would not achieve the same level of benefit as the Project.

Noise:

Due to fewer sidewalks being repaired under this alternative, the amount of annual construction activities Citywide would be less compared under Alternative 1 than under the Project. The noise impacts from Alternative 1 would not be substantially different from those of the Project because sidewalk and curb ramp repairs would still occur. However, any construction noise associated with street tree removals and replacements would not occur. Because the noise from this equipment is less than the noise from demolition and concrete removal, the noise impacts would be similar. Similar to the Project, construction activities under this alternative would result in a significant noise impact if a 10-foot distance for commercial sensitive uses or a 20-foot distance for residential sensitive uses cannot be maintained from the construction noise source. Similarly, some construction activities could result in substantial vibration impacts where the distance from the construction vibration source to the building foundation of the nearest structure is fewer than 8 feet or where the distance to the nearest occupied space of a sensitive use is fewer than 23 feet, temporary significant impacts would occur. Therefore, while Alternative 1 would result in slightly less noise impacts as with the Project due to fewer and lesser construction activities, impacts would remain significant where the analyzed distances cannot be maintained, similar to the Project.

Public Services:

Due to fewer sidewalks being repaired under Alternative 1, the amount of annual construction activities Citywide would be less compared to the Project. The increased annual construction activities for sidewalk repairs have the potential to temporarily increase the demand on police services and affect their response times due to temporary lane and road closures, which may also delay emergency responders. However, the lane closures would be infrequent and limited to small portions of streets, and would not result in mobility conditions that would be substantially different from existing conditions on roadways. Therefore, temporary impacts on public services

would be less with Alternative 1 than the Project due to lesser construction activities, and these impacts would remain less than significant.

Transportation:

Due to fewer sidewalks being repaired under Alternative 1, the amount of annual construction activities Citywide would be less compared to the Project. Like with the Project, temporary traffic impacts under Alternative 1 would not be substantial during construction, which may last up to 30 days at any construction site, and would not lead to measurable increases in vehicle travel. While the lesser construction activities would result in less temporary impacts as with the Project, Alternative 1, like the Project, would result in less than significant transportation impacts.

Utilities:

Due to fewer sidewalks being repaired under this alternative, the amount of annual construction activities would be less compared to the Project. Implementation of sidewalk repair projects under this alternative would result in impacts on utilities and service systems that are comparatively less than those under the Project with respect to being adequately served by existing and planned water infrastructure; not exceeding the future planned drainage capacity (as defined in the City General Plan) or the wastewater treatment requirements of the Los Angeles RWQCB; and not conflicting with solid waste policies and objectives in the City Solid Waste Management Policy Plan, Framework Element, or Source Reduction and Recycling Element. Impacts would be less than significant, as with the Project.

The Feasibility of Alternative 1 and Effectiveness in Meeting Project Objectives:

Although it is difficult to ascertain precisely how many individual sidewalk repair projects would be excluded from coverage by the ordinance under Alternative 1, the number would likely be substantial. As explained in the EIR, it was assumed that each sidewalk repair project would entail the removal of at least one (1) street tree based on the City's experiences performing sidewalk repair projects. Rather than proceeding under a new approval process, such projects would require case-by-case review and approval, in a manner consistent with existing City practices.

As a result, few projects would qualify for ministerial or discretionary approval, which would result in a much smaller number of sidewalk repair projects enjoying the benefits of streamline review and approval, and the overall significant reduction in sidewalk repairs annually and during the 30-year project term. This lack of repair progress is inconsistent with the *Willits* Settlement and the primary objective of the Project. In addition, the need to review a greater number of sidewalk repair projects on a case-by-case basis would result in additional costs as a result of individualized environmental review, and would subject the City to a greater number of administrative and legal challenges, and the costs of staffing and the legal defense costs associated with such challenges. The slower progress of sidewalk repairs would impede the important social factors associated with efficiently and continually repairing sidewalks for safe use by persons with mobility challenges and providing these citizens with certainty. Also, as a result of the continuation of the existing 2:1 replacement ratio, street tree canopy would not reach net canopy at the end of the project implementation period. Finally, under Alternative 1, fewer

sidewalks would be repaired where street tree removal would be necessary, and this may not further applicable objectives and policies of the General Plan and Framework Element as compared to the Project.

Therefore, Alternative 1 is undesirable, infeasible, and should be rejected because it fails to meet the fundamental project objective of ensuring the continued and efficient compliance with the requirements of the *Willits* Settlement, and fails to meet the project objectives of ensuring no net street tree canopy loss at the end of the project implementation period and avoiding the need to undertake individualized environmental review of every repair to provide certainty to the City and the disabled community in *Willits* Settlement implementation. It also will impede important social factors associated with the Project; will not properly further all applicable City objectives and policies; and will likely create additional financial and staff burdens for the City.

3. Alternative 2: Ordinance to exclude sidewalk repairs and street tree removals within 23 feet of the nearest occupied space façade of a sensitive use (residential or commercial).

This alternative would involve an ordinance to exclude sidewalk repairs and street tree removals within 23 feet of the nearest occupied space façade of the closest sensitive receptor (residential or commercial use). Under this alternative, sidewalk repair projects that are within 23 feet of the nearest occupied façade of the closest sensitive receptor (commercial or residential) would continue to be evaluated on a case-by-case basis, as under existing conditions.

Impacts as compared to the Project:

It is anticipated that even with the occasional exclusion of specific sidewalk repair sites under Alternative 2, a comparable amount of sidewalk repairs would ultimately occur under this alternative each year, and cumulatively, because funds would be re-directed to those remaining sidewalk repair segments located at least 23 feet from the nearest occupied space façade of a sensitive use. Under Alternative 2, only impacts to noise were analyzed to be less than significant and less than the Project. All other impacts under the Alternative 2 would have similar impacts when compared with the Project.

Noise:

Under Alternative 2, the exclusion of sidewalk repair projects that are within 23 feet of the nearest occupied façade of the closest sensitive receptor (commercial or residential use) would avoid the significant noise impact and temporary significant vibration impact that would result under the Project in instances where a 10-foot distance for commercial sensitive uses or a 20-foot distance for residential sensitive uses cannot be maintained from the construction noise source, and where the distance from the construction vibration source to the building foundation of the nearest structure is fewer than 8 feet or where the distance to the nearest occupied space of a sensitive use is fewer than 23 feet. To the extent such projects would proceed under the *Willits* Settlement, they would occur outside of Alternative 2 under existing ordinances and policies, and under individualized environmental review. Under Alternative 2, therefore, impacts to noise would be less than significant.

The Feasibility of Alternative 2 and Effectiveness in Meeting Project Objectives:

Given the large geographic scope of the project area (the entire City), the large number of repair projects to be undertaken, the proximity of sidewalks to adjacent structures, and the number of sensitive receptors in the project area, the blanket exclusion of repair projects occurring within 23-feet of the nearest occupied façade of the closest sensitive receptor (commercial or residential) from the sidewalk repair program ordinance, as would occur under Alternative 2, would result in a large number of repair projects requiring individualized CEQA review. Case-by-case CEQA review, without the benefits of streamlining, requires additional staff time and financial resources, is often a lengthy process, and likely will subject the City to a greater number of administrative and legal challenges, which will incur significant costs to defend, as a result of the individualized environmental review process. Further, the slower progress of sidewalk repairs would impede the important social factors associated with efficiently and continually repairing sidewalks for safe use by persons with mobility challenges and providing these citizens with certainty.

Therefore, Alternative 2 is undesirable, infeasible, and should be rejected because it fails to meet the fundamental project objective of ensuring the continued and efficient compliance with the requirements of the *Willits* Settlement; would partially fail to meet the project objective of avoiding the need to undertake individualized environmental review of every repair to provide certainty to the City and the disabled community in *Willits* Settlement implementation; and would result in only slightly fewer impacts on the environment with regard to noise only than the Project. It also will impede important social factors associated with the Project and will likely create additional financial and staff burdens for the City.

4. Alternative 3: Ordinance will exclude sidewalk repair projects that have the potential to affect known historic, tribal cultural, unique archaeological, or unique paleontological resources; such projects would proceed as discretionary projects under existing codes and policies.

This alternative would involve an ordinance to exclude sidewalk repair projects that have the potential to affect known historic, tribal cultural, unique archaeological, or unique paleontological resources; such projects would proceed as discretionary projects under existing codes and policies

Impacts as compared to the Project:

It is anticipated that even with the occasional exclusion of specific sidewalk repair sites under this alternative, a comparable amount of annual sidewalk repairs would ultimately occur under Alternative 3 each year, and cumulatively, because funds would be re-directed to those remaining sidewalk repair segments that lack potential to substantially and adversely affect known historic, tribal cultural, unique archaeological, or unique paleontological resources. Under Alternative 3, impacts to cultural resources and tribal cultural resources were analyzed to be less than significant and less than the Project. All other impacts under the Alternative 3 would have similar impacts when compared with the Project.

Cultural Resources and Tribal Cultural Resources:

Under Alternative 3, the exclusion of sidewalk repair projects that may adversely affect known historic, tribal cultural, unique archaeological, or unique paleontological resources would avoid the significant cultural and tribal cultural resources impacts that might have occurred rarely under the Project's Construction Scenario 3. To the extent such projects would proceed under *Willits* Settlement, they would occur outside of Alternative 3 under existing ordinances and policies, and under individualized environmental review. Under Alternative 3, therefore, impacts to cultural resources and tribal cultural resources would be less than significant.

The Feasibility of Alternative 3 and Effectiveness in Meeting Project Objectives:

Although it cannot be said with certainty the exact number of individual sidewalk repair projects that would be excluded from the ordinance under Alternative 3, given the large geographic scope of the project area (the entire City), as well as the known presence of historic, tribal cultural, unique archaeological, or unique paleontological resources in the project area, it can be assumed that such circumstances would be encountered at some point during the project term, albeit rarely. In those instances, case-by-case CEQA review, without the benefits of streamlining, requires additional staff time and financial resources, is often a lengthy process, and will likely subject the City to a greater number of administrative and legal challenges as a result of the individualized environmental review process, which will incur significant costs to defend. Further, the slower progress of sidewalk repairs would impede the important social factors associated with efficiently and continually repairing sidewalks for safe use by persons with mobility challenges and providing these citizens with certainty and impede the primary objective of the Project.

Therefore, Alternative 3 is undesirable, infeasible, and should be rejected because it fails to meet the fundamental project objective of ensuring the continued and efficient compliance with the requirements of the *Willits* Settlement; would partially fail to meet the project objective of avoiding the need to undertake individualized environmental review of every repair to provide certainty to the City and the disabled community in *Willits* Settlement implementation; and would result in only slightly fewer impacts on the environment with regard to cultural resources and tribal cultural resources only than the Project. It also will impede important social factors associated with the Project and will likely create additional financial and staff burdens for the City.

B. Environmentally Superior Alternative and Reasons for Rejecting

Of the alternatives considered, Alternative 1 is considered to be the environmentally superior alternative due to the implementation of an ordinance that would streamline sidewalk repairs and avoid all street tree removals. Under this alternative, fewer sidewalks would be repaired than under the Project because not all sidewalks can be made compliant with accessibility requirements pursuant to the *Willits* Settlement without removal of street trees. In addition, because there would be no street tree removals or replacements, associated operations activities of new street tree monitoring and watering would not be required. Therefore, overall construction activities would be reduced and no street trees would be removed under Alternative 1. Accordingly, impacts related to aesthetics, air quality, biological resources, energy, GHG

emissions, noise, public services, transportation, and utilities would be less under Alternative 1 than the Project. However, the benefit of an increased net street tree canopy over the life of the Project will not be realized.

As set forth above in Section VI.A.2, Alternative 1 is undesirable, infeasible, and should be rejected because it fails to meet the fundamental project objective of ensuring the continued and efficient compliance with the requirements of the *Willits* Settlement, and fails to meet the project objectives of ensuring no net street tree canopy loss at the end of the project implementation period and avoiding the need to undertake individualized environmental review of every repair to provide certainty to the City and the disabled community in *Willits* Settlement implementation. It also will impede important social factors associated with the Project; will not properly further all applicable City objectives and policies; and will likely create additional financial and staff burdens for the City.

C. Alternatives to the Project That Were Considered But Rejected From Further Analysis

As set forth in the DEIR, Section 5.2, as further supported in the FEIR, Section 3.1.2 and in responses to comments in Section 3.2, and other evidence in the record, other alternatives were eliminated from further consideration and were not subject to detailed analysis in the EIR because they failed to meet most of the project objectives, are infeasible, and/or do not avoid any significant environmental effects of the Project. These included:

- Alternative 4, completing *Willits* Settlement obligations in 15 years instead of 30 years;
- Alternative 5, completing sidewalk repair projects using only hand tools;
- Alternative 6, avoiding sidewalk repairs that would last longer than 30 construction days or require excavation greater than 30 feet;
- Alternative 7, obtaining ROW acquisition of private property to retain all street trees by meandering sidewalks and to place a construction noise barrier;
- Alternative 8, mandating use of alternative/green/recycled construction materials for sidewalk and curb ramp repairs; and
- Alternative 9, revising the current Board of Public Works street tree policy for a higher than 2:1 street tree replacement to removal ratio.

VII. STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth in the preceding sections, the City's approval of the Project will result, rarely, in significant and unavoidable effects with commensurate cumulative effects, relating to aesthetics, cultural resources, and tribal cultural resources under Construction Scenario 3, and significant and unavoidable effects relating to noise under all construction scenarios, depending on the proximity of sensitive receptors. Despite the occurrence of these significant effects, however, the City, in accordance with CEQA Guidelines section 15093, chooses to approve the Project because, in the City's view, the economic, social, and other benefits that the project will produce will render the significant effects acceptable.

The following statement identifies the specific reasons why, in the City's judgment, the benefits of the Project as approved outweigh its unavoidable significant effects. Any one of these reasons is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the City would stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding CEQA Findings, which are incorporated by reference into this section and in the documents found in the Record of Proceedings, *supra*.

1. The Project is consistent with the City's goal to ensure the continued compliance with the terms of the *Willits* Settlement while amending the existing program for sidewalk and curb ramp improvements within the City, in accordance with the applicable accessibility requirements.

As discussed in Section 2.3 of the DEIR, the fundamental objective of the Project is to "[e]nsure the continued and efficient compliance with the requirements of the *Willits* Settlement while amending the existing program for sidewalk and curb ramp improvements within the City, in accordance with the applicable accessibility requirements, including those required by the Americans with Disabilities Act." The *Willits* Settlement obligates the City to expend \$31 million per year (increasing after year five to maintain present value) on sidewalk repairs to ensure compliance with accessibility laws.

As discussed in the DEIR, including in Sections 2.2.2.3 and 2.4.3.2, the City currently reviews sidewalk repairs on a case-by-case basis under various ordinances and codes, including access requests, the rebate program, and approvals for removal of street trees. This process can be slow, tedious, and subject the City to costly administrative challenges and lawsuits as a result of the individual environmental review. Accordingly, due to the substantial number of repairs to be made, the potential number of approval processes, and the obligation under the *Willits* Settlement to perform a minimum number of repairs per year, the City seeks a more efficient process to ensure timely compliance with all its obligations and the preservation of City resources.

The adoption of the Project would streamline the CEQA review and approval process for sidewalk repair projects falling within specific parameters to allow for a single ministerial sidewalk repair approval by the City Engineer or designee (except for those improvements triggering LAAC Section 22.171, Cultural Heritage Ordinance, which will continue to apply). This approach is intended to generally be more efficient and improve the implementation process of sidewalk repairs pursuant to the *Willits* Settlement for the majority of improvement projects that, as supported by substantial evidence in the DEIR, have been determined not to result in unacceptable impacts when implemented according to the revised street tree policy, as described in Section 2.5.4. of the DEIR, and with the applicable PDFs, as described in Chapter 3 of the DEIR and summarized in Section ES.3 of the DEIR. The streamlined process would allow the City to more efficiently address sidewalk repairs within 120 days to the extent feasible, as required by the *Willits* Settlement, which provides, at least, an economic benefit to the City and its citizens.

For these reasons, the City concludes that the Project's benefits in ensuring continued compliance with the *Willits* Settlement outweigh its significant and unavoidable impacts.

2. The Project will enable efficient and high-quality repairs of City sidewalks, and help ensure sidewalks remain in compliance with Federal and State accessibility laws in order to provide access to important public facilities for persons with disabilities.

For the reasons as set forth in Statement of Overriding Considerations No. 1 above, the Project's streamlined process will enable more efficient implementation of sidewalk repairs, which would help ensure access to important pedestrian facilities with persons with disabilities and the general public.

In addition, as discussed in Section 2.3 of the DEIR, one of the project objectives is to identify criteria that would provide certainty to the City and the disability community in *Willits* Settlement implementation of sidewalk repairs. This certainty promotes social factors associated with efficiently and continually repairing sidewalks for safe use by persons with mobility challenges. The express incorporation of applicable PDFs as described in Chapter 3 of the DEIR and summarized in Section ES.3 of the DEIR, which generally consists of regulatory compliance measures and standard construction conditions, procedures, and best practices, would help ensure high-quality sidewalk repairs in the most efficient manner. These include but are not limited to expressly incorporating regulatory and standard measures regarding tree removal and replacement; construction near designated coastal areas; construction that may affect cultural resources; shoring plans for certain excavations; construction standards for hazardous material and contamination; irrigation for planted areas; construction noise best management practices where feasible; standard construction traffic controls; and regulatory wildfire controls. This provides, at least, an important social benefit to the City and its citizens.

For these reasons, the City concludes that the Project's benefits in efficient and high-quality sidewalk repairs for persons with disabilities and the public outweigh its significant and unavoidable impacts.

3. The Project will establish a new, more efficient ministerial approval process for certain individual sidewalk repair projects and associated street tree removals, thereby enabling the City to undertake more sidewalk repairs and fulfill its obligations under the *Willits* Settlement more efficiently.

For the reasons set forth in Statement of Overriding Considerations Nos. 1 and 2 above, the Project's more efficient, streamlined process would enable the City to undertake more high-quality sidewalk repairs and fulfill its obligations under the *Willits* Settlement more efficiently.

In addition, as discussed in Section 2.3 of the DEIR, one of the project objectives is to "[i]dentify the criteria and process for ministerial approval of future sidewalk improvements and street tree removals and replacements, with the goal of avoiding the need to undertake individualized environmental review of every repair of every City sidewalk or of every street tree removal and replacement and the potential legal challenge to each such approval; thereby streamlining the *Willits* Settlement implementation and providing certainty to the City and its disability community." This certainty promotes social factors associated with efficiently and continually repairing sidewalks for safe use by persons with mobility challenges.

As discussed in Section 2.5.2 of the DEIR (as modified by the FEIR), the Project would include an ordinance that would set up a ministerial approval process by the City Engineer or designee for routine sidewalk repairs that were analyzed not to result in any unacceptable impacts. The criteria eligible for such ministerial approval are it is for the repair or reconstruction of a

sidewalk facility: (1) Being implemented under the *Willits* Settlement; (2) Lasting no more than 30 non-consecutive construction days and requires excavation no greater than 30 feet; (3) Not causing a substantial adverse change to the significance of a known cultural resource; (4) Complying with the Revised Street Tree Retention, Removal, and Replacement Policy; (5) Complying with the PDFs; and (6) Involving the removal of two or fewer street trees. For these ministerial approvals, the EIR has analyzed these impacts on a project level, and therefore the City Engineer or designee can approve these projects to be carried out, notwithstanding any other City code or requirement to the contrary except for the Cultural Heritage Ordinance. By authorizing such administrative/ministerial approval in one decisionmaker (i.e., the City Engineer or designee), the City would be able to undertake more of these otherwise routine sidewalk repairs much more efficiently, using fewer staff resources and less City funding. This provides, at least, important economic and social benefits to the City and its citizens.

For these reasons, the City concludes that the Project's benefits in establishing a ministerial approval process for future, routine sidewalk repairs without unacceptable environmental impacts to streamline *Willits* Settlement implementation for the City and the disabled community outweigh its significant and unavoidable impacts.

4. The Project will ensure no net loss of the City's existing street tree canopy.

As set forth in Section 2.3 of the DEIR, one of the project objectives is to "ensure compliance with the City's replacement requirements adopted to ensure no net street tree canopy loss at the end of the Project implementation period."

As discussed in Section 2.5.2 and 2.5.4 of the DEIR, the Project would include the adoption of a Revised Street Tree Retention, Removal and Replacement Policy. The Policy would establish a 2:1 street tree replacement to removal ratio requirement for the first 10 years (starting from July 2017), a 3:1 ratio for years 11 to 21, and a 2:1 ratio for the last 9 years of the 30-year program. As analyzed in the DEIR, Chapter 3.3 and Appendix B, without the Project under existing conditions the existing 2:1 replacement street tree ratio would not result in no net street tree canopy loss at the end of the Project implementation period of 30 years. However, with implementation of this Policy in the Project, along with the benefits from the Project of a more efficient, streamlined process including certain ministerial approvals as set forth in Statement of Overriding Considerations Nos. 1-3 above, the increased replacement ratios in the Policy would result in no net street tree canopy loss at the end of the Project implementation period, which provides, at least, an important environmental benefit to the City and its citizens.

For these reasons, the City concludes that the Project's benefits in ensuring no net loss of the City's existing street tree canopy outweigh its significant and unavoidable impacts.

5. The Project will ensure efficient repair of sidewalks which play an integral role in providing access to transit, economic districts, residential housing and other activities in the City.

For the reasons set forth in Statement of Overriding Considerations Nos. 1 and 3 above, the Project's more efficient, streamlined process including certain ministerial approvals would enable the City to undertake more high-quality sidewalk repairs and fulfill its obligations under the *Willits* Settlement more efficiently.

In addition, the Project's intent to undertake more efficient sidewalk repairs would further the City's long-term sustainability goals. As noted in DEIR, Section 2.2.2.2 (numbering corrected in the FEIR), the CAO report on the *Willits* Settlement program noted that sidewalks play an important role in providing access to activities such as transit, economic districts, and residential housing. Also, high-quality sidewalks would achieve an overall improved pedestrian network for greater mobility and accessibility. As further noted in the DEIR, Section 3.9.2.1, the Project is fully consistent with the City's Mobility Plan 2035, which incorporates "complete streets" principles to further multi-modal facilities, high quality pedestrian access for a safe and comfortable walking environment, and improve the built environment for all modes of travel, including pedestrian, for all users including people with disabilities. This provides, at least, important economic and social benefits to the City and its citizens.

Furthermore, as discussed in Section 3.9.3.4 of the DEIR, the Project would be consistent with all applicable land use and planning goals, objectives, and policies, including:

- City of Los Angeles Mobility Plan 2035 Policies 1.6, 2.3, 2.15, 3.1, and 3.2.
- City of Los Angeles General Plan Framework Element Goal 9Q; Objectives 9.41, 9.42, 9.43, and 9.44; and Policies 9.41.1, 9.42.1, 9.43.1, 9.43.2, and 9.43.3.
- Several City of Los Angeles community plan goals, objectives, and policies associated with sidewalks, infrastructure and mobility; sustainability; and street trees.
- San Pedro Coastal Land Use Plan Goal LU19.
- Venice Coastal Zone Specific Plan Section 12.A.2.b and Venice Local Coastal Program Policy I.F.1
- Port of Los Angeles Master Plan Goal 4.
- LAX Master Plan Open Space Goal P1.

The adoption and implementation of the Project would ensure that these important goals, objectives, and policies are furthered and that no conflicts exists, as could occur under some or all of the alternatives (see Section V1.A above). These goals, objectives, and policies are the project of decades of dozens of planning efforts and provide fundamental and critical guidance to the development and maintenance of the City's streets, communities, commercial corridors, neighborhoods, etc. As well, many of the planning documents listed above have undergone their own CEQA review and are therefore fully environmentally vetted and supported.

For these reasons, the City concludes that the Project's benefits in ensuring efficient repair of sidewalks to provide access to transit, economic districts, residential housing, and other essential activities in the City outweigh its significant and unavoidable impacts.

VII. OTHER CEQA CONSIDERATIONS

- A. The City is the Lead Agency under CEQA for the project evaluated in the EIR. The City finds that the EIR was prepared in compliance with CEQA and the CEQA Guidelines. The City finds that it has independently reviewed and analyzed the information in the EIR for the Project prior to approving the Project, that the DEIR which was circulated for public review, reflected its independent judgment, and that the FEIR reflects the independent judgment and analysis of the City.
- B. The City finds that the EIR provides objective information to assist the decisionmakers and the public at large in their consideration of the environmental consequences of the Project.

The public review period provided all interested jurisdictions, agencies, private organizations, and individuals the opportunity to submit comments regarding the DEIR. The FEIR was prepared after the review period and responds to comments made during the public review period.

- C. Textual refinements and errata were compiled and presented to the decisionmakers for review and consideration. The City has determined that City staff made every effort to notify the decisionmakers and the interested public/agencies of each textual change in the various documents associated with project review. These textual refinements arose for a variety of reasons. First, it is inevitable that draft documents would contain errors and would require clarifications and corrections. Second, textual clarifications were necessitated in order to describe refinements suggested as part of the public participation process.
- D. The City has determined that it has evaluated comments on environmental issues received from persons who reviewed the DEIR. In accordance with CEQA, the City prepared written responses describing the disposition of key environmental issues raised. The FEIR provides adequate, good-faith and reasoned response to the comments. The City reviewed the comments received and responses thereto and has determined that neither the comments received nor the responses to such comments add significant new information regarding environmental impacts to the DEIR. The City has based its actions on full appraisal of all viewpoints, including all comments received up to the date of adoption of these findings, concerning the environmental impacts identified and analyzed in the EIR.
- E. The City determines that these findings recognize that the determination of significance thresholds and conclusions of significance and non-significance are judgments within the discretion of the City; the significance thresholds and determinations of significance and non-significance used in the FEIR are supported by substantial evidence in the record, including the expert opinion of the FEIR preparers and City staff; and the significance thresholds used in the FEIR provide reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project.
- F. The City finds that, in weighing the evidence on the whole record, the conclusions of the FEIR are supported by substantial evidence, including evidence from the expert opinion of the FEIR preparers and City staff, and the level of detail is sufficient to provide an informed understanding of the issues presented, and that comment letters disputing the expert opinion, data, analysis, and conclusions of the FEIR preparers and City staff are not credible based on evidence presented in the FEIR and the whole record, including but not limited to the fact that any contrary opinions presented were not supported based on expert analysis and modeling conducted in the FEIR on the specific facts and circumstances of the Project. Notwithstanding the lack of credibility of the comments, the City finds that disagreements on issues in question have been adequately and in good faith discussed, and substantial evidence in the whole record supports the FEIR's reasonably explained approach regarding the scope of analysis, methodology, and accuracy of data relied upon.
- G. The FEIR documents changes to the DEIR: The FEIR provides additional information that was not included in the DEIR. Having reviewed the information contained in the DEIR and the FEIR and in the administrative record, as well as the requirements of CEQA and the CEQA Guidelines regarding recirculation of DEIRs, the City finds that there are no new

significant impacts, substantial increase in the severity of a previously disclosed impact, significant information in the record of proceedings or other criteria under CEQA that would require recirculation of the DEIR, or preparation of a supplemental or subsequent EIR. Recirculation is not required where new information added makes insignificant modifications in an adequate EIR. (CEQA Guidelines Section 15088.5 (b).) The City finds that substantial evidence supports the decision not to recirculate the EIR. (CEQA Guidelines Section 15088.5(e).)

1. The changes to the project description do not deprive the public of a meaningful opportunity to comment on a substantial adverse environmental effect of the Project or a feasible way of mitigating or avoiding such effects, because no such significant impacts have been identified from either the circulated draft project description or the final modification in the project description.
 2. The Responses To Comments contained in the FEIR fully considered and responded to comments claiming that the Project would have significant impacts or more severe impacts not disclosed in the DEIR and include substantial evidence that none of these comments provided substantial evidence that the Project would result in changed circumstances, significant new information, considerably different mitigation measures, or new or more severe significant impacts than were discussed in the DEIR.
 3. The City has thoroughly reviewed the public comments received regarding the Project and the FEIR as it relates to the Project to determine whether under the requirements of CEQA any of the public comments provide substantial evidence that would require recirculation of the EIR prior to its adoption and has determined that recirculation of the EIR is not required.
 4. None of the information submitted after publication of the FEIR constitutes significant new information or otherwise requires preparation of a supplemental or subsequent EIR. The City does not find this information and testimony to be credible evidence of a significant impact, a substantial increase in the severity of an impact disclosed in the FEIR, or a feasible mitigation measure or alternative not included in the FEIR.
- H. The City finds and declares that substantial evidence for each and every finding made herein that is contained in the EIR, which is incorporated herein by this reference, or is in the record of proceedings in the matter.
- I. The City is certifying an EIR for, and is approving and adopting findings for, the entirety of the actions described in these Findings and in the EIR as comprising the Project.

VIII. CONCLUSION

As explained above, the City has carefully considered the competing stakeholder interests in the Project, including balancing the benefits of the Project against the potentially significant and unavoidable environmental effects. The City has concluded that these effects are outweighed by the economic, social, environmental and other benefits the Project will bring to the City and its citizens as discussed herein and as supported by substantial evidence in the record of proceedings.

SUPPLEMENTAL CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

SIDEWALK REPAIR PROGRAM ENVIRONMENTAL IMPACT REPORT State Clearinghouse (SCH) No. 2017071063 City of Los Angeles, Los Angeles County, California

Section. 1 Introduction

1.1 Project and CEQA Findings Overview

The following Supplemental CEQA Findings are presented to comply with the California Environmental Quality Act (CEQA) and the Guidelines for Implementation of the CEQA (Title 14 California Code of Regulations, Chapter 3, Section 15000 et seq.) or State “CEQA Guidelines.” The Supplemental CEQA Findings will be presented along with the Project’s original CEQA findings adopted on June 22, 2021 (CEQA Findings), for consideration by the City’s Board of Public Works and City Council. The Environmental Impact Report (EIR) for the Sidewalk Repair Program (the Project), comprised of the original Final EIR, including the Draft EIR, certified on June 22, 2021 (2021 EIR) and the Final Recirculated Portions of the Environmental Impact Report, including the Draft Recirculated Portions of the EIR (REIR), are the main source of the information herein. The Project is a citywide program to modify the manner in which sidewalk repair projects are undertaken pursuant to the City of Los Angeles’ (the City) obligations under the *Willits* Settlement Agreement (*Willits* Settlement) (Mark *Willits*, et al. v. City of Los Angeles [United States District Court Case No. CV10-05782]), which includes various City actions that will provide improved access to persons with mobility disabilities in accordance with local, state, and federal accessibility requirements. The Project includes a proposed ordinance that will guide the construction of future sidewalk repairs; curb ramp repairs; crosswalk paving; street tree retention, removal, and replacement; canopy pruning; root pruning; and applicable utility work for 30 years within the City.

Section 15091 of the State CEQA Guidelines states that “No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.”

(See also Pub. Resources Code, §§21081, 21081.5.)

Section. 2 Summary of the Recirculated Environmental Impact Report Environmental Review Process

2.1 CEQA Litigation

Following certification of the 2021 EIR and approval of the Project, United Neighborhoods for Los Angeles and Angelenos for Trees filed a lawsuit challenging the 2021 EIR (Los Angeles County Superior Court [Court] Case No. 21STCP02401) (*United Neighborhoods*). The Court issued its order, denying in part and granting in part the petition for writ of mandate, on January 17, 2023. A judgment was entered on March 14, 2023, and a peremptory writ of mandate was issued, directing the City to decertify the 2021 EIR and set aside its approvals, as further discussed below.

2.2 Summary of Court Ruling

The 2021 EIR was challenged in *United Neighborhoods*. The Court evaluated the 2021 EIR and arguments made by the petitioners and specifically upheld the following facets of the 2021 EIR:

- Analysis of recreational impacts;
- Responses to comments;
- Description of the *Willits* Settlement; and
- Consultation with the California Department of Fish and Wildlife (CDFW).

However, the Court found the following to be deficient in the 2021 EIR:

- The decision to evaluate only special-status species under Impact BIO-1 was not supported by substantial evidence, and the threshold and analysis were therefore impermissibly narrow.
- The 2021 EIR’s analyses of short-term impacts on the tree canopy, as well as related impacts on foraging habitat for both special-status and non-special-status species, were inadequate.

- The court disagreed with the City’s interpretation of the threshold of significance from the *L.A. CEQA Thresholds Guide*, used for the analysis of Impact BIO-2. Consequently, it held that the 2021 EIR’s analysis under Impact BIO-2 should not have been limited to impacts within locally designated natural habitat or plant communities. The opinion states that the 2021 EIR should consider whether native trees that were not planted would be affected by the Project and whether black walnut trees are “rare” and therefore subject to analysis, whether planted or not.
- The 2021 EIR’s summary of the projections approach failed to adequately describe the cumulative context of the Project with respect to tree impacts. This includes failing to incorporate by reference or summarize some projections the City sought to use to establish the cumulative context.
- The 2021 EIR’s analysis of the cumulative aesthetic and biological impacts of the Project together with other projects improperly evaluated only the Project’s impacts.

All other aspects of the biological impacts and cumulative impacts not found to be deficient were upheld. In addition, all other aspects of the 2021 EIR were not challenged.

The court subsequently issued a peremptory writ of mandate, commanding the City to decertify the 2021 EIR, rescind the Project’s CEQA Findings, and rescind and set aside the ordinance, Street Tree Policy, and Mandatory Project Features Policy associated for the Project, all of which was subsequently done by the City.

2.3 Legal Authority and Purpose of Recirculated Portions of the EIR (REIR)

The REIR is in addition to the 2021 EIR. It is intended to address the legal defects identified by the court in *United Neighborhoods*. When an EIR has previously been circulated but “significant new information” is added, the EIR must be recirculated (CEQA Guidelines Section 15088.5). When an EIR has been certified and decertified pursuant to a court order prior to the revisions, recirculation is still undertaken to give the public the opportunity to review and comment on the proposed revisions (see, for example, *Ione Land, Air, & Water Defense Alliance, LLC v. County of Amador* [2019], 33 Cal. App. 5th 165, 169 [*Ione Valley*]). “If the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified” (CEQA Guidelines Section 15088.5[c]). Recirculation of only portions of the EIR is consistent with the remedies provisions of CEQA, which direct that any court order of noncompliance “shall include only those mandates which are necessary to achieve compliance with [CEQA]. . .” (Public Resources Code Section 21168.9[b]).

2.4 Summary of Revisions in the Draft REIR

The Draft REIR (or DREIR) contained all revisions made to the 2021 EIR. The DREIR was submitted to the State Clearinghouse, a division of the Governor's Office of Land Use and Climate Innovation (LCI) (formerly, the Governor's Office of Planning and Research), and made available for public review for 48 days between June 6, 2024, and July 23, 2024. In response to the legal defects identified by the court in *United Neighborhoods*, the DREIR includes analysis of the following topics:

- Impacts on non-special-status species and common bird species,
- Short-term impacts on special-status species and common species,
- Impacts on naturally occurring trees and individual trees not contained within a locally designated natural habitat or plant community,
- Cumulative impacts on aesthetics, and
- Cumulative impacts on biological resources.

2.5 Statement re Res Judicata

Because the REIR was prepared in response to a peremptory writ of mandate issued by the court, it is important for the public and decision-makers to understand the effect of that prior litigation on the scope of review and solicited public comments. The legal principle limiting further review is referred to as “res judicata.” “Res judicata, or claim preclusion, bars relitigation of a cause of action that was previously adjudicated in another proceeding between the same parties or parties in privity with them” (*Citizens for Open Government v. City of Lodi* [2012], 205 Cal. App. 4th 296, 324.) The doctrine “bars the litigation not only of issues that were actually litigated but also issues that could have been litigated” (*Ibid.*). In the context of CEQA litigation, parties are in privity if they both seek to represent the public interest, even if they raise distinct causes of action (*Silverado Modjeska Recreation & Park Dist. v. County of Orange* [2011], 197 Cal. App. 4th 282, 298–299.)

When the legal adequacy of an EIR has been litigated and the document revised in response to issuance of a writ, as is the case here, res judicata bars legal challenges to unchanged portions of the EIR that could have been brought in the prior litigation (*Ione Valley, supra*, 33 Cal. App. 5th at p. 171; see also *Ballona Wetlands Land Trust v. City of Los Angeles* [2011], 201 Cal. App. 4th 455, 480.).

2.6 Final REIR

In accordance with CEQA Guidelines Sections 15088 to 15089, the Lead Agency must evaluate comments received on the DREIR, prepare written responses to each significant environmental issue, and incorporate the comments and responses into the Final REIR (or FREIR). The Lead Agency should also consider the information contained in the FREIR before approving a project. Pursuant to CEQA Guidelines Section 15132, a Final EIR shall consist of (a) the DEIR or a revision of the DEIR; (b) comments and recommendations received on the DEIR, either verbatim or in summary; (c) a list of persons, organizations, and public agencies commenting on the DEIR; (d) the responses of the Lead Agency to significant environmental points raised in the review and consultation process; and (e) any other information added by the Lead Agency.

The FREIR was made available to review on January 28, 2025. All commenters on the DREIR, including all public agencies that commented, were provided notice of its availability via email and the FREIR was posted the Project website at <https://sidewalks.lacity.gov>

Section. 3 Record of Proceedings

The documents and other materials that constitute the agency's record of proceedings or administrative record on which these Supplemental CEQA Findings are based are located at the Office of the City Clerk, 200 North Spring Street, 3rd Floor, Los Angeles, CA; the Board of Public Works Commission, 200 North Spring Street, 3rd Floor, Los Angeles, CA; Bureau of Engineering, 1149 S. Broadway, Suite 600, Los Angeles CA; and any other relevant City department. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e).

The City has relied on all of the documents listed above in reaching its decisions on the Project, even if not every document was formally presented to the City as part of the files generated in connection with the Project. Without exception, any documents set forth above not found in the Project files fall into one of the two categories below.

First, many of them reflect prior planning or legislative decisions with which City Council decision makers were aware in approving the Project. (See *City of Santa Cruz v. Local Agency Formation Commission* (1978) 76 Cal.App.3d 381, 391-392; *Dominey v. Department of Personnel Administration* (1988) 205 Cal.App.3d 729, 738, fn. 6.)

The second category is other documents that influenced the expert advice provided to the City's staff or the environmental consultants who prepared the EIR, who then provided advice to the final decision makers. For that reason, such documents form part of the underlying factual basis for the City's decisions relating to the approval of the Project. (See Public Resources Code, § 21167.6, subd. (e)(10); *Browning-Ferris Industries v. City Council of City of San Jose* (1986) 181 Cal.App.3d 852, 866; *Stanislaus Audubon Society*,

Inc. v. County of Stanislaus (1995) 33 Cal.App.4th 144, 153, 155.

Section. 4 Findings Required Under CEQA

Public Resources Code Section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.” The same statute provides that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to provide that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. For each significant environmental effect identified in an EIR for a project, the approving agency must issue a written finding reaching one or more of three permissible conclusions.

The first such finding is that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR.

The second permissible finding is that such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

The third potential conclusion is that specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR. (See CEQA Guidelines, § 15091, subd (a); see also Pub. Resources Code, § 21081, subd. (a).)

“‘Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors.” (CEQA Guidelines, § 15364.) The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1506- 1509 [upholding CEQA findings rejecting alternatives in reliance on applicant’s project objectives]; see also *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal. App. 4th 957, 1001 (CNPS) [“an alternative ‘may be found infeasible on the ground it is inconsistent with the project objectives as long as the

finding is supported by substantial evidence in the record”], quoting Kostka & Zischke, Practice Under the Cal. Environmental Quality Act [Cont.Ed.Bar 2d ed. 2009] (Kostka & Zischke), § 17.309, p. 825); In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings (2008) 43 Cal.4th 1143, 1165, 1166 (Bay-Delta) [“feasibility is strongly linked to achievement of each of the primary program objectives”; “a lead agency may structure its EIR alternative analysis around a reasonable definition of underlying purpose and need not study alternatives that cannot achieve that basic goal”].)

Moreover, “‘feasibility’ under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, legal, and technological factors.” (City of Del Mar v. City of San Diego (1982) 133 Cal.App.3d 410, 417 (City of Del Mar); see also CNPS, supra, 177 Cal. App. 4th at p. 1001 [after weighing “‘economic, environmental, social, and technological factors,’ ... ‘an agency may conclude that a mitigation measure or alternative is impractical or undesirable from a policy standpoint and reject it as infeasible on that ground’”] quoting Kostka & Zischke, supra, § 17.29, p. 824.)

For the purposes of these Supplemental CEQA Findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less than significant level. In contrast, the term “substantially lessen” refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less than significant level.

CEQA requires that the lead agency adopt feasible mitigation measures or, in some instances, feasible alternatives, to substantially lessen or avoid significant environmental impacts that would otherwise occur. With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons that the agency found that the project’s benefits outweigh its unavoidable adverse environmental effects. The Statement of Overriding Considerations for this Project is included in the CEQA Findings document, Section VII.

The findings provided in this Supplemental CEQA Findings document are based upon substantial evidence in the entire record before the City. These findings do not attempt to describe the full analysis of each environmental impact contained in the 2021 EIR and the REIR, its appendices, and additional documents in the case files for the Project. Instead, a full explanation of these environmental findings and conclusions can be found in the 2021 EIR and, the REIR and these findings hereby incorporate by reference and adopt the discussion and analysis in the 2021 EIR and REIR, its appendices, and additional documents in the case files for the Project supporting the determination regarding the Project’s impacts. In making these findings, the determinations and conclusions of the 2021 EIR and REIR relating to environmental impacts are hereby ratified, adopted, and incorporated in these findings, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings. In the event these findings inadvertently omit or inaccurately reflect facts stated in the

2021 EIR and REIR due to a clerical error, such statements are nevertheless hereby adopted and incorporated in the findings below by reference, and the language set forth in the 2021 EIR and REIR shall control.

Section. 5 Project Impacts Discussed in REIR

Key, integral elements expressly incorporated into the Project as Policies to be adopted along with the proposed ordinance include: (1) the Revised Street Tree Retention, Removal and Replacement Policy for the Sidewalk Repair Program (the Sidewalk Repair Program Street Tree Policy), which includes establishing a 2:1 street tree replacement to removal ratio requirement for the first 10 years (starting from July 2017), a 3:1 ratio for years 11 to 21, and a 2:1 ratio for the last 9 years of the 30-year program; and (2) PDFs (the Sidewalk Repair Program Mandatory Project Features Policy), which generally consist of regulatory compliance measures and standard construction conditions and procedures to ensure that impacts would be less than significant or reduced to the extent feasible.

Analysis in the 2021 EIR and REIR assumes three construction scenarios. General construction requirements are the same for all three scenarios, with Construction Scenario 1 representing the most frequent type of sidewalk repairs and Construction Scenario 2 representing a less frequent type. Under Construction Scenarios 1 and 2, nearly all environmental impacts would be less than significant, with the exception of noise, depending on the proximity of sensitive receptors. Construction Scenario 3 includes projects that will require some form of additional environmental review and discretionary approval in the future and which could result in additional significant and unavoidable impacts to aesthetics, cultural resources, and tribal cultural resources. This third construction scenario is anticipated to occur infrequently as explained in the 2021 EIR but is nevertheless considered programmatically.

5.1 Less than Significant Impacts Under CEQA

The City, having reviewed and considered the information contained in the REIR, and the Project as design and proposed for approval, finds all impacts related to the information and analysis added to the 2021 EIR in the REIR are less than significant including the following:

- Impacts on Non-Special-Status Species and Common Bird Species
- Short-term impacts on special-status species and common species,
- Impacts on naturally occurring trees and individual trees not contained within a locally designated natural habitat or plant community,
- Cumulative impacts on aesthetics, and
- Cumulative impacts on biological resources.

CEQA does not require consideration of project impacts that are less than significant before mitigation. (See Section 15091 of the State CEQA Guidelines.) Nevertheless, for

purposes of completeness for these Supplemental CEQA Findings, the REIR re-evaluated the following Project impact areas and concluded, as with the 2021 EIR, that these areas resulted in less than significant impacts and that no mitigation is therefore required.

5.1.1 Impacts on Non-Special-Status Species and Common Bird Species

As discussed in Section 2.2 of the DREIR, less-than-significant impacts on non-special-status species are expected to result from the Project. Loss of habitat from the Project would be extremely small and scattered throughout the City, the canopy is expected to increase after Year 13 of the Project and fully recover after 30 years, the small temporary losses are not expected to significantly affect urban wildlife, and the Project is expected to increase age structure diversity and size diversity in street trees.

5.1.2 Short-Term Impacts on Special-Status Species and Common Species

As discussed in Section 2.3 of the DREIR, less-than-significant short-term impacts are expected on special-status and common species. For the reasons stated in Section 2.2 of the DREIR, a short-term loss of individuals is not anticipated because of their tendency to relocate to avoid disturbances and the requirements of PDF-BIO-1 (nesting birds) and PDF-BIO-2 (increase tree replacement ratio). Short-term impacts on common species would be less than significant because loss of habitat would be extremely small, the loss of habitat would be scattered through the City, and urban forest animals would be able to adjust to minor alterations in their habitat. Short-term impacts on special-status species would be less than significant because street trees are not the primary habitat of special-status species, and, to the extent special-status species use street trees as habitat, the loss of habitat would be extremely small and would be scattered through the City.

5.1.3 Impacts on Naturally Occurring Trees and Individual Trees Not Contained within a Locally Designated Natural Habitat of Plant Community

As discussed in Section 2.4 of the DREIR, less-than-significant short-term impacts are expected to naturally occurring trees and individual trees not contained within a locally designated natural habitat or plant community. There is a presumption that a street tree is planted and not naturally occurring, unless (1) the tree is located in a random fashion within the right-of-way, as opposed to located adjacent to sidewalks, curbs, and gutters and spaced at regular distances; (2) the tree is located in a habitat typically occupied by naturally occurring trees of that species; and (3) there is substantiated evidence that the tree was not planted. After investigation, it is speculative to assume any naturally occurring trees exist in a small fraction of rights-of-way within the City that require sidewalk repairs, and even more speculative to assume that any such trees would fall within the even smaller fraction of those trees requiring removal due to the sidewalk repairs. There is no evidentiary basis to find that Southern California black walnut is rare in the City, the county, or the state.

Tree removal would result in a reduction in tree cover initially; however, starting with the first replacement trees, the cover would begin to recover the loss and ultimately result in an increase of trees. Birds and other wildlife would temporarily lose some habitat features used for nesting, foraging, and refuge; however, the maximum worst-case loss before replacement trees would be a small percentage and would not result in a reduction of overall habitat available in the City and surrounding area. The nature of street trees in the City is such that the trees are planted in a distinct order and do not constitute a woodland, and thus oak and walnut woodlands would not be affected as part of the Project.

5.1.4 Cumulative Impacts on Aesthetics

As discussed in Section 3.4 of the DREIR, less-than-significant cumulative impacts are expected on aesthetics on non-historic street trees. Significant and unavoidable cumulative impacts would occur due to aesthetics where complete avoidance of known historic resources is not feasible, as set forth in the CEQA Findings.

After reviewing the relevant plans, programs, and projections, including the City Framework Element and EIR, City Mobility Plan 2035 and EIR, City 2015 State of the Street Trees Report, City Bureau of Street Services 5-Year Strategic Plan, City Green New Deal pLAN 2019, Los Angeles County General Plan and EIR, the Southern California Association of Governments (SCAG) Regional Transportation Plan and Sustainable Communities Strategy and EIRs for 2016-2040, 2020-2045, and 2024-2050, Metro Long-Range Transportation Plan 2020, and the 2022 Air Quality Management Plan, the Project's contribution to the significant cumulative aesthetic impact would not be considerable and is therefore less than significant. In addition, the City's Mobility Plan 2035 and EIR as well as SCAG's 2016-2020, 2020-2045, and 2024-2050 RTP and EIRs found impacts from the removal of trees due to sidewalk repairs were not significant. Furthermore, the City already analyzed the cumulative impact of the Project as part of its Mobility Plan 2035 under CEQA Guidelines section 15130(e).

5.1.5 Cumulative Impacts on Biological Resources

As discussed in Section 3.5 of the DREIR, less-than-significant cumulative impacts are expected on biological resources. After reviewing the relevant plans, programs, and projections, including the City Framework Element and EIR, City Mobility Plan 2035 and EIR, City 2015 State of the Street Trees Report, City Bureau of Street Services 5-Year Strategic Plan, City Green New Deal pLAN 2019, Los Angeles County General Plan and EIR, SCAG Regional Transportation Plan and Sustainable Communities Strategy and EIRs for 2016-2040, 2020-2045, and 2024-2050, Metro Long-Range Transportation Plan 2020, and the 2022 Air Quality Management Plan, the Project's contribution to the significant cumulative biological resources impact would not be considerable and is therefore less than significant. In addition, the City's Mobility Plan 2035 and EIR as well as SCAG's 2016-2020, 2020-2045, and 2024-2050 RTP and EIRs found impacts from the removal of trees due to sidewalk repairs were not significant in the urban areas where sidewalk repairs would occur. Furthermore, the City already analyzed the cumulative

impact of the Project as part of its Mobility Plan 2035 under CEQA Guidelines section 15130(e).

5.2 Significant Adverse Impacts Mitigated to Less than Significant Levels and Significant and Unavoidable Adverse Impacts Under CEQA

The City provides CEQA findings for each significant environmental effect identified in the 2021 EIR for the Project in the CEQA Findings document. No significant environmental impacts and additional findings are identified related to the additional information and analysis provided in the REIR.

Section. 6 Alternatives

The Alternatives section remains unchanged from the CEQA Findings with respect to consideration for approval the 2021 EIR and REIR and reconsidering the Project for approval.

Section. 7 Statement of Overriding Considerations

The Statement of Overriding Considerations section remains unchanged from the CEQA Findings with respect to consideration for approval of the 2012 EIR and REIR and reconsidering the Project for approval.

Section. 8 Other CEQA Considerations

The Other CEQA Considerations section remains unchanged from the CEQA Findings with respect to consideration for approval of the 2021 EIR and REIR and reconsidering the Project for approval.

In addition, with respect to the comments disputing the expert opinion, data, analysis, and conclusions of the 2021 EIR and REIR, including but not limited to Comment Letters P-1, O-6, O-7, O-8, O-9, I-31 to the DREIR, and any comments received after the REIR public review period, the City specifically finds that the comments to the REIR are not credible based on the evidence presented in the 2021 EIR and REIR and the whole record, including but not limited to the fact that any contrary opinions presented were not supported based on expert analysis and modeling conducted in the 2021 EIR and REIR on the specific facts and circumstances of the Project. Notwithstanding the lack of credibility of the comments, the City finds that disagreements on issues in question have been discussed adequately and in good faith, and substantial evidence in the whole record supports the 2021 EIR and REIR's reasonably explained approach regarding the scope of analysis, methodology, and accuracy of data relied upon.